

# **Home-Based Business and Government Regulation Appendices**

by

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*The statements, findings, conclusions, and recommendations found in this study are those of the authors and do not necessarily reflect the views of the Office of Advocacy, the United States Small Business Administration, or the United States Government.*

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SOURCES: Joanne H. Pratt, *Homebased Business: The Hidden Economy*, Table 4-2.

U. S. Census Bureau, *1992 Census of Business*.

U. S. Census Bureau, *1992 County Business Patterns*.

## EXHIBIT A-I INDUSTRY DISTRIBUTIONS OF HOME-BASED AND NON-HOME-BASED BUSINESSES

Industry Group	SIC Code	New Proprietorships, Partnerships and S-Corporations <sup>a</sup>					All Industry		Total Number <sup>b</sup> (1,000s)
		Home-based			Non-Home-Based		H-B and N-H-B (1,000s)	H-B as a Percent of Total	
		Number (1,000s)	Percent of P,P&S	Percent of H-B Total	Number (1,000s)	Percent of P,P&S			
<b>Agricultural Services</b>									
Landscape Services	78	12	63%	1.0%	7	37%	19	20%	59
Other Agricultural Services	07, ex 078	10	37%	0.8%	17	63%	27	27%	36
Total Agricultural Services		22	48%	1.8%	24	52%	46	23%	96
<b>Forestry, Fishing &amp; Hunting</b>	08, 09	7	78%	0.6%	2	22%	9	161%	4
<b>Mining, Oil &amp; Gas</b>	10, 12, 13 & 14	5	56%	0.4%	4	44%	9	17%	29
<b>Construction</b>									
General Contractors, Residential	152	24	92%	1.9%	2	8%	26	21%	114
General Contractors, Other	15, ex 152	14	67%	1.1%	7	33%	21	26%	54
Carpentry	175	45	66%	3.6%	23	34%	68	93%	48
Other Construction	16, 17, ex 175	111	70%	8.9%	48	30%	159	31%	356
Total Construction		194	71%	15.6%	80	29%	274	34%	573
<b>Manufacturing</b>									
Logging	241	6	60%	0.5%	4	40%	10	46%	13
Other Manufacturing	2X, ex 241	11	58%	0.9%	8	42%	19	6%	171
Other Manufacturing <sup>c</sup>	3X	16	73%	1.3%	6	27%	22	9%	187
Total Manufacturing		33	65%	2.6%	18	35%	51	9%	371
<b>Transportation, Communications, Utilities</b>									
Motor Freight Transportation	42	29	44%	2.3%	37	56%	66	26%	111
Transportation Services	47	3	17%	0.2%	15	83%	18	6%	47
Other Transportation, etc.	41, 44, 45, 46, 48, 49	17	65%	1.4%	9	35%	26	16%	104
Total Transportation, etc.		49	45%	3.9%	61	55%	110	19%	262
<b>Wholesale Trade</b>									
Wholesale Trade, Durable Goods	50	32	84%	2.6%	6	16%	38	10%	313
Wholesale Trade, Non-Durable Goods	51	9	53%	0.7%	8	47%	17	5%	182
Total Wholesale Trade		41	75%	3.3%	14	25%	55	8%	495
<b>Retail Trade</b>									
Building Materials & Misc. Retail	52, 59	147	79%	11.8%	39	21%	186	35%	420
General Merchandise, Apparel, Furniture	53, 56, 57	16	55%	1.3%	13	45%	29	6%	290
Food Stores	54	10	56%	0.8%	8	44%	18	6%	181
Gasoline Service Stations	554	0	0%	0.0%	4	100%	4	0%	105
Automotive Dealers except Gasoline	55, ex 554	6	35%	0.5%	11	65%	17	6%	96
Eating, Drinking Places	58	0	1%	0.0%	29	99%	29	0%	434
Total Retail Trade		179	63%	14.4%	104	37%	283	12%	1,526
<b>Finance, Insurance, Real Estate</b>									
Insurance Agents <sup>d</sup>	641	11	52%	0.9%	10	48%	21	9%	122
Real Estate Operators	651	13	76%	1.0%	4	24%	17	13%	103
Real Estate Agents	653	33	43%	2.7%	43	57%	76	31%	107
Other Finance, Insurance, Real Estate	6X, ex 641, 651, 653	10	67%	0.8%	5	33%	15	4%	254
Total Finance, Insurance, Real Estate		67	52%	5.4%	62	48%	129	11%	586
<b>Services</b>									
Hotels, Rooming Houses	70	0	29%	0.0%	1	71%	1	0%	49
Beauty Shops	723	17	31%	1.4%	38	69%	55	21%	83
Other Personal Services	72, ex 723	107	84%	8.6%	21	16%	128	94%	114
Services to Dwellings and Buildings	734	43	59%	3.5%	30	41%	73	75%	58
Miscellaneous Business Services	738	37	55%	3.0%	30	45%	67	49%	75
Other Business Services	73, ex 734 & 738	69	85%	5.6%	12	15%	81	40%	174
Auto Repair	75	20	43%	1.6%	27	57%	47	12%	172
Misc. Repair, Motion Picture, Amusement	76, 78, 79	59	63%	4.7%	35	37%	94	32%	186
Doctor Offices	801	1	11%	0.1%	7	89%	8	0%	198
Dentist Offices	802	0	4%	0.0%	2	96%	2	0%	109
Other Health Services	80, ex 801 & 802	63	75%	5.1%	21	25%	84	40%	159
Legal Services	81	10	56%	0.8%	8	44%	18	7%	153
Child Day Care <sup>e</sup>	835	71	86%	5.7%	12	14%	83	138%	51
Other Education, Social Services, Museums	82, 83, 84, ex 835	24	43%	1.9%	32	57%	56	21%	114
Management Services	874	85	77%	6.8%	25	23%	110	118%	72
Engineering, Accounting, Research, Mgmt., etc.	87, ex 874	39	63%	3.1%	23	37%	62	24%	161
Total Services		645	67%	51.9%	324	33%	968	33%	1,927
ALL INDUSTRY		1,242	68%	100.0%	636	35%	1,821	22%	5,539

JRCE: Joanne H. Pratt, "Homebased Business: The Hidden Economy," Table 4-2. These firms started business in 1992.

JRCE: "1992 Census of Business," except for SIC 07, SIC 08, and SIC 09, which are based on "County Business Patterns" data.

Number of home-based firms is given as 159 in the original. This apparent error (by a factor of 10) was corrected based on Pratt's percentages and the text.

Number of home-based firms is given as 111 in the original. This apparent error (by a factor of 10) was corrected based on Pratt's percentages and the text.

Number of home-based firms is given as 708 in the original. This apparent error (by a factor of 10) was corrected based on the text.

**EXHIBIT A-II  
HIGHEST INDUSTRY CONCENTRATIONS OF HOME-BASED BUSINESSES  
BY INDIVIDUAL MEASURES**

**A-II-1: By Number and Percent of All Home-Based Businesses**

<u>SIC Code</u>	<u>Industry Group</u>	<u>Number of Home-Based Businesses (1,000s)</u>	<u>Percent of Total Home-Based Businesses</u>
<b>2-Digit SIC Industries</b>			
16, 17	Other Construction	156	12.5%
73	Building Services	149	12.1%
52, 59	Building Materials & Misc. Retail	147	11.8%
72	Personal Services	124	10.0%
87	Engineering, Accounting, Research, Management., etc.	124	9.9%
82, 83, 84	Education, Social Services, Museums	95	9.6%
80	Health Services	64	5.2%
65	Real Estate	46	3.7%
15	General Contractors, Other	38	3.0%
50	Wholesale Trade, Durable Goods	32	2.6%
42	Motor Freight Transportation	29	2.3%
	TOTAL	1004	80.8%
<b>3-Digit SIC Industries Included Above</b>			
874	Management Services	85	6.8%
835	Child Day Care	71	5.7%
175	Carpentry	45	3.6%
734	Services to Dwellings and Buildings	43	3.5%
738	Miscellaneous Business Services	37	3.0%
653	Real Estate Agents	33	2.7%

<b>EXHIBIT A-II</b>			
<b>HIGHEST INDUSTRY CONCENTRATIONS OF HOME-BASED BUSINESSES BY INDIVIDUAL MEASURES</b>			
<b>A-II-2: By Percent of Proprietorships, Partnerships, and S-Corporations</b>			
<b><u>SIC Code</u></b>	<b><u>Industry Group</u></b>	<b><u>Number of Home-Based Businesses (1,000s)</u></b>	<b><u>Percent of Total Home-Based Businesses</u></b>
<b>2-Digit &amp; 3-Digit SIC Industries</b>			
835	Child Day Care	71	86%
50	Wholesale Trade, Durable Goods	32	84%
15	General Contractors	38	81%
08, 09	Forestry, Fishing & Hunting	7	78%
52, 59	Building Materials & Misc. Retail	147	79%
651	Real Estate Operators	13	76%
3X	Rubber, Plastics	16	73%
87	Other Services	124	72%
16,17	Other Construction	156	69%
72	Personal Services	124	68%
80	Health Services	64	68%
73	Business Services	149	67%
	TOTAL	941	
<b>3-Digit SIC Industries Included Above</b>			
152	General Contractors, Residential	24	92%

<b>EXHIBIT A-II</b>			
<b>HIGHEST INDUSTRY CONCENTRATIONS OF HOME-BASED BUSINESSES BY INDIVIDUAL MEASURES</b>			
<b>A-II-3: By Percent of Establishments Reported by the Business Census</b>			
<b>SIC Code</b>	<b>Industry Group</b>	<b>Number of Home-Based Businesses (1,000s)</b>	<b>Percent of Establishments in Industry (Census Data)</b>
<b>2-Digit &amp; 3-Digit SIC Industries</b>			
08, 09	Forestry, Fishing & Hunting	7	161%
72	Personal Services	124	63%
80, ex 801 & 802	Health Services, ex. M.D.s & Dentists	63	57%
82, 83, 84	Education, Social Services, Museums	95	52%
87	Engineering, Accounting, Research, Management., etc.	124	53%
73	Other Business Services	149	49%
241	Logging	6	46%
16, 17	Other Construction	156	39%
52, 59	Building Materials & Misc. Retail	147	35%
76, 77, 79	Misc. Repair, Motion Pic., Amusement	59	32%
653	Real Estate Agents	33	31%
42	Motor Freight Transportation	29	26%
15	General Contractors	38	23%
	TOTAL	1030	
<b>3-Digit Industries Included Above</b>			
835	Child Day Care	71	138%
874	Management Services	85	118%
734	Services to Dwellings and Buildings	43	75%
738	Miscellaneous Business Services	37	49%
175	Carpentry	45	39%

**EXHIBIT A-III  
HIGHEST INDUSTRY CONCENTRATIONS OF HOME-BASED BUSINESSES  
BY MULTIPLE MEASURES**

**A-III-1: High Concentration By At Least One Measure<sup>a</sup>**

<b>SIC Code</b>	<b>Industry Group</b>	<b>Number of Home-Based Businesses (1,000s)</b>	<b>Percent of Total Home-Based Businesses</b>	<b>Percent of Proprietorships &amp; S-Corporations</b>	<b>Percent of Establishments in Industry -- Business Census</b>
<b>2-Digit SIC Industries With High Concentrations</b>					
08, 09	Forestry, Fishing & Hunting	7	<i>0.6%</i>	78%	161%
15	General Contractors	38	3.0%	81%	23%
16, 17	Other Construction	156	12.5%	69%	39%
241	Logging	6	<i>0.5%</i>	60%	46%
3X	Rubber, Plastics	16	<i>1.3%</i>	73%	8%
42	Motor Freight Transportation	29	2.3%	44%	26%
50	Wholesale Trade, Durable Goods	32	2.6%	84%	10%
52, 59	Building Materials & Misc. Retail	147	11.8%	79%	35%
65	Real Estate	46	3.7%	52%	12%
72	Personal Services	124	10.0%	68%	63%
73	Business Services	149	12.1%	67%	49%
76, 77, 79	Misc. Repair, Motion Pic., Amus.	59	4.7%	63%	32%
80	Health Services	64	5.2%	68%	14%
82, 83, 84	Education, Social Serv., Museums	95	7.6%	68%	52%
87	Eng., Acc., Research, Mgmt., etc.	124	9.9%	72%	53%
	TOTAL	1092	87.9%		
<b>3-Digit SIC Industries Included Above</b>					
152	General Contractors, Residential	24	<i>1.9%</i>	92%	21%
175	Carpentry	45	3.6%	66%	39%
651	Real Estate Operators	13	<i>1.0%</i>	76%	13%
653	Real Estate Agents	33	2.7%	43%	31%
734	Services to Dwellings and Buildings	43	3.5%	59%	75%
738	Miscellaneous Business Services	37	3.0%	55%	49%
80 (Part)	Health Services, ex. M.D.s & Dent.	63	5.1%	75%	47%
835	Child Day Care	71	5.7%	86%	138%
874	Management Services	85	6.8%	77%	118%
<sup>a</sup> Percentages that do not reflect relatively high concentrations of home-based businesses are shown in italics.					

**EXHIBIT A-III  
HIGHEST INDUSTRY CONCENTRATIONS OF HOME-BASED BUSINESSES  
BY MULTIPLE MEASURES**

**A-III-2: High Concentration By Two Measure**

<u>SIC Code</u>	<u>Industry Group</u>	<u>Number of Home-Based Businesses (1,000s)</u>	<u>Percent of Total Home-Based Businesses</u>	<u>Percent of Proprietorships Partnerships &amp; S-Corporations</u>	<u>Percent of Establishments in Industry -- Business Census</u>
<b>Industries with High Concentrations</b>					
15	General Contractors	38	3.0%	81%	23%
16, 17	Other Construction	156	12.5%	69%	39%
52, 59	Building Materials & Misc. Retail	147	11.8%	79%	35%
72	Personal Services	124	10.0%	68%	63%
73	Business Services	149	12.1%	67%	49%
80 (Part)	Health Services, ex. M.D.s & Dent.	63	5.1%	75%	47%
835	Child Day Care	71	5.7%	86%	138%
87	Eng., Acc., Research, Mgmt., etc.	124	9.9%	72%	53%
	TOTAL	872	70.2%		

**EXHIBIT A-III  
HIGHEST INDUSTRY CONCENTRATIONS OF HOME-BASED BUSINESSES  
BY MULTIPLE MEASURES**

**A-III-3: High Concentration By All Three Measure**

<u>SIC Code</u>	<u>Industry Group</u>	<u>Number of Home-Based Businesses (1,000s)</u>	<u>Percent of Total Home-Based Businesses</u>	<u>Percent of Proprietorships Partnerships &amp; S-Corporations</u>	<u>Percent of Establishments in Industry -- Business Census</u>
<b>Industries with High Concentrations</b>					
08, 09	Forestry, Fishing & Hunting	7	0.6%	78%	161%
241	Logging	6	0.5%	60%	46%
42	Motor Freight Transportation	29	2.3%	44%	26%
50	Wholesale Trade, Durable Goods	32	2.6%	84%	10%
653	Real Estate Agents	33	2.7%	43%	31%
734	Services to Dwellings and Buildings	43	3.5%	59%	75%
738	Miscellaneous Business Services	37	3.0%	55%	49%
76, 77, 79	Misc. Repair, Motion Pic., Amus.	59	4.7%	63%	32%
	TOTAL	246	19.8%		

**APPENDIX B**  
**REVIEW OF FEDERAL AGENCIES**

**The U. S. Department of Commerce**

**The U. S. Department of Energy**

**The U. S. Department of Health and Human Services**

**The U. S. Department of Housing and Urban Development**

**The U. S. Department of Labor**  
**Employment Standards Division**  
**Occupational Safety and Health Administration**

**The U. S. Department of Transportation**

**The U. S. Environmental Protection Agency**

**The U. S. Army Corps of Engineers**

**The Consumer Product Safety Commission**

**The Federal Trade Commission**

## I. INTRODUCTION

This study included a review of six executive departments and four other federal agencies, including:

- The U. S. Department of Commerce;
- The U. S. Department of Energy;
- The U. S. Department of Health and Human Services;
- The U. S. Department of Housing and Urban Development;
- The U. S. Department of Labor;
- The U. S. Department of Transportation;
- The U. S. Environmental Protection Agency;
- The U. S. Army Corps of Engineers;
- The Consumer Product Safety Commission; and
- The Federal Trade Commission.

The review concentrated on the missions, statutes, offices, and activities of the agencies to determine the potential for impacts on home-based businesses. In most cases, the principal activity does not involve regulation, or else the specific industry, material, industrial process, and/or implicit scale of operations minimizes the potential applicability, as well as the burden, of regulations for home-based businesses. Specifics are given below.

## II. EXECUTIVE BRANCH DEPARTMENTS

### A. DEPARTMENT OF COMMERCE

In many ways, the Department of Commerce (DOC) provides infrastructure that helps businesses become more productive and successful. This is done by a mixture of research, information dissemination, support for technology, and programs that foster economic development and directly assist businesses. The principal program bureaus include:

- **The Bureau of Industry and Security (BIS)**, which deals in issues of national security and high technology;
- **The Economics and Statistics Administration (ESA)**, which produces, analyzes, and disseminates economic and demographic data and which includes:
  - ◆ The Bureau of Economic Analysis (BEA) and
  - ◆ The Census Bureau;
- **The Economic Development Administration (EDA)**, which provides grant funding for projects in economically distressed areas and regions that generate employment, stimulate industrial and commercial growth, and build infrastructure.
- **The International Trade Administration (ITA)**, which promotes U.S. exports of manufactured goods and other non-agricultural goods and services, as well as compiling and publishing data on international trade;
- **The Minority Business Development Agency (MBDA)**, which promotes growth and competitiveness of minority-owned businesses;
- **The National Oceanic and Atmospheric Administration (NOAA)**, which performs research, monitors the condition of, and provides information on weather, ocean and coastal resources, the atmosphere, and environmental assessment and protection;
- **The National Telecommunications and Information Administration (NTIA)**, which provides policy advice telecommunications, technological advancement (including the “information superhighway”), and regulation of the telecommunications industry;
- **The United States Patent and Trademark Office (PTO)**, which promotes science and technology by providing patent and trademark protection for inventions and by classifying and disseminating patent information; and

- **The Technology Administration**, whose mission is to maximize technology's contribution to economic growth and which includes:
  - ◆ The National Institute of Standards and Technology,
  - ◆ The National Technical Information Service, and
  - ◆ The Office of Technology Policy.

Of these Bureaus, MBDA probably has the most direct effect on home-based businesses, because so many of the minority-owned businesses that it assists are in that size class. Home-based businesses may benefit from activities of EDA, ITA, NTIA, or PTO, depending on their location, exporting potential, reliance on the internet, or involvement in R&D or intellectual capital. Such effects are likely to be indirect, however, or to affect only a tiny fraction of home-based businesses. Moreover, these benefits are not related to the home-based nature of the businesses.

The DOC emphasis on technology, technology-related economic development, trade, data compilation, and information dissemination provides little basis for inferring that related regulations have an adverse impact on home-based businesses – or have singular effects of any kind on home-based businesses.

## **B. DEPARTMENT OF ENERGY**

The U.S. Department of Energy has programs in four areas related to the Agency's overall energy missions:

- **National Defense Programs.** Priorities in this mission area include:
  - ◆ Insuring the integrity and safety of the country's nuclear weapons,
  - ◆ Promoting international nuclear safety; advancing nuclear non-proliferation, and
  - ◆ Continuing to provide safe, efficient, and effective nuclear power plants for the United States Navy.
- **Energy Program.** Priorities in this mission area include:
  - ◆ Increasing domestic energy production,
  - ◆ Revolutionizing our approach to energy conservation and efficiency, and
  - ◆ promoting the development of renewable and alternative energy sources.
- **Environmental Program.** Priorities in this mission area include:
  - ◆ Insuring that safety legacies of the cold war are addressed and resolved and done so in a manner that does not impede future national security missions, and
  - ◆ Permanently and safely disposing of the nation's radioactive wastes.

- **Science Program.** Priorities in this mission area are to sponsor cutting-edge science and technology research & development that revolutionizes how we find, produce, and deliver energy.<sup>1</sup>

The Department of Energy (DOE) includes program offices and other administrations. Program offices include the following:

- The **Office of Civilian Radioactive Waste Management** develops and manages the federal system for disposing of spent nuclear fuel from commercial nuclear reactors and high-level radioactive waste from national defense activities.
- The **Energy Efficiency and Renewable Energy Offices** support programs in
  - ◆ Biomass,
  - ◆ Building technologies,
  - ◆ Distributed energy and electric reliability,
  - ◆ Federal energy management,
  - ◆ Vehicle technologies,
  - ◆ Geothermal technologies,
  - ◆ Hydrogen, fuel cells, and infrastructure technologies,
  - ◆ Industrial technologies,
  - ◆ Solar energy technology,
  - ◆ Weatherization, and
  - ◆ Wind and hydropower technologies.
- **Environment, Safety, and Health** entails protection of both workers and the environment from biological, chemical, nuclear, and fire hazards. These threats are found in industrial settings (including federal facilities). which are unrelated to home-based businesses.
- The **Office of Environmental Management** is responsible for cleanup of inactive nuclear waste sites and facilities, waste management operations, and related research.
- The **Office of Fossil Energy** supports research and development on electric power, oil and gas, and other fuels, as well as reserves of fossil fuels.
- The **Nuclear Energy, Science, and Technology Program** “represents the core of the U.S. Government’s expertise in nuclear engineering and technology.”
- The **Office of Science** supports basic research in the physical sciences. The Office oversees, and provides federal funding for, research programs in high-energy physics, nuclear physics, and fusion energy sciences. Other areas of research include basic energy sciences, biological and environmental sciences, computational science, and materials and chemical sciences.

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<sup>1</sup> [www.doe.gov/engine/content.do/BT\\_CODE=ABOUTDOE](http://www.doe.gov/engine/content.do/BT_CODE=ABOUTDOE)

- The **Office of Worker and Community Transition** has a mission to minimize the social and economic impacts of changes in DOE's activities and to encourage disposition of DOE's unneeded assets. Most of the activities involve contractors, their labor forces, and DOE infrastructure.

Other administrations within DOE include the following:

- The **Energy Information Administration** provides data, forecasts, and analysis designed to support policy and public understanding of energy issues. These functions do not affect home-based businesses.
- The **National Nuclear Security Administration** deals with security aspects of nuclear energy and nuclear weapons.
- **National Laboratories & Technology Centers** are major research facilities supported by DOE.
- **Power Marketing Administrations** market power produced at federal dams.

Home-based businesses have nothing to do with national defense or any activities that involve nuclear materials or radioactive waste. They are not active in the development of oil, gas, or other fuels, and they do not produce or distribute electric power. Home-based businesses do not participate in DOE's in-house research and development, and they are not affected by contract basic scientific research, except possibly as subcontractors. Home-based businesses do not operate the type of industrial facilities that are subject to DOE environmental, safety, and health regulations. In general, the materials, industries, facilities, settings, and activities of the Department of Energy generally are not those with which home-based businesses are involved. Thus DOE regulations affecting these materials, industries, etc. will not adversely affect home-based businesses.

Energy efficiency technology standards (e.g., building and weatherization technologies) may affect home-based construction or architecture firms, but there is no reason to believe that the impacts will be any different than impacts on similar non-home-based businesses. Home-based businesses may be affected by social and economic impacts of changes in DOE activities, but in this they are affected no more than other businesses in the area.

Home-based professionals with appropriate expertise may be involved with DOE as consultants (or as sub-contractors to larger contractors). Some renewable energy technologies may lend themselves to small-scale research or adaptation, although most of the basic research in these areas is on a much larger scale. Otherwise, DOE programs and regulations do not appear to affect home-based businesses, except as energy consumers.

## C. DEPARTMENT OF HEALTH AND HUMAN SERVICES

The Department of Health and Human Services (HHS) has the dual role of protecting the health of all Americans and providing human services, particularly to the most disadvantaged part of the population. The ten major operating divisions within HHS carry out these missions. Public health service agencies include the following:

- The **National Institutes of Health** (NIH) performs and supports medical research.
- The **Food and Drug Administration** (FDA) has a mission to:
  - ◆ Assure the safety of foods and cosmetics and
  - ◆ Assure the safety and efficacy of pharmaceuticals, biological products, and medical devices.
- The **Centers for Disease Control** (CDC) provides a system of health surveillance to monitor and prevent disease outbreaks, implement disease prevention strategies, and maintain national health statistics.
- The **Indian Health Service** (IHS) provides health services to members of federally recognized tribes.
- The **Health Resources and Services Administration** (HRSA) provides access to essential services for people who are poor, uninsured, or who live in areas where health care is scarce.
- The **Substance Abuse and Mental Health Services Administration** (SAMHSA) has a mission to improve the quality and availability of:
  - ◆ Substance abuse prevention services,
  - ◆ Addiction treatment services, and
  - ◆ Mental health services.
- The **Agency for Healthcare Research and Quality** supports research designed to improve various aspects of health care and access to essential health services.

Other HHS agencies include the following:

- The **Centers for Medicare & Medicaid Services** (CMS) administers programs to provide:
  - ◆ Health insurance for elderly and disabled Americans (Medicare) and
  - ◆ Health coverage for low-income persons (Medicaid).

- The **Administration for Children and Families (ACF)** administers and funds programs that promote the economic and social well-being of families, children, individuals, and communities.
- The **Administration on Aging (AoA)** supports a nationwide aging network that provides services to the elderly, especially services to enable them to remain independent.

For the most part, HHS programs and regulations do not directly affect home-based businesses or businesses of any kind. The programs generally:

- Promote and support research;
- Support public health services, or
- Provide services to individuals and communities.

Many HHS regulations apply to state and local governments, which actually implement many programs in these areas, or to individuals who participate in the programs. Research, public health, and human service activities have little or no potential for impacts – particularly disproportionately large impacts – on very small or home-based businesses.

FDA is the only HHS agency that does extensive regulation of a conventional type. The scope of FDA activities, however, is such that most impacts fall on the manufacturing and retail sectors, where there are very few home-based businesses. Moreover, the products involved do not lend themselves to commerce involving home-based businesses.

CMS regulations related to Medicare and Medicaid do have a substantial impact on private-sector providers of health care and mental health services. These burdens especially involve paperwork. Regulations also limit compensation of health care and mental health professionals who provide services under these programs. Both the regulations and the paperwork itself lead to economies of scale that are inherent in specialized knowledge, and these economies of scale put individual service providers at a disadvantage. Such economies of scale affect all very small-scale providers, however, so that there is little potential for differential impacts on home-based providers. Moreover, the paperwork creates market opportunities in areas such as medical billing. Providing this type of service on a small scale is an activity that is well suited to home offices. Thus it is hard to see how Medicare and Medicaid regulations would have a *net* adverse impact on home-based businesses as a whole.

The general conclusion for HHS appears too similar to that for other federal agencies. Regulations that are not directed at businesses and do not involve home offices as such have no real impacts on home-based businesses, as compared with other similarly small non-home-based businesses.

## D. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Department of Housing and Urban Development (HUD) acts to provide an adequate housing stock – particularly housing for low-income and special needs populations – and to support related community and economic development. HUD itself provides funding and oversight. Most housing programs are administered by Public Housing Authorities at the county and city level.

- The **Office of Housing** runs a number of programs to make housing more available:
  - ◆ Single family housing programs include:
    - Loan programs that provide a variety of types of mortgage insurance, and
    - Regulatory programs.
  - ◆ Multifamily programs include:
    - FHA mortgage insurance origination,
    - Supportive housing and assisted-living programs for people with special needs, and
    - Other supportive services.
- The **Office of Community Planning and Development** has programs in the areas of:
  - ◆ Community Development Block Grants (GDBG) and disaster recovery assistance,
  - ◆ Economic development, including redevelopment (e.g., brownfields), rural, and youth programs,
  - ◆ Affordable housing through resident investment,
  - ◆ Special needs assistance, including programs for homeless persons and persons with AIDs,
  - ◆ Community viability programs, including historic preservation, energy, and environmental issues,
  - ◆ Technical assistance for local communities, and
  - ◆ Displacement and relocation programs.
- The **Office of Public and Indian Housing** focuses on direct provision of housing, including:
  - ◆ Grants for development, redevelopment, and modernization of public housing,
  - ◆ Public housing operating subsidies and management assistance,
  - ◆ Community building, including supportive services and self-sufficiency programs,
  - ◆ Section 8 assistance, and
  - ◆ Low-income home ownership programs.

- The **Office of Policy Development and Research** supports:
  - ◆ Community outreach programs,
  - ◆ Job creation programs, and
  - ◆ Academic research.
- The **Office of Fair Housing and Equal Opportunity** runs programs for:
  - ◆ Fair housing initiatives and assistance,
  - ◆ Non-discrimination in federally assisted housing, and
  - ◆ Employment/economic opportunity for low-income persons.
- HUD also regulates Fannie Mae and Freddie Mac, which were chartered by Congress to create a secondary market for residential mortgage loans. HUD's authority includes:
  - ◆ Setting and enforcing affordable housing goals,
  - ◆ Monitoring compliance with fair lending principles,
  - ◆ Collecting and distributing a data base of loan-level data, and
  - ◆ Providing oversight for new program approval.

HUD establishes the rules under which Public Housing Authority programs operate. Impacts on residents who participate in these programs are indirect, and they mostly concern eligibility for and entry into the programs. Since (except for special needs populations) the principal income criterion is low income, the principal impact on a successful home-based business is that the proprietor would have to change residences.

HUD also sets a lot of rules for the mortgage market. These rules affect home buyers, but again the effect is only indirect. For the most part, the incidence is on financial institutions.

HUDs regulatory programs do not generally affect use of a home. They deal with matters such as:

- Minimum property standards;
- Safety standards and construction, particularly of manufactured homes, and
- Procedures for real estate transactions.

This type of matter, as well as eligibility for and administration of subsidized housing programs and mortgage markets, make HUD regulations independent of whether or not an occupant runs a business on site. There is no indication that HUD regulations place any particular burden on home-based businesses.

## E. DEPARTMENT OF LABOR

### 1. Employment Standards Division

The Wage and Hour Division of the Employment Standards Division administers the Fair Labor Standards Act (FLSA), which prescribes:

- Minimum wage and overtime pay standards;
- Recordkeeping standards; and
- Child labor standards.

**Coverage.** FLSA explicitly covers work conducted in the home. There are limitations to the coverage, however, that effectively exempt most home-based businesses:

- FLSA applies only to employees.
- Enterprise coverage refers only to businesses with gross sales or business done of \$500,000 or more.
- Individual employees are covered (even if the establishment is not) if they are engaged in interstate commerce or the production or shipping of goods that are moving in interstate commerce. This includes the mining, manufacturing, transportation, wholesale trade, and retail trade sectors, as well as finance and insurance that use interstate communications.
- A number of class workers in the home are explicitly exempted.
  - ◆ Bona fide executive, administrative, professional, and outside sales employees are exempt, if tests are met.
  - ◆ FLSA applies to industrial homework (production), but only if the worker is an employee. The only homework industries requiring formal certification are women's apparel, jewelry manufacturing, knitted outerwear, gloves and mittens, button and buckle manufacturing, handkerchief manufacturing, and embroidery. Since industrial homework legislation was originally intended to regulate sweat-shop-like conditions, specific requirements are not onerous.
  - ◆ FLSA covers the home health care industry, but there are exceptions. An untrained person who provides "companion services" to a physically or mental infirm person in the home of the employer is exempt. Registered nurses are generally exempt as professionals, and aides may be exempt, depending on their duties.
  - ◆ Child care employees are covered, unless the children have infirmities that qualify the caregivers as "companions."

**Requirements.** FLSA sets a minimum wage (\$5.15 per hour or equivalent, as of September 1, 1997) for covered workers and requires time-and-a-half overtime pay for work in excess of 40 hours per week. A lower minimum wage (\$4.25 per hour) applies to youth under age 20 for their first 90 days of employment.

FLSA has recordkeeping requirements. Although no particular form is specified, an employer must maintain:

- Basic identification information for each employee, including, name, social security number, address, birth date (if younger than 19), sex, and occupation.
- Information on hours, including time and day of week the employee's workweek begins, hours worked each day, total hours worked each workweek, and some sort of timekeeping information.
- Information on wages, including basis for computing the wage, regular hourly pay rate, weekly straight-time and overtime earnings, additions to or deductions from wages, total wages each pay period, and date of payment.

FLSA restricts the hours that youths under age 16 may work. In "hazardous" occupations, hour and occupational restrictions are also placed on youth ages 16 and 17.

**Assessment of Impacts.** For a variety of reasons, the potential impact of FLSA regulations on home-based businesses appears to be minimal. Over 90 percent of home-based businesses are exempt simply because they do not have employees, and most of those that do have employees are too small for establishment coverage. Independent contractors (a common arrangement when home-based businesses network) are also exempt.

Office support staff and employees with any degree of professional training are generally either exempt or have market wages in excess of the minimum wage. Recordkeeping requirements are generally limited to – or could be reconstructed from – information that would be needed to hire and pay employees in any sort of systematic manner.

The largest burden associated with FLSA is learning about the requirements and exemptions. In this respect, however, home-based businesses do not appear to have any comparative disadvantage relative to other micro-enterprises with a very few employees. Moreover, it appears likely that a good-faith employer would comply with most aspects of the rules even if he didn't know what they are. On issues such as the difference between an employee and an independent contractor, FLSA does not really impose an *incremental* burden over the burden of IRS regulations. A significant issue in both cases is distinguishing between home-based independent contractors and employees.

There is one area in which many home-based businesses would probably have a great deal of trouble if FLSA were taken literally. Family members often may make contributions to a home-based business without any formal wages or employee status. Although this appears to be a violation of FLSA, it is likely to be so widely ignored that little burden ensues.

## 2. Occupational Safety and Health Administration

The Occupational Safety and Health Act (OSH Act) is administered by OSHA. The OSH Act has a comprehensive mandate to maintain safe and healthful workplaces. OSHA regulations set two types of standard:

- **Safety standards** address hazards related to falls, fires, explosions, cave-ins operation and maintenance of vehicles and machinery, etc.
- **Health standards** address exposure to health hazards (especially exposure to hazardous substances), typically relying on a combination of engineering controls, monitoring, work practices, and personal protective equipment.

**Coverage.** The OSH Act is comprehensive in coverage.<sup>2</sup> Nevertheless, most home-based businesses are not affected by OSHA regulations.

- OSHA regulations apply only to workplaces with employees; the self-employed are not covered.
- With a few exceptions (e.g., asbestos), the hazardous substances covered by OSHA health standards are not found in homes in any form that would expose people. With few exceptions (e.g., possibly wholesale trade) the production processes that cause exposure and the industries that OSHA regulates are not found in residences.
- Similarly, many hazards addressed by safety standards (e.g., explosions, cave-ins, and the type of vehicles and machinery that OSHA regulates) do not occur in residences.
- OSHA's general recordkeeping requirements exempt businesses with 10 or fewer employees. Many individual regulations also have such thresholds that effectively exempt home-based businesses.
- After a brief but intense controversy, OSHA has decided generally not to enforce its rules in home offices.

OSHA regulations do have a potential for impacts on home-based businesses when employees of these businesses work on sites outside the home (and the home is only the office of the business). Examples of industries with substantial numbers of home-based businesses where this may occur are construction, logging, and health services. At work sites of any size, a prime

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<sup>2</sup> The OSH Act does not cover some industries, including mining and transportation. These industries are covered by other statutes, such as the Mine Safety and Health Act. Since mining inherently is not a home-based business, however, MSHA regulations are not relevant.

contractor at, or possibly the owner of, the site is generally responsible for compliance with safety regulations. If a work site is small enough for a home-based business to be responsible, the applicable regulations usually are equipment safety standards or concern relatively simple work practices. The potential for significant burden is rather small.

## F. DEPARTMENT OF TRANSPORTATION

The principal functions of the Department of Transportation (DOT) are the infrastructure, operations, and safety of the various modes of transportation that make up the nation's transportation system. Specific administrations within DOT, and their specific regulatory responsibilities that serve this mission,<sup>3</sup> include the following:

- The **Federal Aviation Administration** (FAA) has regulatory responsibility for:
  - ◆ Aviation safety and operations,
  - ◆ Certification of airmen, aircraft, and airports,
  - ◆ Commercial space transportation,
  - ◆ Airport and airway fees and charges,
  - ◆ Requirements for foreign air carriers operating in the U.S., and
  - ◆ U.S.-owned aircraft outside the U.S.
- The **Federal Highway Administration** (FHWA) has regulatory responsibility for:
  - ◆ The Federal-Aid Highway System and
  - ◆ Highways and roads (e.g., Federal roads).
- The **Federal Motor Carrier Safety Administration** (FMCA) has regulatory responsibility for:
  - ◆ Motor carrier operations,
  - ◆ Motor carrier equipment,
  - ◆ Commercial drivers license,
  - ◆ Hours of service, and
  - ◆ Grants.
- The **Federal Railroad Administration** (FRA) has regulatory responsibility for:
  - ◆ Railroad equipment,
  - ◆ Railroad operations,
  - ◆ Railroad financial assistance,
  - ◆ Engineer qualifications/certification, and
  - ◆ Railroad workplace safety.
- The **Federal Transit Administration** (FTA) has regulatory responsibility for:
  - ◆ Financial assistance to transit systems and

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<sup>3</sup> These responsibilities are listed on <http://regs.dot.gov/listof.htm>.

- ◆ Safety.
- The **Maritime Administration (MARAD)** has regulatory responsibility for:
  - ◆ Financial assistance to the maritime industry and
  - ◆ Cargo preference.
- The **St. Lawrence Seaway Development Corporation (SLSDC)** has regulatory responsibility for:
  - ◆ Tolls and
  - ◆ Seaway operations.

Other DOT administrations have a mixture of transportation research and safety responsibilities or a broader, more mixed set of transportation responsibilities:

- The **National Highway Traffic Safety Administration (NHTSA)** has regulatory responsibility for:
  - ◆ Vehicle safety,
  - ◆ Fuel economy,
  - ◆ Highway safety programs (e.g., age 21/drinking), and
  - ◆ Consumer information (e.g., uniform tire quality grading standards).
- The **Research and Special Programs Administration (RSPA)** has regulatory responsibility for research on:
  - ◆ Hazardous materials,
  - ◆ Pipeline safety, and
  - ◆ University transportation grants.
- The **Bureau of Transportation Statistics (BTS)** has regulatory responsibility for:
  - ◆ Airline statistics and
  - ◆ Motor carrier statistics.
- The **Transportation Security Administration (TSA)** has regulatory responsibility for security in all modes of transportation.
- The **Office of the Secretary (OST)** has regulatory responsibility for:
  - ◆ Conflict of interest, public availability (FOIA), and the Privacy Act,
  - ◆ Transportation of the Disabled,
  - ◆ Disadvantaged/women business enterprises,
  - ◆ Aviation economic, consumer, and antitrust issues,
  - ◆ Procurement,
  - ◆ The Time Act,
  - ◆ Alcohol and drug testing,

- ◆ Seismic standards,
  - ◆ Airline tariffs,
  - ◆ Federal advisory committees,
  - ◆ Passenger manifests,
  - ◆ Credit under the Transportation Infrastructure Finance and Innovation Act,
  - ◆ Assistance programs, and
  - ◆ Delegations.
- The **United States Coast Guard (USCG)** has regulatory responsibility for:
    - ◆ Bridge construction and operation,
    - ◆ Great lakes pilotage rulemaking,
    - ◆ Recreational boating safety,
    - ◆ Ship design,
    - ◆ Navigation,
    - ◆ Merchant mariner qualification,
    - ◆ Environmental protection requirements,
    - ◆ Oil pollution financial requirements,
    - ◆ Responsibility and claims procedures,
    - ◆ Waterfront facility safety, and
    - ◆ Port and waterway management.

These regulations are quite extensive. With very few exceptions, these regulations related to transportation infrastructure, operation of transportation systems, related environmental issues, and safety do not directly affect home-based businesses. The principal exception is FMCA regulations on motor carrier equipment, operations, hours of service, and commercial drivers' licenses, since there is a significant concentration of home-based businesses in the motor freight industry. There may also be some indirect effects on these businesses, as users of the transportation system. Yet it is difficult to see how any of these areas of regulation could disproportionately burden home-based businesses.

### **III. OTHER FEDERAL AGENCIES**

#### **A. ENVIRONMENTAL PROTECTION AGENCY**

Regulations of the Environmental Protection Agency are promulgated to mitigate pollution of air, land, and water (drinking and otherwise). The major statutes that provide the Agency's authority include the following:

- The Chemical Safety Information, Site Security and Fuels Regulatory Relief Act;
- The Clean Air Act (CAA);
- The Clean Water Act (CWA);
- The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund);
- The Emergency Planning & Community Right-To-Know Act (EPCRA);
- The Endangered Species Act (ESA);
- The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA);
- The National Environmental Policy Act of 1969 (NEPA);
- The Oil Pollution Act of 1990 (OPA);
- The Pollution Prevention Act (PPA);
- The Resource Conservation and Recovery Act (RCRA);
- The Safe Drinking Water Act (SDWA);
- The Superfund Amendments and Reauthorization Act (SARA); and
- The Toxic Substances Control Act (TSCA).

EPA itself is organized into offices, by medium and/or substance or industry regulated, based on the authorizing statutes.

EPA provides a considerable amount of compliance assistance to, and information about, the industries that it regulates by virtue of its statutory authority. A rough indication of the industries that have substantial regulatory impacts can be gleaned from the assistance materials.

- EPA has produced sector-based compliance assistance materials for:
  - ◆ Aerospace,
  - ◆ Agriculture,
  - ◆ Automotive,
  - ◆ Chemicals,
  - ◆ Computers/electronics,
  - ◆ Construction,
  - ◆ Dry cleaning,
  - ◆ Food processing,
  - ◆ Furniture,
  - ◆ Metals,
  - ◆ Minerals, mining and processing,
  - ◆ Petroleum,
  - ◆ Power generators,
  - ◆ Printing,
  - ◆ Pulp, paper, and lumber,
  - ◆ Rubber, plastic, and man-made fiber,
  - ◆ Shipbuilding and repair,
  - ◆ Textiles, and
  - ◆ Transportation.
  
- EPA has developed a series of profiles or notebooks containing information on selected major industries, which includes key indicators that holistically present air, water, and land pollutant release data.<sup>4</sup> Individual notebooks cover:
  - ◆ Agricultural chemicals, pesticides and fertilizers,
  - ◆ Agricultural crop production,
  - ◆ Agricultural livestock production,
  - ◆ Aerospace,
  - ◆ Air transportation,
  - ◆ Dry cleaning,
  - ◆ Electronics and computers,
  - ◆ Fossil fuel electric power generation,

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<sup>4</sup> Each notebook provides information on the following topics:

- A comprehensive environmental profile,
- Industrial process information,
- Pollution prevention techniques,
- Pollutant release data,
- Regulatory requirements,
- Compliance/enforcement data,
- A history of government and industry partnerships,
- Innovative programs,
- EPA contact names,
- Bibliographic references, and
- Descriptions of research methodology.

- ◆ Ground transportation,
- ◆ Inorganic chemicals,
- ◆ Iron and steel,
- ◆ Lumber and wood products,
- ◆ Metal casting,
- ◆ Metal fabrication,
- ◆ Metal mining,
- ◆ Motor vehicle assembly,
- ◆ Nonferrous metals,
- ◆ Non-fuel, non-metal mining,
- ◆ Oil and gas extraction,
- ◆ Organic chemicals,
- ◆ Petroleum refining,
- ◆ Pharmaceuticals,
- ◆ Plastic resins and man-made fibers,
- ◆ Printing,
- ◆ Pulp and paper,
- ◆ Rubber and plastics,
- ◆ Shipbuilding and repair,
- ◆ Stone, clay, glass, and concrete,
- ◆ Textiles,
- ◆ Transportation equipment and cleaning,
- ◆ Water transportation, and
- ◆ Wood furniture and fixtures.

Most of these industries are in the manufacturing or extractive sectors. Most of them are associated with industrial activities that are entirely unsuited to residential areas. In most of them, being a significant polluter probably requires a scale greater than that found in home-based businesses, since very small businesses often end up classified in an industry because they are dedicated suppliers to that industry but do not necessarily do the industrial activity that characterizes the industry.

Only a handful of sectors or industries on these lists have significant concentrations of home-based businesses or even appear to be of the type that would have the sort of family ownership associated with home-based businesses.

- The construction industry has a significant concentration of home-based businesses.
- Dry cleaning establishments are frequently family-owned businesses, and the families may live on the premises (especially if they are immigrants). Because of the potential for pollution, however, dry cleaning establishments are not allowed in residential neighborhoods. Thus whether the owners live on the premises (or live off the

premises and maintain a home office) is quite incidental to EPA's regulations. Home-based businesses as such do not suffer disproportionate burdens from these regulations.

- A significant concentration of home-based businesses is found in the lumber industry.
- Textiles are hand crafted as well as made in factories. EPA regulations have only a theoretical potential to affect home-based businesses in this industry.

That appears to be the extent of potential impacts of EPA regulations on home-based businesses.

## **B. ARMY CORPS OF ENGINEERS**

The U. S. Army Corps of Engineers has responsibility for navigable waterways that dates back to the Rivers and Harbors Acts of 1890. The principal regulatory function of the Corps, however, derives from 1972 amendments to the Federal Water Pollution Control Act (the "Clean Water Act"),<sup>5</sup> which broadened the definition of "navigable waterways to include the "waters of the United States" plus their tributaries and adjacent wetlands and isolated waters. The Corps issues permits for:

- Dams & dikes in navigable waters of the U.S.;
- Structures in or affecting navigable waters of the U.S.;
- Discharges of dredged or fill material into waters of the U.S.; and
- Ocean dumping of dredged material.<sup>6</sup>

The "Section 404" regulatory authority nominally covers discharge of dredge or fill materials. Together with other authorities of the Corps, however, this is interpreted broadly:

The mission of the Corps of Engineers Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands.<sup>7</sup>

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<sup>5</sup> The Corps also exercises similar regulatory oversight in the open seas under Section 103 of the Marine Protection Research and Sanctuaries Act of 1972.

<sup>6</sup> 33 CFR Part 321, 33 CFR Part 322, 33 CFR Part 323, and 33 CFR Part 324, respectively.

<sup>7</sup> <http://www.usace.army.mil/inet/functions/cw/cecwo/reg.>

The Regulatory Branch operates under Section 404(1)(b) Guidelines, developed by EPA in conjunction with the Secretary of the Army. The permitting process has three phases:

- Pre-application consultation (for major projects), which includes informal discussion of the pros and cons of the proposal and alternative approaches;
- Formal review, which includes an assessment of environmental impacts and an opportunity for public comment, as well as negotiations between the Corps and the applicant; and
- Decision making, which balances the purpose against other public and private needs.

About 5,500 alleged violations a year are processed in Corps district offices, of which 75 percent are related to Section 404.

Section 404 is a major issue for most large projects – particularly transportation construction projects, which almost inevitably hit wetlands. It appears highly unlikely that the Corps Regulatory Program has an impact on more than the minuscule number of home-based businesses, if any. Several factors contribute to this conclusion:

- Unless it is in an agricultural area, or area with comparably low density, it is hardly conceivable that a home-based business activity would have an adverse impact on wetlands on the same plot of residential land. If the wetlands involved are elsewhere, then a home-based business faces the same burden as any other comparable business.
- Most people would not want to damage wetlands on their own residential property. If they did not mind, community pressure would probably stop them long before the Corps got involved.
- The number of annual violations may involve a substantial number of small businesses (many of whom are likely unaware of the regulations), but the fraction of 5,500 violations that home-based businesses might account for is negligible compared to the total number of home-based businesses.

## **C. CONSUMER PRODUCT SAFETY COMMISSION**

The Consumer Product Safety Commission (CPSC) is an independent federal regulatory agency directed by statute to “protect the public against unreasonable risks of injuries and deaths associated with consumer products.” The CPSC has jurisdiction, drawn from five statutes,<sup>8</sup> over 15,000 types of consumer products. The CPSC has uses several types of mechanisms to accomplish its mission:

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<sup>8</sup> These are the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, the Poison Prevention Packaging Act, and the Refrigerator Safety Act.

- CPSC issues mandatory safety standards for some products.
- CPSC occasionally bans a product if there is no effective mandatory product safety standard.
- CPSC works with industry to develop voluntary standards.
- CPSC can order recall of a product and works with industry to develop remedial plans that may include design changes or repair.
- CPSC conducts extensive consumer education.

Under CPSC rules, manufacturers, importers, distributors, and retailers have three reporting requirements:

- Notify CPSC immediately if it could be concluded that one of its products:
  - ◆ Has a defect that creates a substantial risk of injury to the public,
  - ◆ Creates an unreasonable risk of serious injury or death, or
  - ◆ Violates a consumer product safety standard of ban of the product.
- Report to CPSC when any of its consumer products has been involved in at least three lawsuits in two years that alleged serious injury and resulted in a settlement or judgment; and
- Report to CPSC any incidents of children choking on marbles, small balls, balloons, or toys or games that contain such items.

In principle, CPSC has jurisdiction over every company that manufactures, imports, distributes, or sells any type of consumer product under its jurisdiction. As a matter of practice, few home-based businesses are engaged in manufacturing or importing; a small number may be involved in retailing. Home-based businesses are so small that they are unlikely ever to deal directly with the CPSC or to fall under the reporting requirements. At most, a home-based business may fall under a CPSC standard that applies to the entire industry. The potential for significant burden on home-based businesses appears to be minimal to nil.

## **D. FEDERAL TRADE COMMISSION**

The Federal Trade Commission (FTC) works to prevent harm to consumers by promoting markets that are vigorous, efficient, and free of anti-competitive restrictions. The FTC is made up of three bureaus:

- The Bureau of Competition enforces the antitrust laws, both with respect to mergers and with respect to non-merger provisions (e.g., price agreements, and other restraints of trade).
- The Bureau of Consumer Protection, whose mandate is to protect consumers against unfair, deceptive, or fraudulent practices, consists of:
  - ◆ The Division of Advertising Practices,
  - ◆ The Division of Enforcement,
  - ◆ The Division of Financial Practices,
  - ◆ The Division of Marketing Practices,
  - ◆ The Division of Planning and Information, and
  - ◆ The Consumer and Business Education Program.
- The Bureau of Economics conducts economic analysis of markets and provides analytical support and guidance to the enforcement divisions of the other bureaus.

The FTC inherently deals with businesses that are large enough – singly or collectively -- to have significant market power. FTC regulations target large businesses, and enforcement actions are often aimed at an individual business. The home-based segment of any industry, by contrast, consists of businesses small enough to exemplify purely competitive firms. They are essentially unaffected by FTC regulations and other actions.

## **APPENDIX C**

### **REVIEW OF SPECIFIC LAWS**

**The Americans With Disabilities Act**

**The Fair Labor Standards Act**

**The Occupational Safety and Health Act**

## A. THE AMERICANS WITH DISABILITIES ACT

**Coverage.** Title I of the ADA applies to employers and deals with employment. Among other things, Title I covers discrimination against employees or job applicants with disabilities and provision of accommodations for the disabilities of employees. In general, however:

The term ‘employer’ means a person engaged in an industry affecting commerce that has 15 or more employees for each working day in each of 20 or more calendar weeks [per] year.<sup>9</sup>

Home-based businesses are effectively exempted by this employment threshold.

Title III of the ADA requires public accommodations to be accessible to people with disabilities, so that they can participate in everyday activities. The ADA defines 12 categories of public accommodations.<sup>10</sup> Of these categories:

- Seven (restaurants, theaters, auditoriums, terminals, museums, parks, and gymnasiums) are facilities of a scale that virtually precludes a home-based business;
- One (hotels) exempts home-based businesses (i.e., bed & breakfasts).
- Two (retail establishment and place of education) may include some – but very few – home-based businesses and occasional clients; and

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<sup>9</sup> 29 CFR XIV part 1630.2(e).

<sup>10</sup> Place of public accommodation means a facility, operated by a private entity [in] at least one of the following categories –

- 1) An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor;
- 2) A restaurant, bar, or other establishment serving food or drink;
- 3) A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;
- 4) An auditorium, convention center, lecture hall, or other place of public gathering;
- 5) A bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;
- 6) A Laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment.
- 7) A terminal, depot, or other station used for specified public transportation;
- 8) A museum, library, gallery, or other place of public display or collection;
- 9) A park, zoo, amusement park, or other place of recreation;
- 10) A nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;
- 11) A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and
- 12) A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

- Two (service establishments and day care centers) may include substantial numbers of home-based businesses.

The ADA makes explicit reference to places of public accommodation that are located in private residences. In such an establishment, “those portions of the residence, interior or exterior, available to or used by customers or clients” are subject to the ADA. Areas used exclusively as a residence are not covered.<sup>11</sup> Thus home-based businesses that are places of public accommodations would appear to have one of the following configurations:

- Establishments where a customer would come into a room close to the outside door, which would generally resemble an office or living room;<sup>12</sup>
- Establishments where a customer would come to a service counter, essentially for pick-up, or into a room that had had substantial renovation;<sup>13</sup> and
- Day care centers.

Potential for Impacts in Establishments Other Than Day Care. Many home-based businesses do not have customers or clients who come to the business. Many professional services are provided in a client’s home (e.g., insurance agents, nurses, and tutors), in some other location (e.g., other medical professionals and real estate agents), or by other modes such telephone or mail (e.g., retail and travel agents). Indeed, one of the basic motivations for setting up a home office is to avoid the pointless expense of a rented office to which clients do not come anyway. Thus even in industries where the ADA generally defines facilities as public accommodations, there may be no impacts for home-based establishments

Many specific requirements do not have much applicability to home-based businesses, because home-based businesses are set up differently.

- Accessible parking is unlikely to be at issue, since street parking and most residential driveways have adequate space on one or both sides of a vehicle.
- Home entrance doors are rarely too narrow to accommodate a wheel chair.
- Most residences are laid out with easy access from the front door to at least a couple of rooms, and these are the spaces likely to be used to accommodate the public.

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<sup>11</sup> Sec. 36.207.

<sup>12</sup> This group would include professional services (offices of accountants, lawyers, insurance agents, and health care providers), education (lessons or tutoring), and some highly specialized retail.

<sup>13</sup> This group could include some sales or service establishments, where the customer did little more than pick up or drop off items, as well as service establishments such as barber shops and beauty shops.

- Door hardware is not particularly relevant when the basic means of gaining access is ringing a doorbell to get someone to come open the door.
- Gates and turnstiles are not generally found at entrances to homes.
- Public telephones, drinking fountains, and other facilities that may require modification are not usually found in homes.
- Shelves and maneuvering space are unlikely to be at issue, because home-based retail establishments are unlikely to be laid out in that manner.
- Most home-based businesses do not provide any access to bathrooms, so that access for persons with disabilities is not required.

If steps at the entrance door, natural topography of the yard, or other factors cause barriers to external access, the ADA has a common-sense provision that required barrier removal must be “readily achievable.” The sort of flexibility that this entails can be illustrated by several approaches to getting a wheelchair-bound person up a few stairs.

- Build a permanent ramp, complete with level resting spots if it is long enough. This is expensive and may complicate other access if the approaches to a front door are constricted. It is probably reasonable and cost effective only if a person regularly needs it or if steep or numerous stairs pose an access problem for regular customers.<sup>14</sup>
- Construct simple, removable ramps that a wheelchair can be rolled up. This is probably the best solution if wheelchair-bound customers visit with some frequency. If customers come by appointment, such ramps can be removed when such a customer is not expected. Such ramps are inexpensive and need not be level enough to enable a wheelchair user to get up unassisted.<sup>15</sup>
- Provide assistance to manhandle a wheelchair up the steps. If there are only a handful of visits a year – particularly by people who are infirm enough to need accompaniment – this solution is adequate; it does provide access.

**Day Care.** Day care is in a class by itself. Unlike the situation in other home-based businesses, one client with disabilities will necessitate surmounting barriers on a daily basis. Inside access must be more extensive, and it will include access to a toilet. Moreover, including a child with disabilities in the facility’s program may require additional services, which are not ordinarily reimbursable. The ADA requires a day care center to accept a child with disabilities unless the child’s attendance would pose a direct danger to other children or could not be accommodated without a substantial change in the program.

The ADA requirements apply equally to home-based and non-home-based day care programs, but the burdens occur only if a child with disabilities applies to and attends a program. As a practical matter, larger, better publicized day care programs that are well equipped to handle children with disabilities and have built up a reputation to match, appear likely to receive a disproportionate number of applications from children with disabilities. It may be that home-based day care businesses, with their greater reliance on word-of-mouth, get relatively few applications from (and have relatively few places available for) children with disabilities. At any rate, there is no basis for concluding that home-based day care businesses bear a disproportionately large level of ADA burdens.

## **B. THE FAIR LABOR STANDARDS ACT**

The Fair Labor Standards Act (FLSA) prescribes:

- Minimum wage and overtime pay standards;
- Recordkeeping standards; and

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<sup>14</sup> Home-based businesses generally do not attract many customers or casual customers who just happened by.

<sup>15</sup> Although design standards are intended to enable a person using a wheelchair to get up a ramp unassisted, different people have different abilities. People who are too weak, insufficiently co-coordinated, and/or have the use of only one hand cannot sustain forward motion on any significant slope.

- Child labor standards.

**Coverage.** FLSA explicitly covers work conducted in the home. There are limitations to the coverage, however, that effectively exempt most home-based businesses:

- FLSA applies only to employees.
- Enterprise coverage refers only to businesses with gross sales of \$500,000 or more.
- Individual employees are covered (even if the establishment is not) if they are engaged in interstate commerce or the production or shipping of goods that are moving in interstate commerce. This includes the mining, manufacturing, transportation, wholesale trade, and retail trade sectors, as well as finance and insurance that use interstate communications.
- A number of class workers in the home are explicitly exempted.
  - ◆ Bona fide executive, administrative, professional, and outside sales employees are exempt, if tests are met.
  - ◆ FLSA applies to industrial homework (production) only if the worker is an employee. Formal certification is required only for women's apparel, jewelry manufacturing, knitted outerwear, gloves & mittens, button & buckle manufacturing, handkerchief manufacturing, and embroideries.
  - ◆ FLSA covers the home health care industry, but there are exceptions. An untrained person who provides "companion services" to a physically or mental infirm person in the home of the employer is exempt. Registered nurses are generally exempt as professionals, and aides may be exempt, depending on their duties.
  - ◆ Child care employees are covered, unless the children have infirmities that qualify the caregivers as "companions."

**Requirements.** FLSA sets a minimum wage (currently \$5.15 per hour or equivalent, and 4.25 per hour for youth under age 20 in their first 90 days of employment) for covered workers, with time-and-a-half overtime pay for work in excess of 40 hours per week.

FLSA has recordkeeping requirements. Although no particular form is specified, an employer must maintain:

- Basic identification information for each employee, including, name, social security number, address, birth date (if younger than 19), sex, and occupation.

- Information on hours, including time and day of week the employee’s workweek begins, hours worked each day, total hours worked each workweek, and some sort of timekeeping information.
- Information on wages, including basis for computing the wage, regular hourly pay rate, weekly straight-time and overtime earnings, additions to or deductions from wages, total wages each pay period, and date of payment.

FLSA restricts the hours that youths under age 16 may work. In “hazardous” occupations, hour and occupational restrictions are also placed on youth ages 16 and 17.

**Assessment of Impacts.** For a variety of reasons, the potential impact of FLSA regulations on home-based businesses appears to be minimal. Over 90 percent of home-based businesses are exempt simply because they do not have employees, and most of those that do have employees are too small for establishment coverage. Independent contractors (a common arrangement when home-based businesses network) are also exempt.

Office support staff and employees with any degree of professional training are generally either exempt or have market wages in excess of the minimum wage. Recordkeeping requirements are generally limited to – or could be reconstructed from – information that would be needed to hire and pay employees in any sort of systematic manner.

The largest FLSA burden is learning about the requirements and exemptions. In this respect, however, home-based businesses do not appear to have any comparative disadvantage relative to other micro-enterprises with a very few employees. Moreover, it appears likely that a good-faith employer would comply with most aspects of the rules even if he didn’t know what they are. On issues such as the difference between an employee and an independent contractor, FLSA does not really impose an *incremental* burden over the burden of IRS regulations.

There is one area in which many home-based businesses would probably have a great deal of trouble if FLSA were taken literally. Family members often may make contributions to a home-based business without any formal wages or employee status. Although this appears to be a violation of FLSA, it is likely to be so widely ignored that little burden ensues.

## C. THE OCCUPATIONAL SAFETY AND HEALTH ACT

The Occupational Safety and Health Act (OSH Act) has a comprehensive mandate to maintain safe and healthful workplaces. OSHA regulations set two types of standard:

- **Safety standards** address hazards related to falls, fires, explosions, cave-ins operation and maintenance of vehicles and machinery, etc.

- **Health standards** address exposure to health hazards (especially hazardous substances), typically relying on a combination of engineering controls, monitoring, work practices, and personal protective equipment.

The OSH Act is comprehensive in coverage.<sup>16</sup> Nevertheless, most home-based businesses are not affected by OSHA regulations.

- OSHA regulations apply only to workplaces with employees; they do not apply to the self-employed.
- With a few exceptions (e.g., asbestos), the hazardous substances covered by OSHA health standards are not found in homes in any form that would expose people. With few exceptions (e.g., wholesale trade) the production processes that cause exposure and the industries that OSHA regulates are not found in residences.
- Similarly, many hazards addressed by safety standards (e.g., explosions, cave-ins, and the type of vehicles and machinery that OSHA regulates) do not occur in residences.
- OSHA's general recordkeeping requirements exempt businesses with 10 or fewer employees. Many individual regulations also have such thresholds that effectively exempt almost all home-based businesses.
- After a brief but intense controversy, OSHA has decided generally not to enforce its rules in home offices.

OSHA regulations do have a potential for impacts on home-based businesses when employees of these businesses work on sites outside the home (and the home is only the office of the business). Examples of industries with substantial numbers of home-based businesses where this may occur are construction, logging, and health services.

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<sup>16</sup> The OSH Act does not cover some industries, including mining and transportation. These industries are covered by other statutes, however, and they are not of much consequence for home-based businesses.

**APPENDIX D**

**AREAS OF STATE REGULATION**

SOURCE: New York State Governor's Office of Regulatory Reform, *Governor's Office of Regulatory Reform Profile*, Albany.

State of Tennessee, *How to be a Successful Employer: Regulations*.

**AREAS OF STATE REGULATION**

<b>Environmental and Natural Resources</b>	Environmental Regulations	Air and Water Pollution	
		Wetlands	
		Pesticides and Hazardous Substances	
		Asbestos	
		Hazardous Waste	
		Underground Storage Tanks	
		Subsurface Sewage Disposal	
		Radioactive Materials	
		State Environmental Quality Review	
		Brownfield Re-Use & Redevelopment	
		Coastal Zone Management	
	Natural Resource Regulations	Fishing & Hunting Natural Resource	
		State Park Rules, Regulations, & Permits	
		Conservation	
Historic preservation			
<b>Safety and Health</b>	Food Safety Regulations	Plant & Animal Industry	
		Milk Control	
		Food Safety, Inspection, & Distribution	
	Health Care Planning and Reimbursement Regulations	Managed Care	
		Continuing Care	
		Medicaid Management	
		Public Health	
		Clinical Laboratories	
	Safety Regulations	Fire Prevention & Control	
		Building Codes	
		Hazardous Waste Haulers	
	<b>Human Services</b>	Office for the Aging Regulations	<b>Ombudsman Program</b>
			Expanded In-Home Services for the Elderly
Nutritional Programs			
Human Services Regulations		<b>Public Assistance</b>	
		Children & Families	
		Child Care & Support	
		Services for Adults	
Mental Hygiene Regulations		<b>Residential &amp; Inpatient Programs</b>	
		Outpatient Programs	
		Crisis Services	
	Quality Assurance		

<b><u>AREAS OF STATE REGULATION</u></b>		
<b>Criminal Justice System</b>	Criminal Justice Services	<b>Standards on Inmate Behavior</b>
		Smoking Cessation Plans
		Drug Testing
		Temporary Release Programs
		DNA Policy Forensic Laboratories
		Police Agency Equipment Maintenance
		Peace Officers
	Parole Regulations	<b>Delinquency of Parole Violators</b>
		Re-release Programs
Commission on Corrections Regulations	Special Housing Units,	
	Legal Services in Local Correctional Facilities	
<b>Other Government Functions</b>	Real Property & Assessment	
	Education	
	Weights and Measures	
	Transportation Regulations	Motor Carrier/Trucking
		<b>Special Hauling/Divisible Load</b>
		Motor Vehicle Licensing
	Permits	Permit Information & Business Assistance
		Comprehensive Master Application for Complex Business Ventures
		Entrepreneurial Workshops / Business Forums
		Permit Reform and Streamlining
		Internet Availability of Permit Information & Application Forms
<b>Other Economic Issues</b>	Economic Development Regulations	
	Labor Regulations	Workers' Compensation Reform
		Compensation Insurance Rating Board Policies
		SIF Policies
		Employee & Training
		Employment Programs
		Unemployment Insurance
		Public Work
		Safety & Health Programs
		Employee Leasing
		Labor Standards
	Underground Mines	
	Economic Policy Regulations	<b>Tax practice &amp; Policy</b>
		<b>Banking Policy</b>
<b>Insurance Product Filings</b>		

## **APPENDIX E**

### **REGULATIONS REVIEWED IN SIX STATES**

**Exhibit E-I: Environmental Regulations**

**Exhibit E-II: Natural Resource Management Regulations**

**Exhibit E-III: Education Regulations**

**Exhibit E-IV: Health and Safety Regulations**

**Exhibit E-V: Human Service Regulations**

**Exhibit E-VI: Transportation Regulations**

**Exhibit E-VII: Regulations Concerning Government Operations**

**Exhibit E-VIII: Regulations Concerning Regulated Industries**

**Exhibit IX: Economic Development, Labor, and Tax Regulations**

**Exhibit X: Regulations Concerning Medical Professions**

**Exhibit XI: Regulations Concerning Non-Medical Professions**

SOURCES: Arizona Governor's Regulatory Review Council, *Notice of Public Meeting and Agenda*, January 7, 2003, February 4, 2003, March 4, 2003, April 1, 2003, May 6, 2003.

California Department of Industrial Relations, Division of Occupational Safety and Health. *2002 Rulemaking Calendar*.

Illinois General Assembly, Joint Committee on Administrative Rules. *The Flinn Report: Illinois Regulation*, Springfield, Illinois, 3/7/2003, 3/14/2003, 3/21/2003, 3/28/2003, 4/4/2003, 4/11/2003, 4/18/2003, 4/25/2003, 5/2/2003, 5/9/2003, 5/16/2003, 5/23/2003.

Iowa Administrative Rules Review Committee. *Meeting Briefings*, 6/7/2001, 7/10/2001, 8/14/2001, 9/11/2001, 10/9/2001, 12/11/2001, 1/8/2002, 5/14/2002, 6/11/2002, 7/9/2002, 8/13/2002, 9/10/2002, 10/8/2002, 11/12/2002, 12/12/2002

Pennsylvania Independent Regulatory Review Commission, *2002 Annual Report*, 2003.

Vermont Legislative Council, Committee on Administrative Rules. *Index of Administrative Rules for 2002* and *Index of Administrative Rules for 2003*.

NOTE: Counts for different states are not comparable. The tables presented below are not precise in their categorization. It is probable that some issues that are considered reviewable regulations in some states are not reviewed in others. The detailed topical categories were developed from the regulations and are not always consistent (e.g., between different professions). It was not always possible to classify each regulation, so that the detailed counts for each state are only approximate. California dominates the counts, both because a full year of data was available and because it is the largest state that reviewed regulations and its regulations are correspondingly numerous. For Vermont, the entire regulatory agenda for 2002 and 2003 (to date) was obtained, but the state is small enough that the total number is comparable to other states for which a much shorter time period was available.

**EXHIBIT E-I  
ENVIRONMENTAL REGULATIONS**

<b>Agency Area and Regulatory Topic</b>	<b>States With Regulatory Agendas</b>					
	<b>AZ</b>	<b>CA</b>	<b>IL</b>	<b>IA</b>	<b>PA</b>	<b>VT</b>
<b>Air Pollution</b>						
Air Quality Standards				2		
Emission Standards			2	2	1	2
Diesel Engines	1				1	
Vehicle Emissions Standards & Testing		13				
Site Fees			1			
Architectural and Industrial Coatings					1	
<b>Water</b>						
Surface Water Quality Standards	1	1			2	
Discharge Standards						1
Stream Designation			1		4	
Drinking Water Standards		4			1	2
Agriculture Use of Contaminated Water					1	
Oil Spill Prevention and Response		10				
Dredging		3				
<b>Waste &amp; Land</b>						
Solid Waste Landfills	1	21				1
Hazardous Waste	1	5	5		1	
HAZMAT Training Program	1	1				
Pesticides & Fertilizers			2			
Manure & Human Excreta	1			1		
Mines & Reclamation		11			3	
Excavations and Fill			1		1	
Recycling Programs		14				
Disposal of Appliances & Containers				2	1	
<b>Other Permit Issues</b>						
Permits and General Provisions		2	1			
Licensing Time Frames	1					
Hearing Board Practice Procedure					1	
<b>Radioactive Materials</b>						
Radiation Protection Standards	1					
Use of Radionuclides in Healing Arts	1		1			
Industrial Radiographic Operations	1					
Licensing & Registration Fees	1					
Transportation	1			1		

**EXHIBIT E-II  
NATURAL RESOURCE MANAGEMENT REGULATIONS**

<b><u>Agency Area and Regulatory Topic</u></b>	<b><u>States With Regulatory Agendas</u></b>					
	<b><u>AZ</u></b>	<b><u>CA</u></b>	<b><u>IL</u></b>	<b><u>IA</u></b>	<b><u>PA</u></b>	<b><u>VT</u></b>
<b>Natural Resources</b>						
Conservation / Species Protection		15	2	3		
Renewable Energy Programs		2				
Fisheries Management		12				
Aquaculture			1			
Watershed Protection		4				
Flooding, Floodways, and Waterways		7	6			
Water Allocation			1			
Forest Products		3	1			
<b>Recreation</b>						
State Parks and Forests			2		2	2
Hunting & Fishing		6	6	1		15
Snowmobile & ATV Registration					1	
Boating Safety	1		1			
Historic Preservation & Museum Grant			1			<b>1</b>

**EXHIBIT E-III  
EDUCATION REGULATIONS**

<b>Agency Area and Regulatory Topic<sup>a</sup></b>	<b>States With Regulatory Agendas</b>					
	<b><u>AZ</u></b>	<b><u>CA</u></b>	<b><u>IL</u></b>	<b><u>IA</u></b>	<b><u>PA</u></b>	<b><u>VT</u></b>
<b>Teachers</b>						
Preparation		2	1	1		
Certification/Licensing		5	3	1	1	1
Retirement Benefits Program			2		1	
<b>Curriculum and Standards</b>						
Academic Standards				1	3	
Special Education			3			1
Bilingual Education			1			
Alternative Learning Opportunities			1			
<b>Schools</b>						
Facilities		14	1			
Vocational & Secondary Schools		4				
Schools of Nursing		8				
Community Colleges				2		
Charter Schools				1		
Private School Licensing					1	
<b>Assistance</b>						
Grants, Scholarships & Loans		3	14			
School Lunch Program					1	

**EXHIBIT E-IV  
HEALTH AND SAFETY REGULATIONS**

<b>Agency Area and Regulatory Topic</b>	<b>States With Regulatory Agendas</b>					
	<b>AZ</b>	<b>CA</b>	<b>IL</b>	<b>IA</b>	<b>PA</b>	<b>VT</b>
<b>Public Health Services</b>						
Control of Communicable Diseases		9	1		1	
Plumbing Code	1		1	1		
Public Beach & Swimming Pool			1		2	
Safe Food & Drink	1	4	1	1	2	2
Newborn/Infant Screening/Follow-up		2		1	1	1
Child Lead Poisoning Prevention		1				
Cancer Registry						1
Medical Examiner / Autopsies					2	
Grants & Training			2		1	
Credentials Data Collection			1			
General Program						1
<b>Institutions</b>						
Emergency Medical Care		1	2			1
Environmental Laboratories		3				
Nursing Care & Assisted Living	1	3	4			
Hospital & Surgical Center Licensing		2	2			
Community Clinics		2				
Hospices	1					
Medication			1		2	
Managed Care Health Plans		31				
Health Care Workers			5			
<b>Health Services</b>						
Alcohol & Drug Treatment		11			3	
Family Planning		1				
Hearing Aids					1	
<b>Safety</b>						
Fire Safety		5		1		
Breath Test			1	1		

**EXHIBIT E-V  
HUMAN SERVICE REGULATIONS**

<b>Agency Area and Regulatory Topic<sup>a</sup></b>	<b>States With Regulatory Agendas</b>					
	<b><u>AZ</u></b>	<b><u>CA</u></b>	<b><u>IL</u></b>	<b><u>IA</u></b>	<b><u>PA</u></b>	<b><u>VT</u></b>
<b>Services to the Aging</b>						
Residential Care Facilities		5		2		
Adult Day Care		4				
Protective Services					1	
<b>Child and Family Services</b>						
Early Intervention		2	1		1	
Paternity & Child Support Enforcement		8	4		1	
Child Care Licensing & Inspection		8	2			1
Child Health & Insurance		9		1		
WIC		3			1	
Protective Services & Foster Care		10			1	
Transitional Housing for Homeless		4				
Other Child & Family Services		8				
Other Agency Operations		26				
<b>Services to Other Groups</b>						
Blind, Deaf & Hard of Hearing			1			1
MH, MR & DD Populations		11	1	2	2	
Rehabilitation Services		7				
<b>Other Funded Programs</b>						
Residential Care Licensing		2		1	1	1
Residential Care Reimbursement				3		
TANF/Public Assistance		7	1		3	
Food Stamps		5	1			1
Housing Assistance (Rent, Heating)						2
Homeless Shelters						1
Welfare-to-Work Programs		10		1		
Hospital Services			3			
Medical Assistance		36	8	2		12
Payment and Invoicing				1	2	
Administrative Issues				2		

**EXHIBIT E-VI  
TRANSPORTATION REGULATIONS**

<b>Agency Area and Regulatory Topic<sup>a</sup></b>	<b>States With Regulatory Agendas</b>					
	<b><u>AZ</u></b>	<b><u>CA</u></b>	<b><u>IL</u></b>	<b><u>IA</u></b>	<b><u>PA</u></b>	<b><u>VT</u></b>
<b>Transportation Systems</b>						
Infrastructure	2					
Tolls and Taxes			1		1	
Airports		2				
<b>Motor Vehicles</b>						
Title & Registration	2	5	1			
Safety of Motor Carriers			3			
Ambulances, Fire & School		2			1	
Fuel Efficiency		1				
Financial Responsibility	1					
<b>Operator Licensing</b>						
Private Driver	1	4	2			
Commercial Operator		5	1			
<b>Vehicle Operations</b>						
Commercial Carriers		1	2			
Transport of Hazardous Materials		1	1			
Advertising & Signage			3			
Impaired Drivers/DUI		5	1			
Safety		5				
Financial Responsibility		3				
<b>Other Topics</b>						
DMV Operations & Services		6				
Used & Damaged Vehicles; Dealers		6				
Environmental Compliance		1				

**EXHIBIT E-VII  
REGULATIONS CONCERNING GOVERNMENT OPERATIONS**

<b>Agency Area and Regulatory Topic</b>	<b>States With Regulatory Agendas</b>					
	<b>AZ</b>	<b>CA</b>	<b>IL</b>	<b>IA</b>	<b>PA</b>	<b>VT</b>
<b>General Topics</b>						
Public Information			1			
Agency Hearing & Other Procedures	2	10	1		1	3
Political practices		21				
<b>Public Employees</b>						
Conditions of Employment		7	1			
Benefits		6	2	1		
Promotion & Arbitration		6		1	1	
Employees with Disabilities		2				
Travel		1	1			
Conflict of Interest		9				
Ethics: Political Activity				1		
<b>General Services Administration</b>						
Architectural & Code Standards		29				
Bidding, Set-Asides & Contracts		1	1	2	2	
State Capitol Complex Regulations				2		
Other Buildings				1		
Government Website Advertising				1		
State Art Commission					1	
<b>Miscellaneous Financial Functions</b>						
Unclaimed Property			1	1	1	
Tobacco Settlement Agreement		1	1		1	
Military Family Relief Fund			1			
<b>Law Enforcement Officers</b>						
Employment, Compensation, Benefits	3					
Discipline & Appeals	1					
Training		1			2	
<b>Corrections</b>						
Sentencing & Restitution		7				
Parole & Release		7				1
Offender Classification						3
Disabilities & Medical Conditions		4				1
Rights, Discipline & Visits		5	2		1	
Youth: Juvenile Offenders & Wards		24				
Finances & Contracting		2	1		1	
Facilities & Operations		8				
<b>Other Law Enforcement Issues</b>						
Firearms Registration & Transfer		9	2			
Sex Offenders			2			
Genetic Markers & Imaging			2			
Crime Prevention & Reporting		4				

**EXHIBIT E-VIII  
REGULATIONS CONCERNING REGULATED INDUSTRIES**

<b>Agency Area and Regulatory Topic</b>	<b>States With Regulatory Agendas</b>					
	<b><u>AZ</u></b>	<b><u>CA</u></b>	<b><u>IL</u></b>	<b><u>IA</u></b>	<b><u>PA</u></b>	<b><u>VT</u></b>
<b>Telecommunications</b>						
Services & Connections			5			1
Cost and Cost Allocation			5			
Accounting & Reporting			1		1	
Rate Increase Filings			2			
Right-of-Way			1			
Telephone Assistance Program			1			
<b>Electric Power</b>						
Service & Availability	2					
Records & Load Management	2	3				1
Energy Conservation Standards		3				
Construction of Power Lines			1			
<b>Other Utilities</b>						
Gas Transportation & Pipeline Safety			1			
Street Railway Transportation					1	
<b>General Utility Regulations</b>						
Generic Competitive Safeguards					1	
Eligibility for Service & Deposits			1			
<b>Insurance</b>						
Registration & Licensing	1	4	1		1	
Policies & Forms					3	
Standards for Safeguarding Customers		4	1		1	3
Security of Insurers					3	
Rates, Fees & Coverage		9	1			
Procedures & Settlements		3	1			1
Automobile Insurance		10				
Health & Long Term Care Insurance		7				2
Life Insurance		2	1		1	
Earthquake/ Fire & Casualty Insurance		3				
Title Insurance		2				
Medicare Supplemental Insurance					1	
UST Indemnification Fund					1	
Holocaust Era Insurance Claims		1				

**EXHIBIT E-VIII (continued)**  
**REGULATIONS CONCERNING REGULATED INDUSTRIES**

<b><u>Agency Area and Regulatory Topic</u></b>	<b><u>States With Regulatory Agendas</u></b>					
	<b><u>AZ</u></b>	<b><u>CA</u></b>	<b><u>IL</u></b>	<b><u>IA</u></b>	<b><u>PA</u></b>	<b><u>VT</u></b>
<b>Gaming</b>						
Licensing of Gambling		7				
Enforcement & Records		9				
Riverboat Gambling			1			
Horse Racing Licensing		6				
Horse Racing Operations		9	4	3		
State Lotteries					2	
Other Gambling Operations		8		1		
<b>Retail of Alcoholic Beverages</b>						
Licensing		4				
Dram Shop Insurance				1		
Responsible Alcohol Management					1	
Transportation & Storage		1			2	
<b>Other Industries</b>						
Agriculture	4	31			3	
Athletics		2				
Banks, Credit Unions and S & Ls		15				
Other Financial Institutions		10	1			
Car Rental						1
Cemeteries & Funeral Homes		9				
Contractor Licensing & Building Codes	1	7		1	3	5
Milk Marketing		6			3	
Mobile Homes		5				
Motor Vehicle Repair		8				
Real Estate Development		13				

**EXHIBIT E-IX  
ECONOMIC DEVELOPMENT, LABOR, AND TAX REGULATIONS**

<b>Agency Area and Regulatory Topic<sup>a</sup></b>	<b>States With Regulatory Agendas</b>					
	<b><u>AZ</u></b>	<b><u>CA</u></b>	<b><u>IL</u></b>	<b><u>IA</u></b>	<b><u>PA</u></b>	<b><u>VT</u></b>
<b>Economic Development</b>						
Enterprise Zones		1	1			
CDBGs		1	1	1		
Other Community Development		8		1		
Small Business Assistance Program		1				
Business Enterprises for Disabled		4				
Industrial Development Bonds		1				
Tourism		1		1		
Film Industry		2				
<b>Labor</b>						
Labor Rights & Practices	2	9				1
Occupational Safety	1	80				4
Workers' Compensation		16			2	
Self-Insurance		3				
Unemployment Insurance		19				
Employment Training Programs		61				
Appeals Procedures					1	
Conditions for Racetrack Workers		3				
<b>Taxes</b>						
Tax Rates, Exemptions & Applications		23				
Allocation of Taxes		2				
Certification of Business Entity		1				
Business/Non-Business Allocation		3				
Withholding		10	1		1	
Credits		7				
Deductions		5				
Industry-Specific Excise & Use Taxes		2	3	1	2	
Interstate Issues		5				
Low-Income Housing				3		
Penalties & Interest		1	1			
<b>Other</b>		9				

**EXHIBIT E-X  
REGULATIONS CONCERNING MEDICAL PROFESSIONS**

<b>Agency Area and Regulatory Topic</b>	<b>States With Regulatory Agendas</b>					
	<b>AZ</b>	<b>CA</b>	<b>IL</b>	<b>IA</b>	<b>PA</b>	<b>VT</b>
<b>Acupuncture</b>						
Standards of Practice			1			
<b>Chiropractic</b>						
Board Procedures		3				
Licensing & Qualifications		3				
Training & Continuing Education		3				
Standards of Practice		5				
Physiotherapy Service Labeling				1		
<b>Dentistry</b>						
Licensing	1	2				
Standards of Practice	1	2		1		
Continuing Education		1				
Duties & Settings for Assistants		5				
<b>Dietetic and Nutrition Services</b>						
Standards of Practice			1			
<b>Environmental Health Practitioner</b>						
Licensing			1			
<b>Hemodialysis Technician</b>						
Licensing		1				
<b>Homeopathic Medicine</b>						
Drug Labeling, Recordkeeping, Storage				1		
<b>Neuropathic Physicians</b>						
Licensing						1
<b>Nursing</b>						
Training		3				
Licensing/Certification		3				
Standards of Practice & Procedure		4	1	1		
Public Participation (Board)				1		
<b>Nursing Home Administrator</b>						
Licensing		1				
<b>Occupational Therapy</b>						
Standards of Practice			1			
<b>Optometry</b>						
Therapeutic Certification					1	
<b>Osteopathy</b>						
Fees					1	

**EXHIBIT E-X (continued)**  
**REGULATIONS CONCERNING MEDICAL PROFESSIONS**

<b>Agency Area and Regulatory Topic</b>	<b>States With Regulatory Agendas</b>					
	<b>AZ</b>	<b>CA</b>	<b>IL</b>	<b>IA</b>	<b>PA</b>	<b>VT</b>
<b>Pharmacy</b>						
Standards of Practice		2				1
Distribution & Dispensing	1			1	1	
Non-Pharmacy Licensed Outlets	1					
Permits	1					
<b>Physical Therapy</b>						
Fees		1			1	
Training		1				
Licensing/Certification	1	4				
Standards of Practice		6				
Sexual Misconduct					1	
<b>Physician Assistant</b>						
Supervision		9				
<b>Podiatry</b>						
Fees					1	
Licensing & Examinations	2					
Hearings	1					
Continuing Education	1					
Dispensing of Drugs	1					
<b>Psychiatry</b>						
Licensing & Examinations	1				1	
Continuing Education					1	
<b>Psychologists</b>						
Licensing & Registration		2				
Supervised Experience		1				
Standards of Practice		3				
Continuing Education		1				
<b>Social Work/Counseling</b>						
Fees			1		1	
Licensing					1	
<b>Speech-Language Pathology</b>						
Licensing		3				
Continuing Education		1				
Standards of Practice		2	1			
<b>Veterinary Medicine</b>						
Licensing, Examinations & Fees					1	
Prescription Drugs					1	

**EXHIBIT E-XI  
REGULATIONS CONCERNING NON-MEDICAL PROFESSIONS**

<b>Agency Area and Regulatory Topic</b>	<b>States With Regulatory Agendas</b>					
	<b>AZ</b>	<b>CA</b>	<b>IL</b>	<b>IA</b>	<b>PA</b>	<b>VT</b>
<b>Accountancy</b>						
Licensing/Certification of CPAs		3			1	
Continuing Education		3				
Standards of Practice		3				1
Inactive Status of CPAs				1		
<b>Appraisers</b>						
Certification		1				
<b>Architects</b>						
Fees					1	
<b>Athletic Trainers</b>						
Standards of Practice			1			
<b>Barbers</b>						
Disinfection/Sanitation Standards					1	
<b>Boxing, Martial Arts &amp; Wrestling</b>						
Oversight		3	1		1	
<b>Engineer</b>						
Fees		2				
Qualifications		2				
Standards of Practice		1	1			
<b>Funeral Directors and Embalmers</b>						
Licensing			1			
Standards of Practice						2
<b>Geologist/Geophysicists</b>						
Standards of Practice		3				
<b>Home Inspector</b>						
Licensing			1			
<b>Navigator</b>						
Licensing					1	
<b>Real Estate &amp; Appraisal</b>						
Fees		1			1	
Licensing			1			
Continuing Education		4				
Standards of Practice	1	4			1	
<b>Roofing Industry</b>						
Licensing			1			
<b>Shorthand Reporters</b>						
Certification			1			
<b>Vehicle Manufacturers &amp; Dealers</b>						
Vehicle Auction License					1	
Established Place of Business					1	
Consignment Sales					1	
General Revisions of Regulations					1	
<b>General</b>						
Registration/Regulatory Provisions	2					

**APPENDIX F**

**STATE REGULATION OF PROFESSIONS**

**Exhibit F-I: State Regulation of Health Occupations & Professions**

**Exhibit F-II: State Regulation of Selected Non-Health Occupations & Professions**

SOURCE: Council of State Governments, *The Book of the States*, Lexington, KY, 1996.

**EXHIBIT F-I  
STATE REGULATION OF HEALTH OCCUPATIONS & PROFESSIONS**

	<b>Accupuncture</b>	<b>Chiropractor</b>	<b>Counselor, Professional</b>	<b>Counselor, Alcoholism</b>	<b>Counselor, Drug</b>	<b>Counselor, Pastoral</b>
Alabama		L	L			
Alaska	L	L				
Arizona		L	C			
Arkansas		L	L			
California	L	L				
Colorado	R	L	L	C	C	
Connecticut		L				
Delaware		L	L			
Dist of Columbia	L	L	L			
Florida	L	L		C		
Georgia	L	L	L			
Hawaii	L	L				
Idaho		L	L			
Illinois		L	L			
Indiana		L				
Iowa		L				
Kansas		L	C			
Kentucky		L				
Louisiana	L	L	L		C	
Maine	L	L	L		R	L
Maryland	L	L	C		L	
Massachusetts	L	L				
Michigan		L	L			
Minnesota		L				
Mississippi		L	L		C	
Missouri		L	L			
Montana	L	L	L			
Nebraska		L	C			
Nevada	L	L				
New Hampshire		L				C
New Jersey	L	L				
New Mexico	L	L	L			
New York	L	L		L	L	
North Carolina		L	C			
North Dakota		L			L	
Ohio		L	L			
Oklahoma		L	L			
Oregon	L	L	L			
Pennsylvania	R	L				
Rhode Island	L	L				
South Carolina		L	L			
South Dakota		L				
Tennessee		L	L			
Texas	L	L	L		L	
Utah	L	L				
Vermont	L	L				
Virginia	L	L	L	C	C	
Washington	L	L				
West Virginia		L	L			
Wisconsin	L	L	C			
Wyoming		L	L			
C - Certification	L - Licensure		R - Regulation			

**EXHIBIT F-I  
STATE REGULATION OF HEALTH OCCUPATIONS & PROFESSIONS**

	<b>Counselor, Substance Abuse</b>	<b>Dentist</b>	<b>Dental Assistant</b>	<b>Dental Hygienist</b>	<b>Denturist</b>	<b>Dietician</b>
Alabama		L		L		L
Alaska		L		L		
Arizona	C	L	C	L	L	
Arkansas		L	R	L		L
California		L	L	L		C
Colorado	L	L		L		
Connecticut		L		L		
Delaware		L		L		
Dist of Columbia		L		L		L
Florida		L		L		L
Georgia		L		L		C
Hawaii	C	L		L		
Idaho		L		L	L	
Illinois		L		L		L
Indiana		L		L		
Iowa		L		L		L
Kansas	C	L		L		L
Kentucky		L		L		C
Louisiana		L		L		L
Maine	L	L		L		L
Maryland		L	R	L		L
Massachusetts		L		L		
Michigan		L	L	L		
Minnesota		L	C	L		
Mississippi		L		L		L
Missouri		L		L		
Montana	C	L		L	L	L
Nebraska		L		L		
Nevada		L		L		
New Hampshire	C	L		L		
New Jersey	C	L	R	L		
New Mexico		L		L		L
New York		L		L		
North Carolina		L		L		
North Dakota	L	L		L		L
Ohio		L		L		L
Oklahoma		L	C	L		L
Oregon		L		L	L	L
Pennsylvania		L		L		
Rhode Island	C	L		L		L
South Carolina		L		L		
South Dakota		L	R	L		
Tennessee		L	L	L		L
Texas		L		L		C
Utah		L		L		L
Vermont		L	L	L		
Virginia	C	L		L		
Washington		L		L		L
West Virginia		L		L		
Wisconsin		L		L		
Wyoming	L	L		L		

C – Certification

L – Licensure

R – Regulation

**EXHIBIT F-I**  
**STATE REGULATION OF HEALTH OCCUPATIONS & PROFESSIONS**

	<b>Emergency Medical Technician</b>	<b>Hearing Aid Dealer &amp; Fitter</b>	<b>Homeopath</b>	<b>Massage Therapist</b>	<b>Nurse, Licensed Practical</b>	<b>Nurse Midwife</b>
Alabama	L	L			L	L
Alaska	L	L			L	L
Arizona	L	L	L		L	
Arkansas	L	L		L	L	L
California	L	L				L
Colorado	L	L			L	L
Connecticut	L	L	L		L	L
Delaware	L	L			L	L
Dist of Columbia	L				L	L
Florida	L	L		L	L	
Georgia	L	L			L	
Hawaii	L	L		L	L	L
Idaho	L	L			L	
Illinois	L	L			L	
Indiana	L	L			L	C
Iowa	L	L		L	L	
Kansas	L	L			L	L
Kentucky	L	L			L	L
Louisiana	L	L			L	
Maine	L	L		R	L	
Maryland	L	L			L	L
Massachusetts	L				L	L
Michigan	L	L			L	C
Minnesota	L	L			L	
Mississippi	L	L			L	L
Missouri	L	L			L	
Montana	L	L			L	L
Nebraska	L	L		L	L	L
Nevada	L	L	L		L	
New Hampshire	L	L		L	L	
New Jersey	L	L			L	L
New Mexico	L	L		L	L	
New York	L	L		L	L	L
North Carolina	L	L			L	C
North Dakota	L	L		L	L	
Ohio	L	L			L	L
Oklahoma	L	L			L	C
Oregon	L	L		L	L	C
Pennsylvania	L	L			L	L
Rhode Island	L	L		L	L	L
South Carolina	L	L			L	L
South Dakota	L	L			L	L
Tennessee	L	L			L	
Texas	L	L		L	L	
Utah	L	L		L	L	L
Vermont	L				L	
Virginia	L	L			L	L
Washington	L	L		L	L	L
West Virginia	L	L			L	L
Wisconsin	L	L			L	L
Wyoming	L	L			L	
C – Certification	L – Licensure		R – Regulation			

**EXHIBIT F-I  
STATE REGULATION OF HEALTH OCCUPATIONS & PROFESSIONS**

	<b>Nurse Practitioner</b>	<b>Nurse, Registered</b>	<b>Nursing Home Administrator</b>	<b>Occupational Therapist</b>	<b>Occupational Therapy Assistant</b>	<b>Optician</b>
Alabama	L	L	L	L	L	
Alaska	L	L	L	L	L	L
Arizona	C	L	L	L	L	L
Arkansas	L	L	L	L	L	L
California	L	L	L			C
Colorado		L	L			
Connecticut	L	L	L	L	L	L
Delaware		L	L	L	L	
Dist of Columbia		L	L	L	L	
Florida	L	L	L	L	L	L
Georgia	L	L	L	L	L	L
Hawaii		L	L			L
Idaho	L	L	L	L		L
Illinois		L	L	L	L	
Indiana		L	L	C	C	
Iowa	L	L	L	L	L	
Kansas	L	L	L	C	C	
Kentucky	L	L	L	L	L	L
Louisiana		L	L	L	L	
Maine		L	L	L	L	
Maryland	L	L	L	L		
Massachusetts		L	L	L	L	L
Michigan	C	L	L			
Minnesota	L	L	L			
Mississippi		L	L	L	L	
Missouri		L	L	C		
Montana	L	L	L	L	L	
Nebraska	L	L	L	L	L	
Nevada	L	L	L			
New Hampshire	L	L	L	L	L	R
New Jersey		L	L			L
New Mexico		L	L	L	L	
New York	L	L	L	L	L	L
North Carolina		L	L	L	L	L
North Dakota		L	L			
Ohio	L	L	L	L	L	L
Oklahoma	C	L	L	L	L	
Oregon		L	L	L	L	
Pennsylvania	L	L	L	L	L	
Rhode Island	L	L	L	L		L
South Carolina	L	L	L	L	L	L
South Dakota	L	L	L	L	L	
Tennessee		L	L	L	L	L
Texas	L	L	L	L	L	L
Utah	L	L	L	L	L	
Vermont		L	L			L
Virginia	L	L	L	C		L
Washington		L	L	L	L	L
West Virginia		L	L			
Wisconsin		L	L	C	C	
Wyoming	L	L	L	L	L	
C - Certification	L - Licensure		R - Regulation			

**EXHIBIT F-I  
STATE REGULATION OF HEALTH OCCUPATIONS & PROFESSIONS**

	<b>Optometrist</b>	<b>Osteopath</b>	<b>Pharmacist</b>	<b>Physical Therapist</b>	<b>Physical Therapy Assistant</b>	<b>Physician</b>
Alabama	L	L	L	L	L	L
Alaska	L	L	L	L	L	L
Arizona	L	L	L	L		L
Arkansas	L	L	L	L	L	L
California	L	L	L	L	L	L
Colorado	L	L	L	L		L
Connecticut	L	L	L	L		L
Delaware	L	L	L	L	R	L
Dist of Columbia	L	L	L	L	L	L
Florida	L	L	L	L	L	L
Georgia	L	L	L	L	L	L
Hawaii	L	L	L	L		L
Idaho	L	L	L	L		L
Illinois	L	L	L	L	L	L
Indiana	L	L	L	L	L	L
Iowa	L	L	L	L	L	L
Kansas	L	L	L	C	R	L
Kentucky	L	L	L	L	L	L
Louisiana	L	L	L	L	L	L
Maine	L	L	L	L	L	L
Maryland	L	L	L	L	L	L
Massachusetts	L	L	L	L	L	L
Michigan	L	L	L	L		L
Minnesota	L	L	L	C		L
Mississippi	L	L	L	L	L	L
Missouri	L	L	L	L		L
Montana	L	L	L	L		L
Nebraska	L	L	L	L	C	L
Nevada	L	L	L	L		L
New Hampshire	L	L	L	L	C	L
New Jersey	L	L	L	L	L	L
New Mexico	L	L	L	L	L	L
New York	L	L	L	L	L	L
North Carolina	L	L	L	L	L	L
North Dakota	L	L	L	L	L	L
Ohio	L	L	L	L	L	L
Oklahoma	L	L	L	L	L	L
Oregon	L	L	L	L	L	L
Pennsylvania	L	L	L	L	R	L
Rhode Island	L	L	L	L	L	L
South Carolina	L	L	L	L	L	L
South Dakota	L	L	L	L	L	L
Tennessee	L	L	L	L	L	L
Texas	L	L	L	L	L	L
Utah	L	L	L	L		L
Vermont	L	L	L	L	L	L
Virginia	L	L	L	L	L	L
Washington	L	L	L	L		L
West Virginia	L	L	L	L	L	L
Wisconsin	L	L	L	L		L
Wyoming	L	L	L	L		L
C - Certification	L - Licensure		R - Regulation			

**EXHIBIT F-I  
STATE REGULATION OF HEALTH OCCUPATIONS & PROFESSIONS**

	<b>Physician Assistant</b>	<b>Podiatrist</b>	<b>Psychologist</b>	<b>Radiologic Technologist</b>	<b>Radiation Therapist</b>	<b>Respiratory Therapist</b>
Alabama	L	L	L			
Alaska	L	L	L			
Arizona	C	L	L	C	C	
Arkansas	C	L	L			L
California	L	L	L	C	L	L
Colorado	C	L	L			
Connecticut	L	L	L			
Delaware	L	L	L	L	L	
Dist of Columbia	L	L	L			
Florida	L	L	L	L	L	L
Georgia	C	L	L			L
Hawaii	C	L	L	L	L	
Idaho	C	L	L			R
Illinois	L	L	L	L	L	
Indiana	C	L	C		L	C
Iowa	L	L	L	L	L	L
Kansas	C	L	L			C
Kentucky	L	L	L	L	L	L
Louisiana	L	L	L	L	L	L
Maine	L	L	L	L	L	L
Maryland	L	L	L			C
Massachusetts	L	L	L	L		L
Michigan	L	L	L	L		
Minnesota	C	L	L			C
Mississippi		L	L			L
Missouri	L	L	L			C
Montana	L	L	L	L		L
Nebraska	C	L	L			L
Nevada	L	L	L			
New Hampshire	L	L	C			L
New Jersey	L	L	L		L	L
New Mexico	L	L	L	C		L
New York	L	L	L	L	L	
North Carolina	L	L	L			
North Dakota	R	L	L			L
Ohio	L	L	L			
Oklahoma	L	L	L			
Oregon	L	L	L	L		L
Pennsylvania	C	L	L			
Rhode Island	L	L	L			L
South Carolina	L	L	L			L
South Dakota	L	L	L			
Tennessee	L	L	L			L
Texas	L	L	L	L		L
Utah	L	L	L	L	L	
Vermont	L	L	L	L		
Virginia	L	L	L	C		C
Washington	L	L	L	C		L
West Virginia	L	L	L	L		
Wisconsin		L	L			L
Wyoming	L	L	L	L	L	
C – Certification	L – Licensure		R – Regulation			

**EXHIBIT F-I  
STATE REGULATION OF HEALTH OCCUPATIONS & PROFESSIONS**

	<b>Sanitarian</b>	<b>Social Worker</b>	<b>Speech-Language Pathologist/ Audiologist</b>	<b>Therapist, Marriage &amp; Family</b>	<b>Veterinarian</b>	<b>Veterinary Technician</b>
Alabama		L	L		L	L
Alaska				L	L	L
Arizona		C		C	L	L
Arkansas	R	L	L		L	L
California			L	L	L	R
Colorado				L	L	
Connecticut			L		L	
Delaware			L		L	
Dist of Columbia		L			L	
Florida			L	L	L	
Georgia			L	L	L	L
Hawaii	L		L		L	
Idaho	L	L			L	
Illinois		L	L	L	L	L
Indiana	R	L	L	L	L	L
Iowa		L	L	L	L	L
Kansas		L	L	C	L	L
Kentucky	L	L	L		L	L
Louisiana	L	L	L		L	
Maine		L	L	L	L	L
Maryland	L	L	L		L	L
Massachusetts	L	L	L	L	L	
Michigan	C	C		L	L	L
Minnesota	C	L	C	L	L	L
Mississippi	L	L	L		L	
Missouri	C		L		L	L
Montana	L	L	L		L	
Nebraska	R	L	L		L	L
Nevada		L	L	L	L	L
New Hampshire		C		C	L	
New Jersey	L		L	L	L	
New Mexico		L	L	L	L	L
New York		C	L		L	L
North Carolina	L	C	L	C	L	L
North Dakota	L	L	L		L	L
Ohio	L	L	L		L	L
Oklahoma	L	L	L	L	L	L
Oregon	L		L	L	L	L
Pennsylvania		L	L		L	R
Rhode Island	L		L	L	L	
South Carolina		L	L	L	L	L
South Dakota		L			L	L
Tennessee	C	L	L	L	L	
Texas	L	L	L	L	L	
Utah	L	L	L	L	L	
Vermont					L	
Virginia		L	L		L	L
Washington		L		L	L	
West Virginia	L	L	L		L	L
Wisconsin	L	C	L	C	L	L
Wyoming			L	L	L	
C - Certification		L - Licensure		R - Regulation		

<b>EXHIBIT F-II: STATE REGULATION OF SELECTED NON-HEALTH OCCUPATIONS AND PROFESSIONS</b>					
	<b>Accountant, Certified Public</b>	<b>Architect</b>	<b>Auctioneer</b>	<b>Barber</b>	<b>Cosmetologist</b>
Alabama	L	L	L		L
Alaska	L	L		L	L
Arizona	L	L		L	L
Arkansas	L	L	L	L	L
California	L	L		L	L
Colorado	L	L		L	L
Connecticut	L	L		L	L
Delaware	L	L		L	L
Dist of Columbia	L	L		L	L
Florida	L	L	L	L	L
Georgia	L	L	L	L	L
Hawaii	L	L		L	L
Idaho	L	L		L	L
Illinois	L	L		L	L
Indiana	L	L	L	L	L
Iowa	L	L		L	L
Kansas	L	L		L	L
Kentucky	L	L	L	L	L
Louisiana	L	L	L	L	L
Maine	L	L	L	L	L
Maryland	L	L		L	L
Massachusetts	L	L		L	L
Michigan	L	L		L	L
Minnesota	L	L		L	L
Mississippi	L	L		L	L
Missouri	L	L		L	L
Montana	L	L		L	L
Nebraska	L	L		L	L
Nevada	L	L		L	L
New Hampshire	L	L	L	L	L
New Jersey	L	L			L
New Mexico	L	L		L	L
New York	L	L		L	L
North Carolina	L	L	L	L	L
North Dakota	L	L	L	L	L
Ohio	L	L	L	L	L
Oklahoma	L	L		L	L
Oregon	L	L		L	L
Pennsylvania	L	L	L	L	L
Rhode Island	L	L	L	L	L
South Carolina	L	L	L	L	L
South Dakota	L	L		L	L
Tennessee	L	L	L	L	L
Texas	L	L	L	L	L
Utah	L	L		L	L
Vermont	L	L	L	L	L
Virginia	L	L	L	L	L
Washington	L	L	R	L	L
West Virginia	L	L	L	L	L
Wisconsin	L	L		L	L
Wyoming	L	L		L	L
C – Certification	L – Licensure		R – Regulation		

<b>EXHIBIT F-II: STATE REGULATION OF SELECTED NON-HEALTH OCCUPATIONS AND PROFESSIONS</b>					
	<b>Embalmer</b>	<b>Engineer, Professional</b>	<b>Funeral Director</b>	<b>Insurance Agent</b>	<b>Insurance Broker</b>
Alabama	L	L	L	L	L
Alaska	L	L	L	L	
Arizona	L	L	L	L	L
Arkansas	L	L	L	L	
California	L	L	L	L	
Colorado		L		L	L
Connecticut	L	L	L	L	L
Delaware		L	L	L	L
Dist of Columbia		L	L	L	L
Florida	L	L	L	L	
Georgia	L	L	L	L	
Hawaii	L	L	L	L	
Idaho		L	L	L	L
Illinois	L	L	L	L	
Indiana		L	L	L	L
Iowa		L	L	L	
Kansas	L	L	L	L	L
Kentucky	L	L	L	L	
Louisiana	L	L	L	L	L
Maine	L	L	L	L	L
Maryland		L	L	L	L
Massachusetts	L	L	L	L	L
Michigan		L	L	L	
Minnesota		L	L	L	
Mississippi	L	L	L	L	
Missouri	L	L	L	L	L
Montana		L	L	L	
Nebraska	L	L	L	L	L
Nevada	L	L	L	L	L
New Hampshire	L	L	L	L	L
New Jersey		L	L	L	
New Mexico		L	L	L	L
New York	L	L	L	L	L
North Carolina	L	L	L	L	L
North Dakota	L	L	L	L	L
Ohio	L	L	L	L	L
Oklahoma	L	L	L	L	
Oregon	L	L	L	L	
Pennsylvania		L	L	L	L
Rhode Island	L	L	L	L	L
South Carolina	L	L	L	L	L
South Dakota	L	L	L	L	L
Tennessee	L	L	L	L	
Texas	L	L	L	L	
Utah		L	L	L	L
Vermont	L	L	L	L	L
Virginia		L	L	L	
Washington	L	L	L	L	L
West Virginia	L	L	L	L	
Wisconsin		L	L	L	
Wyoming	L	L	L	L	L
C – Certification	L – Licensure		R – Regulation		

<b>EXHIBIT F-II: STATE REGULATION OF SELECTED NON-HEALTH OCCUPATIONS AND PROFESSIONS</b>					
	<b>Landscape Architect</b>	<b>Polygraph Examiner</b>	<b>Real Estate Agent</b>	<b>Real Estate Broker</b>	<b>Surveyor, Land</b>
Alabama	L	L	L	L	L
Alaska			L	L	L
Arizona	L		L	L	L
Arkansas	L	L	L	L	L
California	L		L	L	L
Colorado			L	L	L
Connecticut	C		L	L	L
Delaware	L		L	L	L
Dist of Columbia			L	L	
Florida	L		L	L	L
Georgia	L	L	L	L	L
Hawaii	L		L	L	L
Idaho	L		L	L	L
Illinois		L	L	L	L
Indiana		L	L	L	L
Iowa	C	L	L	L	L
Kansas	L		L	L	L
Kentucky	L	L	L	L	L
Louisiana	L	L	L	L	L
Maine	L	L	L	L	L
Maryland	L		L	L	L
Massachusetts	L		L	L	L
Michigan	C	L	L	L	L
Minnesota	L		L	L	L
Mississippi	L		L	L	L
Missouri	C		L	L	L
Montana	L	L	L	L	L
Nebraska	L	L	L	L	L
Nevada	L	L	L	L	L
New Hampshire			L	L	L
New Jersey	C		L	L	L
New Mexico	L	L	L	L	L
New York	L		L	L	L
North Carolina	C	L	L	L	L
North Dakota		L	L	L	L
Ohio	L		L	L	L
Oklahoma	L	L	L	L	L
Oregon	L	L	L	L	L
Pennsylvania	L		L	L	L
Rhode Island	L		L	L	L
South Carolina	L	L	L	L	L
South Dakota	L	L	L	L	L
Tennessee	L	L	L	L	L
Texas	L	L	L	L	L
Utah	L	L	L	L	L
Vermont		L	L	L	L
Virginia	C	L	L	L	L
Washington	C		L	L	L
West Virginia	L	L	L	L	L
Wisconsin			L	L	L
Wyoming	L		L	L	L
C – Certification	L – Licensure		R – Regulation		

## **APPENDIX G**

### **INDUSTRIAL HOMEWORK LAWS IN CALIFORNIA AND ILLINOIS**

SOURCES: California Codes, Labor Code, Section 2650(g).

California Code of Regulations, Title 8, Industrial Relations, Section 13600.

Illinois Compiled Statutes, Chapter 820, 240, Industrial Homework Act.

**INDUSTRIAL HOMEWORK LAWS IN CALIFORNIA AND ILLINOIS**

	<b>California Labor Code</b>	<b>Illinois Industrial Homework Law</b>
<b>Statutory Definition of Industrial Homework</b>	Any manufacture in a home of materials or articles for an employer when such articles or materials are not for the personal use of the employer or a member of his or her family. <sup>a</sup>	The processing in a home or any part of a home of any article or articles, the material for which has been furnished by an employer, except any article or articles which are being processed solely for the consumption, wearing or use of persons residing in the home where the work is performed. <sup>b</sup>
<b>Definition of Manufacture Or Process</b>	“To manufacture” means to make, process, prepare, alter, repair, or finish in whole or in part, or to assemble, inspect, wrap, or package any articles or materials. <sup>a</sup>	“To process” means to manufacture, finish, repair, prepare, or handle, any material or objects in whole or in part. <sup>b</sup>
<b>Definition of Garment Manufacturing Industry</b>	All persons engaged in the business of manufacturing garments for wear upon the human body [which] includes every process, either hand or machine, involved in the manufacture of any or all garments for wear upon the human body, whether such process be applied to fabric, textile, fur, leather, or leather substitute, or other material of a similar nature, and also means to prepare, alter, repair, or finish in whole or in part. <sup>c</sup>	No comparable definition.
<b>Statutory Definition of To Employ</b>	To engage, suffer or permit any person to do industrial homework, or to tolerate, suffer or permit articles or materials under one’s custody or control to be manufactured in a home by industrial homework. <sup>a</sup>	No comparable definition.
<b>Definition of Employer</b>	Any person who, directly or indirectly or through an employee, agent, independent contractor, or any other person, delivers to another person any materials or articles to be manufactured in a home and thereafter to be returned to him, not for the personal use of himself or of a member of his family. <sup>c</sup>	Any person who distributes materials or objects, directly or indirectly to a home for the purpose of having such materials or objects processed and thereafter returned to him, such processed materials or objects not intended for his personal use or any member of his family. <sup>b</sup>
<b>Definition of Employee</b>	Anyone engaged, suffered, or permitted to do industrial homework. It shall be the presumption that persons working in their homes for remuneration on articles to be delivered to another person not for his (her) personal or his (her) family’s use are employees and not independent contractors. <sup>c</sup>	No comparable definition.
<b>Types of Industrial Homework Prohibited by Statute</b>	Manufacture of articles of food or drink. Manufacture of articles for use in connection with the serving of food or drink. Manufacture of articles of wearing apparel. Manufacture of toys and dolls. Manufacture of tobacco. Manufacture of drugs and poisons. Manufacture of bandages and other sanitary goods. Manufacture of explosives, fireworks, and articles of like character. <sup>a</sup>	Processing of articles of food or drink. Processing of drugs or poisons. Processing and preparation of medical and surgical bandages and dressings, sanitary napkins, and cotton batting. Processing of fireworks, explosives and articles of similar character. Processing and preparation of toys and dolls. Processing of metal springs. <sup>b</sup>

<sup>a</sup> California Statutes, Section 2650(g).

<sup>b</sup> 820 ILCS 240/1.

<sup>c</sup> 8 CCR 13600.

## INDUSTRIAL HOMEWORK LAWS IN CALIFORNIA AND ILLINOIS

The key definitions and prohibitions in the California Industrial Homework Act and the Illinois Industrial Homework Act are quoted in the Exhibit. These laws share the same purpose, which is to prevent injury to the health and welfare of industrial home workers. The basic definitions of industrial homework, the manufacturing process, and the employer-employee relationship (including transfer of materials and goods), and prohibited activities are similar. There are, however, some significant differences:

- California’s definition of manufacture is more extensive. In addition to activities that both statutes include, California adds “alter... assemble, inspect, wrap, or package,” while Illinois adds only “handle.”
- California uses the quaint phrase “engage, suffer or permit” to describe the employer’s actions.
- California’s regulations include an exhaustive definition of the garment manufacturing industry and they prohibit industrial homework in this industry. Illinois does not define or single out the industry.
- California’s regulations stipulate “the presumption that persons working in their homes for remuneration... are employees and not independent contractors.” Illinois makes no such presumption.
- Illinois has no implementing regulations.

This last difference is particularly noteworthy, since California’s most expansive and stringent provisions are in the regulations, but not in the statute. Thus California provides an example of regulations that become more stringent than the statutory base.

Because the California regulations define “garment” so broadly, and because California’s definition of manufacture includes specifics such as wrap or package, the California statute potentially has a wide impact. “Garment” is defined broadly enough to cover jewelry and accessories (which be made by home-based craftsmen). It makes no distinction between mass-produced garments and customized, one-of-a-kind garments, whose design may be as important as the fabrication. The law covers a number of niche markets – theatrical costumes being an example that is particularly ironic for California.<sup>17</sup> The handling of materials (given to the worker and then returned to the same person) is broad enough to cover most situations where there is a third party between the worker and the client. That can be a major problem for home-based businesses, where certain parts of a job may be subcontracted to other home-based businesses.

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<sup>17</sup> An interviewee did report a home-based costume manufacturer who was forced out of business by this law.

The presumption that the worker is an employee is particularly troublesome for home-based businesses, which often network and collaborate on specific jobs. This law threatens that practice of collaboration and networking. There is no obvious limit on what constitutes “an article.” A contracting assignment, using data provided by a prime contractor to produce a report, would seem quite plausibly to come under the parameters of industrial homework. So would free-lance editing. There do not appear to be any natural boundaries to the application of the industrial homework law. If something tangible is provided to a home-based subcontractor by a prime contractor, and a product that uses that input is provided in return, that home-based worker is presumed to be an employee of the prime contractor.

The broad reach of the California law raises another issue. Laws from another era are not likely to be enforced against home-based businesses that regularly violate them; it is not worth the effort. The fact that such a law is on the books, however, makes a home-based business vulnerable to the grudges of a neighbor. If a neighbor with a grudge complains long and loud enough about a clear violation of law, the authorities almost have to take some kind of action. If the violation is clear and has no practical remedy, the business may then have to close or move.

Both statutes are quite explicit that industrial homework on certain products is illegal. These include articles of food and drink. This effectively prevents caterers and independent event planners, just to name a few possibilities, from bringing in other small contractors as the need arose. The prohibition on dolls and toys is also somewhat unfortunate, as these can be the sort of craft items that are well suited for home-based businesses.

Both statutes require a license for the industrial homework that is permitted. The fees are strikingly higher in California than in Illinois.<sup>18</sup> The California statute also puts much more emphasis on being licensed than the Illinois statute does. The Illinois statute has some very basic specific work condition requirements,<sup>19</sup> while California’s statute is more general.

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<sup>18</sup> In California,

- An employer must pay \$100 per industrial home worker annually, and
- Each home worker must also take out an annual \$25 permit.

In Illinois, there is no fee for the home worker, and the Employer’s Permit costs:

- \$50 per year if the employer had fewer than 100 employees,
- \$100 per year if the employer simultaneously had 100 to 300 employees, and
- \$200 per year if an employer simultaneously had over 300 employees.

<sup>19</sup> These requirements include:

- Obtaining a Sanitary Permit;
- Minimum requirements for:
  - ◆ Work space (40 square feet and 300 cubic feet) per worker,
  - ◆ Ventilation (2,000 cubic feet per hour per worker), and
  - ◆ Heat during winter (maintaining 70°);
- Floors and walls that are not “continuously damp;” and “
- “Properly lighted” workrooms.

These anti-sweatshop statute dates from 1937. The Illinois work condition requirements, lack of regulations. A fee based on *hundreds* of industrial home workers employed reflects these origins. Home-based businesses need not worry about the Illinois law. California is less clear.