Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2.c of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under ''ADDRESSES.''

List of Subjects in 33 CFR Part 167

Navigation (water), Traffic separation schemes, Vessels.

In consideration of the foregoing, the Coast Guard proposes to amend 33 CFR part 167 as set forth below.

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

1. The authority citation for part 167 continues to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

2. Section 167.5 is amended to add paragraph (f) to read as follows:

§ 167.5 Definitions.

* * * * *

(f) Two-way route means a route within defined limits inside which two way traffic is established, aimed at providing safe passage of ships through waters where navigation is difficult or dangerous.

3. Sections 167.170 through 167.174 are added to read as follows:

§ 167.170 Off Delaware Bay Approach Traffic Separation Scheme and Precautionary Area.

The Off Delaware Bay Traffic Separation Scheme consists of four parts: An Eastern approach, a South-eastern approach, a Two-Way Traffic Route, and a precautionary area. The specific areas of the Off Delaware Bay Traffic Separation Scheme and Precautionary Area are described in § 166.171, § 167.172, § 167.173, and § 167.174 of this chapter.

§ 167.171 Eastern approach.

(a) A separation zone is established bounded by a line connecting the following points:

Latitude	Longitude
38°46′18″ N	74°35′27″ W
38°46′20″ N	74°55′45″ W
38°47′27″ N	74°55′24″ W
38°47′21″ N	74°34′30″ W

(b) A traffic lane for westbound traffic is established between the northern side of the separation zone and a line connecting the following points:

Latitude	Longitude
38°46′19″ N	74°55′18″ W
38°49′40″ N	74°36′45″ W

(c) A traffic lane for eastbound traffic is established between the south side of the separation zone and a line connecting the following points:

Latitude	Longitude
38°45′27″ N	74°56′12″ W
38°44′27″ N	74°34′21″ W

§ 167.172 Southeastern approach.

(a) A separation zone is established bounded by a line connecting the following points:

Latitude	Longitude
38°27′00″ N	74°42′17″ W
38°43′24″ N	74°57′59″ W
38°44′12″ N	74°57′11″ W
38°27′36″ N	74°41′17″ W

(b) A traffic lane for north-westbound traffic is established between the northeastern side of the separation zone and a line connecting the following points:

Latitude	Longitude
38°28′48″ N	74°39′17″ W
38°45′06″ N	74°56′35″ W

(c) A traffic lane for south-eastbound traffic is established between the southwestern side of the separation zone and a line connecting the following points:

Latitude	Longitude
38°42′48″ N	74°58′53″ W
38°27′00″ N	74°45′23″ W

§ 167.173 Two-Way Traffic Route.

The Two-Way Traffic Route is recommended for use predominantly by tug and tow traffic transiting to and from the North East in order to separate such traffic from large, inbound vessel traffic.

(a) The Two-Way Traffic Route is bounded on the west and south by a line connecting the following points:

Latitude	Longitude
38°50′45″ N	75°03′24″ W
38°47′30″ N	75°01′48″ W
38°48′19″ N	74°55′18″ W
38°50′12″ N	74°49′44″ W
39°00′00″ N	74°40′14″ W

(b) The Two-Way Traffic Route is bounded on the east and north by a line connecting the following points:

Latitude	Longitude
39°00′00″ N	74°41′00″ W
38°50′29″ N	74°50′18″ W
38°48′48″ N	74°55′15″ W
38°48′20″ N	74°59′18″ W
38°49′06″ N	75°01′39″ W
38°51′16″ N	75°02′50″ W

§ 167.174 Precautionary area.

The Precautionary area is defined as follows: from 38°42′48″ N, 74°58′54″ W; thence northerly by an arc of eight nautical miles centered at 38°48′54″ N, 75°05′36″ W to 38°47′27″ N, 74°55′18″ W; thence westerly to 38°47′30″ N, 75°01′48″ W; thence northerly to 38°50′45″ N, 75°03′24″ W; thence northeasterly to 38°51′16″ N, 75°02′50″ W; thence northerly to 38°54′48″ N, 75°01′36″ W; thence westerly by an arc of 6.7 nautical miles centered at 38°48′54″ N, 75°05′36″ W to 38°55′32″ N, 75°05′52″ W; thence southwesterly to 38°54′00″ N, 75°08′00″ W; thence southerly to 38°42′48″ N, 74°58′54″ W. Datum: NAD 83.

Dated: February 25, 1997.

G.N. Naccara,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97–12254 Filed 5–8–97; 8:45 am]

BILLING CODE 4910–14–M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM97–2; Order No. 1174]

Amendment to Rules Concerning Evidence Based on Market Research

AGENCY: Postal Rate Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend its rules of practice by clarifying foundational requirements for market research evidence. The amendment entails three substantive revisions. One requires a survey sponsor to provide additional supporting information about technical aspects of the market research. Another provides for participants using statistical techniques to limit the possibility of disclosing the identity of a survey respondent and data uniquely associated with that respondent. The third clarifies the level of access to data files and computer programs that is to be provided, including the stage at which rights to replication of survey results attach. These revisions will clarify rule 31(k)(2)'s applicability to market research, thereby reducing the need for case-by-case determinations and minimizing the potential for delay in issuing Commission recommendations. The amendment also makes minor editorial improvements in rule 31(k).

DATES: Comments responding to this notice of proposed rulemaking must be submitted on or before June 9, 1997.

ADDRESS: Comments and correspondence should be sent to Margaret P. Crenshaw, Secretary of the Commission, 1333 H Street NW, Suite 300, Washington, DC 20268–0001 (telephone: 202/789–6840).

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, Legal Advisor, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington, DC, 20268–0001, (telephone: 202/789–6820).

SUPPLEMENTARY INFORMATION: Rule 31(k) outlines foundational requirements for studies and analyses offered as evidence to be relied upon in Commission proceedings. *See* 39 CFR 3001.31(k). Submissions within the rule's purview are subject either to the terms of rule 31(k)(1) or to similar provisions tailored to specific types of statistical studies and computer analyses. *See generally* rule 31(k)(2) and (k)(3) (39 CFR 3001.31(k)(2) and (k)(3)). These requirements call for a description of the study plan, relevant assumptions, data collection techniques, the facts and judgments upon which conclusions are based, alternative courses of action considered, and certain other supporting information and data. This material must be filed along with the related study or be produced upon request.

Rule 31(k) generally reflects settled evidentiary principles, but persistent questions have arisen in recent proceedings about the impact of certain market research practices on the interpretation of paragraphs (k)(2) and (3). The debate has centered primarily on three major—and often interrelated—concerns. One is the interest survey sponsors assert in providing survey participants with reasonable assurances that their participation in the survey and the sensitive commercial data or information provided in their responses will not be disclosed. Another is reviewers' interests in replicating survey results and, in certain instances, in using a preferred method to accomplish that end. A third issue is the impact of computer-assisted data collection (CADC) techniques on compliance with rule 31(k)'s requirement that ''input data'' be provided. *See* PRC Op. MC93–1, paras. 117–122; *see also* PRC Op. MC95–1, Appendix C. CADC techniques, in particular, have altered some participants' expectations about how—and whether—rule 31(k)'s data disclosure requirements apply to certain market research efforts.

The Commission has resolved conflicts on a case-by-case basis, but finds that revising the rule to provide participants with additional guidance on how market research submissions should be supported is warranted. PRC Op. MC95–1, Appendix C at 1–2. Having had an opportunity to review pertinent issues and concerns outside the constraints imposed by motion practice, the Commission has made preliminary determinations about the manner in which rule 31(k) should be revised.

Postponement of Comprehensive Revisions

While developing an amendment to address problematic aspects of market research submissions, the Commission also considered proposing a comprehensive reorganization of rule 31(k). Structurally, a comprehensive review would permit redundant or overlapping requirements to be modified or eliminated, thereby simplifying a rule that has been the subject of several amendments. In addition, consideration could be given to whether the numerous provisions now covered in paragraph (k) should continue to be located within rule 31, which is an umbrella evidentiary provision, or whether they should form an independent provision.

Substantively, a broader focus would provide an opportunity to address the advisability of maintaining certain formal distinctions within the rule, such as a special set of requirements for computer-based studies. Computer-specific provisions were added to the rule (in subparagraph (3)) in the early 1980s, when the use of computers to prepare or develop evidence was in its infancy and several related evidentiary issues were unsettled. Since then, computer use has become routine not only for submissions covered by rule 31(k)(3), but in the preparation of nearly every filing in Commission proceedings. Thus, the rule's underlying orientation may warrant reconsideration. At a minimum, revisions to subparagraph (3) and conforming changes in other provisions may need to be made. *See generally* Docket No. RM81–1, Notice of Proposed Rulemaking (NPRM) at 5. Similarly, the need for distinctions between studies that involve statistics and those that do not could be reviewed. Moreover, a broader approach might allow issues related to the emergence of electronic data bases, from which a number of different studies and analyses can be developed, to be explored.

The Commission's interest in updating and reorganizing the rule is tempered with a concern that wholesale revision might unduly delay addressing the questions that have surfaced about market research. Based on this consideration and an assessment that other aspects of the rule appear to be working reasonably well, the Commission has decided to propose only limited changes now. Accordingly, the proposed amendment has been drafted to conform, as closely as possible, to the existing approach and to cause minimal disruption to the current numbering system. Structurally, this is accomplished primarily by distinguishing market research from other sample surveys, with the requirements specific to market research designated as rule 31(k)(2)(i). Existing rule 31(k)(2)(i), now entitled ''Sample surveys,'' is renamed ''Other sample surveys'' and redesignated as rule 31(k)(2)(ii). Conforming numbering changes are also made to other subparagraphs of the rule. Substantively, the Commission notes that this amendment is not inconsistent with its recent statement, in PRC Op. MC96–3, that the existing rules on sample surveys require certain quantitative disclosures. *See generally* PRC Op. MC96–3 at 37–38. Given its general position on the scope of the existing sample survey requirements, the Commission is not proposing to make them more explicit at this time.

Expanded Foundational Requirements for Market Research-Based Submissions

Rule 31(k) now provides, in subparagraph (2)(i)(*a*), that a proponent of a sample survey is to provide a clear description of the survey design, including the definition of the universe

under study, the sampling frame and units, and the validity and confidence limits that can be placed on major estimates. The rule also provides, in subparagraph (2)(i)(*b*), that the survey sponsor provide an explanation of the methods of selecting the sample and the characteristics measured or counted.

These provisions generally provide a straightforward and serviceable base for evaluating sample surveys. However, given the growing importance of market research in Commission proceedings, it appears advantageous to be more specific about the detail sponsors should provide at the time the market research (or the submission it supports) is filed. This also is consistent with the Commission's view, previously expressed in connection with survey replication, that providing descriptions of technical procedures can provide reviewers with the ability to make an assessment, from the description itself, of the appropriateness of various standard procedures. *See* PRC Op. MC95–1, Appendix C at 7.

The Commission therefore proposes to specify, in § 3001.31(k)(2)(i)(*a*)(*1*), that the foundational requirements include details of the sampling, observational, and data preparation designs, with definitions of the target population, sampling frame, units of analysis and survey variables. These requirements also include an explanation of the methodology for the production and analysis of the major estimates and the associated sampling errors. Proposed § 3001.31(k)(2)(i)(*a*)(*2*) requires that the proponent not only provide measures of sampling error, but also present coverage, response and editing rates.

In addition to these changes, which are primarily adaptations of existing requirements for sample surveys, the Commission is also proposing four new foundational requirements. Proposed subparagraph (*a*)(*3*) requires a discussion of data comparability over time and with other data sources, and the effects of benchmarking and revisions. ''Benchmarking,'' in this context, refers to establishing an acceptable standard by which to evaluate estimates. Subparagraph (*a*)(*4*) requires an assessment of the effects of editing and imputation and other potential sources of error on the quality of the survey estimates. Subparagraph (*a*)(*5*) requires identification of applicable statistical models when model-based procedures are employed. Finally, subparagraph (*a*)(*6*) requires an explanation of all statistical tests performed and an appropriate set of summary statistics summarizing the results of each test.

Confidentiality

Confidentiality issues have dominated recent motion practice, and they have been a concern for some time. In Docket No. RM81–1, for example, the American Bankers Association (ABA) filed comments noting that compliance with a requirement of producing actual input data upon request could pose difficulties because of confidentiality promises. In evaluating ABA's position, the Commission noted that the provision in question was not a new element of the proposal under consideration, but had been in effect for several years without creating serious difficulties. The Commission concluded, at that time, that it preferred to continue its practice of addressing special needs for confidentiality as they arose, rather than alter the general rule to meet exceptional cases. Docket No. RM81–1, Final (Rulemaking) Notice at 11. In PRC Op. MC95–1, however, the Commission clearly signaled its interest in ending this practice by stating that it intended to institute a rulemaking and explore whether a widely-applicable standard or policy statement on the confidentiality of market research data and information could be developed.

The Commission has made a preliminary determination that the continuing motion practice on this topic confirms the need for a revision to its existing practice, and that statistical disclosure limitation (SDL) methods provide a workable, objective standard. SDL methods are techniques that limit the risk of disclosure of individual information when statistics are disseminated in tabular or microdata formats. These practices are not new, but have been developed and implemented by various federal agencies over the past 25 years. *See generally* Jabine, Thomas B., ''Statistical Disclosure Limitation Practices of United States Statistical Agencies,'' Journal of Official Statistics, Vol. 9, No. 2 (1993) at 427–454.

In conjunction with this rulemaking, the Commission is establishing, for participants' convenience, Library Reference PRC–LR–1, containing Statistical Policy Working Paper 22, ''Report on Statistical Disclosure Limitation Methodology'' (May 1994), (hereafter, Working Paper). The report was prepared by the Subcommittee on Disclosure Limitation Methodology of the Federal Committee on Statistical Methodology, which is associated with the Statistical Policy Office of the Office of Information and Regulatory Affairs of the Office of Management and Budget. The preface indicates that the report includes a tutorial, guidelines, various recommendations, and an annotated bibliography. The Commission notes that the report specifically indicates that legal questions are beyond its scope. Working Paper at 2. An excerpt on survey research from the ''Reference Manual on Scientific Evidence,'' published by the Federal Judicial Center in 1994, is also included in the library reference.

The specific provision the Commission proposes adding, in new rule 31(k)(2)(i)(*b*) is: ''Protection against disclosure of sensitive data should be provided through the application of appropriate statistical disclosure limitation (SDL) practices when data are produced for secondary analysis.'' The rule indicates that SDL practices include the following: Removal of respondent identifiers from microdata files; cell concentration and suppression rules; and data masking through aggregation, random noise injection, and simulation of artificial records.

In the sense used in the rule, a *microdata file* consists of individual records, each containing values of variables for a single person, business establishment or other unit. Id. at 3. There are no identifiers on the file, and the data may be disguised in some way to ensure that the individual data items cannot be uniquely associated with a particular respondent. Id. at 6. *Cell concentration* means that a specific number of cases in a given cell of a data table cannot account for a percentage of the cell total equal to or exceeding a prescribed threshold; that is, the (n,p) cell concentration rule is violated if n or fewer respondents account for at least p percent of the total cell value. If this rule is violated, the cell is *suppressed* or collapsed with other cells to reduce the risk of disclosure. *Data masking* entails distorting data prior to its release or limiting the amount of data released. It can involve random error (noise) to the data entries, multiplying the data by random values from known distributions, or *data swapping.* The latter refers to the practice of interchanging the values for survey items of sample cases having similar characteristics or values for auxiliary variables.

The proposed rule also provides that statistical disclosure is defined as the identification of the respondent or the linking of a respondent to sensitive data in a survey record or data file. The revised rule also affirmatively states that under certain conditions, the post-SDL data shall be the starting point for an evaluation on the merits.

The Commission recognizes that its endorsement of SDL techniques as a means of limiting disclosure

presupposes certain expertise on the part of both survey sponsors and survey reviewers. However, the complexity of the surveys that have been at the center of recent motion practice indicate that the sponsor (in most cases, the Postal Service) would have access to the resources needed to meet the rule's standard. To the extent that survey reviewers might need assistance in understanding the discovery implications of the SDL techniques, technical conferences or other forms of assistance can be made available.

Reviewers' Access to Data, Including Replication of Survey Results

As with confidentiality, replication of survey results also has been an issue over the course of several proceedings. In Docket No. RM81–1, for example, the Postal Service questioned whether the word ''replicate'' in the proposed rule imposed too broad a standard. The Commission concluded that it did not, emphasizing that the fact that this term was not explicitly used in the final rule reflected a technical drafting decision, rather than a substantive change in position. The Commission said: ''We think it is clear—even without express use of this term—that the final rule allows a participant, upon proper request, to obtain materials that would allow replication of the results of computer-generated presentations.'' Final (Rulemaking) Notice at 13.

By Docket No. MC95–1 the question of what ''materials'' should be made available had come to the fore, and the Commission noted that newer market research techniques complicated the issue. It cautioned:

> (P)articipants' insistence on the ability to trace a numerical result from CADC market research to the primary data source by replicating various data adjustments may often be very impractical, and sometimes simply impossible. The task of verifying a specific numerical result could, in itself, entail running a rather extensive set of complex computer programs associated with the survey's data collection, editing, coding, estimation and analysis procedures.

PRC Op. MC95–1, Appendix C at 6. In a related comment, the Commission noted that it viewed the overall objective of the rule as ''* * * placing reviewers in a position to determine whether the data are sufficiently accurate to satisfy the (evidentiary) standards the Commission must apply.'' Id.

The Commission also noted that one difficulty in resolving disputes is that several key terms in rule 31(k) are not defined. The Commission suggested that consideration should be given to whether inclusion of a set of definitions or guidelines for interpretation might be useful. At this time, the Commission has decided against including definitions of the proposed SDL techniques in the rule, but is clarifying the meaning of ''input file.'' In addressing participants'' uncertainty over the meaning of this term, the Commission has noted previously that an ''input file'' can be *any* data set that is entered into a statistical program or package designed for a specific purpose, and that it is therefore

> * * * unlikely that the ''raw data'' and the ''input data'' for adjustment and estimation programs would be coincidental in a moderate-to-large survey research effort. This is because the raw data are usually modified to some extent—even if no more than recoded—before they are entered in a database.

PRC Op. MC95–1, Appendix C at 4. To address this situation, the Commission proposes a new provision—in rule 31(k)(2)(i)(*b*)—providing that access ''shall be sufficient to permit the replication of electronic data processing after production of the edited data file.'' The term ''edited data file'' is defined in the rule as raw data after appropriate coding, editing for consistency checks and application of SDL methodology.''

Availability of Opportunity To Request Waiver

Assuming adoption of the proposed amendment, the Commission expects participants to exercise all reasonable efforts to comply with its terms, including the use of SDL methods. To the extent a participant believes it cannot do so, but nevertheless seeks evidentiary status for affected submissions, a separate rule of practice—rule 22—provides an opportunity to seek waiver, in whole or in part, by filing a timely motion. *See* 39 CFR 3001.22. Waiver is conditioned on a showing that the interests of other participants will not be unduly prejudiced, and that it is consistent with the public interest and the Commission's discharge of its responsibilities. Given these conditions, the Commission expects that a participant seeking relief from application of the new requirements would propose, at a minimum, alternative means of satisfying the interests sought to be protected by rule 31(k).

Limited Editorial Improvements

The Commission is also proposing limited editorial improvements in § 3001.31(k)(3) at this time. One entails the proposed deletion of a citation to outdated software documentation standards. These standards were current when the related text was added to rule 31(k) in the early 1980s, but are now seriously outdated and, in some instances, out of print. The Commission has considered, but rejected, replacing these references with more current standards, on the assumption that participants no longer need to be provided with examples of documentation. Thus, the proposed amendment eliminates the footnote citation associated with the word ''standards'' in the main text of rule 31(k)(3)(i)(*e*) and deletes the related footnote in its entirety. The Commission also considered replacing the reference to ''magnetic tape'' in rule 31(k)(3)(i)(*i*) with a more generic term or phrase, but instead decided to change it to ''a compact disc.'' The Commission invites comments on retaining the reference in the same provision to a time-sharing service.

Comments

To assist commenters in preparing a response to this proposal, the Commission reiterates its conscious decision to keep the focus of this rulemaking comparatively limited. Thus, this proposal addresses the existing sample survey provisions only in the sense of their application to market research. Within this framework, commenters are invited to submit comments addressing pertinent issues. In particular, the Commission welcomes attention to the following matters:

- Whether participants anticipate difficulties in employing SDL methods and, if so, what these might be;
- Whether participants are aware of any supplementary methods or approaches that could or should be included in the rule;
- Whether the general availability of an opportunity to request waiver under rule 22 is sufficient, or whether waiver should be further conditioned or restricted through express language in rule 31(k)(3);
- Whether the definitions in this Notice of Proposed Rulemaking provide participants with sufficient information on SDL techniques;
- Whether the Commission's assumption that a reference to specific software standards is no longer needed is correct, or whether the standards should be updated; and
- Whether other minor editorial revisions in rule 31(k) are necessary or desirable at this time, and can be incorporated with minimal disruption.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedures, Postal Service.

For the reasons set forth in the preamble, 39 CFR Part 3001 is amended as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for 39 CFR part 3001 continues to read as follows:

Authority: 39 U.S.C 404(b), 3603, 3622–24, 3661, 3662.

2. 39 CFR 3001.31(k) is amended as follows:

3. Redesignate paragraph (k)(2)(i) through (iii) as (k)(2)(ii) through (iv).

4. Amend redesignated paragraph (k)(2)(ii) by changing the title from *Sample surveys* to *Other sample surveys.*

5. Add paragraph (k)(2)(i) to read as follows:

§ 3001.31 Evidence

* * * * *

(k) *Introduction and reliance upon studies and analyses*—(1) * * *

(2) * * *

(i) *Market research.* (*a*) The following data and information shall be provided: (*1*) A clear and detailed description of the sampling, observational, and data preparation designs, including definitions of the target population, sampling frame, units of analysis, and survey variables;

(*2*) an explanation of methodology for the production and analysis of the major survey estimates and associated sampling errors;

(*3*) a presentation of response, coverage and editing rates;

(*4*) a discussion of data comparability over time and with other data sources, and the effects of benchmarking and revisions;

(*5*) an assessment of the effects of editing and imputation and other potential sources of error on the quality of the survey estimates;

(*6*) identification of applicable statistical models, when model-based procedures are employed;

(*7*) an explanation of all statistical tests performed and an appropriate set of summary statistics summarizing the results of each test.

(*b*) Upon request, access to data files and computer programs shall be provided. Access shall be sufficient to permit replication of results after development of the edited data file. For purposes of this subparagraph, the phrase ''edited data file'' refers to raw data after appropriate coding, editing for consistency checks and application of statistical disclosure limitation methods (SDL) methods.

(*c*) *Protection against disclosure of confidential commercial data.* (*1*) If the recipient of a request for data pursuant to this paragraph asserts that compliance with the request would conflict with a confidentiality agreement, the recipient shall be expected to employ SDL methods to protect against the disclosure of confidential commercial data. The SDL method(s) selected shall not interfere with other reasonable or expected uses of the data.

(*2*) For purposes of this subparagraph, SDL methods include the removal of respondent identifiers from microdata files; cell concentration and suppression rules; and data masking through aggregation, ''random noise'' injection, and simulation of artificial records. Statistical disclosure means the identification of the respondent or the linking of a respondent to sensitive data in a tabular presentation, survey record or data file.

(*3*) If the results or conclusions reached after application of the SDL method(s) differ materially from those reached prior to such application, the post-SDL data shall be deemed controlling for purposes of the sponsoring party's evidentiary presentation and related legal argument.

6. Revising paragraph (k)(3)(i)(*e*) to read as follows:

* * * * *

(k) * * *

(3) * * *

(i) * * *

(*e*) For all source codes, documentation sufficiently comprehensive and detailed to satisfy generally accepted software documentation standards appropriate to the type of program and its intended use in the proceeding.

7. Revise the first sentence of the concluding text after paragraph (k)(3)(i)(*i*) to read as follows:

* * * * *

(k) * * *

(3) * * *

(i) * * *

(*i*) * * *

Paragraphs (k)(3)(i)(*d*) and (*f*) of this section shall be provided either in the form of a compact disc or through access to a time-sharing service, at the option of the provider. * * *

Issued by the Commission on May 2, 1997.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 97–12191 Filed 5–8–97; 8:45 am]

BILLING CODE 7710–FW–P