

## V. Environmental Analysis

12. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.<sup>19</sup> The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.<sup>20</sup> This Final Rule does not substantially change the regulations being amended, but merely extends for an additional period of time the existing retention requirements of the regulations and, therefore, falls under this exception; consequently, no environmental assessment is necessary.

## VI. Regulatory Flexibility Act Certification

13. The Regulatory Flexibility Act of 1980<sup>21</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities.<sup>22</sup> The Commission is not required to make such analyses if a rule would not have such an effect. The Final Rule merely extends an already existing record retention requirement from three to five years. Therefore, the Commission certifies that the Final Rule will not have a significant economic impact on a substantial number of small entities.

## VII. Document Availability

14. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal

business hours (8:30 a.m. to 5 p.m. E.S.T.) at 888 First Street, NE., Room 2A, Washington, DC 20426.

15. From the Commission's Home Page on the Internet, this information is available in the eLibrary. The full text of this document is available on eLibrary both in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

16. User assistance is available for eLibrary and the Commission's Web site during normal business hours. For assistance, please contact Online Support at 1-866-208-3676 (toll free) or 202-502-6652 (e-mail at [FERCOnlineSupport@FERC.gov](mailto:FERCOnlineSupport@FERC.gov)), or the Public Reference Room at 202-502-8371, TTY 202-502-8659 (e-mail at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov)).

## VIII. Effective Date and Congressional Notification

17. This Final Rule will be effective June 26, 2006. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a "major rule" as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.<sup>23</sup> The Commission will submit the Final Rule to both houses of Congress and the Government Accountability Office.

## List of Subjects

### 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

### 18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

**Magalie R. Salas,**  
Secretary.

■ In consideration of the foregoing, the Commission amends parts 35 and 284 of Chapter I, Title 18, *Code of Federal Regulations*, as follows:

## PART 35—FILING OF RATE SCHEDULES AND TARIFFS

■ 1. The authority citation for part 35 continues to read as follows:

**Authority:** 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

<sup>23</sup> See 5 U.S.C. 804(2) (2000)

■ 2. In § 35.37, paragraph (d), the word "three" is removed and the word "five" is inserted in its place.

## PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

■ 1. The authority citation for part 284 continues to read as follows:

**Authority:** 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7532; 43 U.S.C. 1331–1356.

■ 2. In § 284.288, paragraph (b), the word "three" is removed and the word "five" is inserted in its place.

■ 3. In § 284.403, paragraph (b), the word "three" is removed and the word "five" is inserted in its place.

[FR Doc. E6–8098 Filed 5–25–06; 8:45 am]

BILLING CODE 6717–01–P

## POSTAL SERVICE

### 39 CFR Part 111

## New Preparation for Periodicals Flats in Mixed Area Distribution Center Bundles and Sacks

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** To improve service for Periodicals mail, the Postal Service provided mailers the option to prepare origin mixed area distribution center (ADC) bundles and sacks beginning October 27, 2005. This final rule adopts our proposal to make the preparation of origin mixed ADC bundles and sacks required beginning July 6, 2006.

**DATES:** *Effective Date:* July 6, 2006.

**FOR FURTHER INFORMATION CONTACT:** Donald Lagasse, 202–268–7269.

**SUPPLEMENTARY INFORMATION:**

### Background

On October 27, 2005, the Postal Service provided Periodicals mailers an option to separate their residual mail prepared in mixed area distribution center (ADC) bundles and sacks and to create a new type of mixed ADC bundle and sack. We offered this option because it improves service for some Periodicals without increasing our processing costs. The option allows a significant portion of Periodicals mail prepared in mixed ADC bundles and sacks to be processed with First-Class Mail and travel on the surface transportation network.

On March 7, 2006 (71 FR 11366), we proposed to make this preparation mandatory to ensure all Periodicals

<sup>19</sup> *Regulations Implementing the National Environmental Policy Act*, Order No. 486, 52 FR 47897 (1987), FERC Stats. & Regs. ¶ 30,783 (1987).

<sup>20</sup> 18 CFR 380.4(a)(2)(ii) (2005).

<sup>21</sup> 15 U.S.C. 601–612 (2000).

<sup>22</sup> The RFA definition of "small entity" refers to the definition provided in the Small Business Act, which defines a "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. 15 U.S.C. 632 (2000). The Small Business Size Standards component of the North American Industry Classification System defines a small electric utility as one that, including its affiliates, is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and whose total electric output for the preceding fiscal years did not exceed 4 million MWh. 13 CFR 121.201 (Section 22, Utilities, North American Industry Classification System, NAICS) (2004).

mailers prepare their mail consistently and in a way that improves service. We did not receive any comments on our proposal.

Summary of Changes

Under the new preparation, mailers must separate some mixed ADC mail according to the destination ZIP Codes in labeling list L201. Pieces that mailers prepare according to L201 are processed with First-Class Mail by the processing facility serving the entry office. The remaining mixed ADC mail, destined for ZIP Codes farther from the office of entry, is sent to one of the 34 facilities designated in labeling list L009 for consolidated processing.

We provide the new standards below. The effective date of these changes is July 6, 2006.

We adopt the following amendments to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM) as follows:

705 Advanced Preparation and Special Postage Payment Systems

\* \* \* \* \*

9.0 Preparation for Cotraying and Cosacking Bundles of Automation and Presorted Flats

\* \* \* \* \*

9.2 Periodicals

\* \* \* \* \*

9.2.5 Sack Preparation and Labeling

\* \* \* \* \*

[Revise the bundle labeling requirements in item f for origin mixed ADC mail.]

f. Origin mixed ADC. Required for any remaining pieces for destinations in L201, Column B, corresponding to the origin ZIP Code in Column A. There is no minimum for the number of pieces in the sack, but bundles of fewer than six pieces at 5-digit, 3-digit, and ADC bundle levels are not permitted.

1. Line 1: Use L201, Column C.
2. Line 2: "PER" or "NEWS" as applicable, followed by "FLTS WKG W FCM."

\* \* \* \* \*

9.2.6 Optional Tray Preparation—Flat-Size Pieces

\* \* \* \* \*

a. ADC \* \* \*

\* \* \* \* \*

[Revise item a2 to match the CIN code.]

2. Line 2: "PER" or "NEWS" as applicable, followed by "FLTS," followed by "ADC," followed by "BC/NBC."

\* \* \* \* \*

c. Mixed ADC \* \* \*

\* \* \* \* \*

[Revise item c2 to match the CIN code.]

2. Line 2: "PER" or "NEWS" as applicable, followed by "FLTS," followed by "BC/NBC WKG."

\* \* \* \* \*

10.0 Preparation for Merged Containerization of Bundles of Flats Using City State Product

10.1 Periodicals

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10.1.4 Sack Preparation and Labeling

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[Revise the preparation requirements in item h for origin mixed ADC mail.]

h. 3-digit through mixed ADC sacks. Mailers must sack and label the following bundles according to 9.2 for cosacking of automation rate and presorted rate bundles:

1. Any 5-digit scheme and 5-digit bundles remaining after preparing sacks under 10.1.4a through 10.1.4g.

2. All 3-digit scheme, 3-digit, ADC, origin mixed ADC, and mixed ADC bundles.

3. If there are no automation rate pieces in the mailing job, sack and label under 707.22.6.

4. If there are no Presorted rate bundles in the mailing job, sack and label under 707.25.3.

\* \* \* \* \*

11.0 Preparation of Cobundled Automation Rate and Presorted Rate Flats

\* \* \* \* \*

11.2 Periodicals

\* \* \* \* \*

11.2.2 Bundle Preparation

\* \* \* \* \*

[Revise the bundling requirements in item g for origin mixed ADC mail.]

g. Origin mixed ADC, required; no minimum; for any remaining pieces for

destinations in L201, Column B, corresponding to the origin ZIP Code in Column A; tan Label X or OEL.

\* \* \* \* \*

707 Periodicals

\* \* \* \* \*

22.0 Preparation of Presorted Periodicals

\* \* \* \* \*

22.2 Bundle Preparation

\* \* \* \* \*

[Revise the bundle labeling requirements in item e for origin mixed ADC mail.]

e. Origin mixed ADC, required; no minimum; for any remaining pieces for destinations in L201, Column B, corresponding to the origin ZIP Code in Column A; tan label X or OEL.

\* \* \* \* \*

22.6 Sack Preparation—Flat-Size Pieces and Irregular Parcels

\* \* \* \* \*

[Revise the sacking requirements in item f for origin mixed ADC mail.]

f. Origin mixed ADC, required; no minimum; for any remaining bundles for destinations in L201, Column B, corresponding to the origin ZIP Code in Column A.

1. Line 1: Use L201, Column C.

2. Line 2: "PER" or "NEWS" as applicable, followed by "FLTS" or "IRREG" as applicable, followed by "WKG W FCM."

\* \* \* \* \*

25.0 Preparation of Flat-Size Automation Periodicals

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25.2 Bundling and Labeling

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[Revise the bundling and labeling requirements in item f for origin mixed ADC mail.]

f. Origin mixed ADC, required; no minimum; for any remaining pieces for destinations in L201, Column B, corresponding to the origin ZIP Code in Column A; tan label X or OEL.

\* \* \* \* \*

25.3 Sacking and Labeling

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[Revise the sacking and labeling requirements in item g for origin mixed ADC mail.]

g. Origin mixed ADC, required; no minimum; for any remaining pieces for destinations in L201, Column B, corresponding to the origin ZIP Code in Column A; labeling:

1. Line 1: Use L201, Column C.

2. Line 2: "PER FLTS WKG W FCM" or "NEWS FLTS WKG W FCM," as applicable.

\* \* \* \* \*

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E6-8091 Filed 5-25-06; 8:45 am]

BILLING CODE 7710-12-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Part 403

[CMS-4005-F]

RIN 0938-AJ67

#### Medicare Program; State Health Insurance Assistance Program (SHIP)

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule.

**SUMMARY:** This rule adopts as final the provisions in the interim final regulation that published June 1, 2000, which explain the terms and conditions that apply to State grants for counseling and assistance to Medicare beneficiaries, and makes several minor technical clarifications.

**DATES:** These regulations are effective June 26, 2006.

**FOR FURTHER INFORMATION CONTACT:** Eric Lang, 410-786-3199.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

###### A. Omnibus Budget Reconciliation Act of 1990

Section 4360 of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101-508, as amended, requires us to make grants to States for health insurance advisory service programs for Medicare beneficiaries. (By regulation, we have defined the term "State" or "States" to include the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.) Grants are available to provide information, counseling, and assistance relating to Medicare, Medicaid, Medicare supplemental policies, long-term care insurance, and other health insurance benefit information. This funding program is known as the State Health Insurance Assistance Program (SHIP).

For a detailed discussion of the regulatory background, please see the

preamble section of the interim final rule with comment (65 FR 34983).

##### B. BBA and MMA

The preamble to the interim final regulation noted that amendments to the Social Security Act (the Act) provided an additional funding source for SHIP. On August 5, 1997, the Act was amended by the Balanced Budget Act of 1997 (the BBA), which established a new Part C of the Medicare program, sections 1851 through 1859 of the Act. Part C was known at that time as the Medicare+Choice (M+C) program. The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 ("Medicare Modernization Act," or MMA) changed the name of Part C to the "Medicare Advantage program," and added a new Part D of the Medicare program, section 1860D-1 through 1860D-42 of the Act, known as the Voluntary Prescription Drug Benefit Program.

Section 1851(d)(1) of the Act, "Providing information to promote informed choice," requires us to provide for activities to broadly disseminate information to Medicare beneficiaries (and prospective Medicare beneficiaries) on available MA coverage options in order to promote an active, informed selection among these options. Section 1857(e)(2)(A) of the Act, "Cost-sharing in enrollment-related costs," authorizes us to charge and collect an administration or user fee from MA organizations for the purpose of administering this information dissemination program.

Section 1860D-1(c) of the Act requires us to conduct similar activities to disseminate information about the Part D prescription drug benefit, in coordination with the activities under the Medicare Advantage program. Section 1860D-12(b)(3)(D) of the Act specifically incorporates section 1857(e)(2), giving us authority to charge user fees to sponsors of prescription drug plans under Part D.

Any amounts collected in accordance with section 1857(e)(2) of the Act are available for the purpose of carrying out section 1851 (relating to enrollment and dissemination of Medicare Advantage information), section 1860D-1(c) (Medicare prescription drug coverage), and section 4360 of OBRA '90 (SHIP).

##### II. Provisions of the Interim Final Regulation

On June 1, 2000, we published an interim final rule with comment that amended our regulations at 42 CFR part 403 to provide for a two-tiered approach for making grants under SHIP. Section 403.504(a) was revised to provide that

for aggregate annual expenditures of up to \$10 million, grants would be made according to the existing procedures set forth in § 403.504. That is, each eligible State will receive a fixed as well as variable amount as set forth in § 403.504(b) and § 403.504(c) of that section. We stated that we plan to continue to fund this first tier of grants from our program management budget and through any congressional appropriations made for the purpose of implementing this program.

With respect to the second tier, the interim final rule provided that any grants that exceed a total of \$10 million annually will be made at our discretion according to criteria that will be communicated to States through the grant solicitation process (see revised § 403.504(a)). For example, in prior periods, second tier grants have been based on criteria such as the number of managed care enrollees or the number of low-income beneficiaries in each State. We decided to notify States of the criteria for awarding the grants rather than publish specific criteria in our regulations to give us the flexibility required by the dynamic nature of the health care industry.

The original legislation that created the SHIP, section 4360 of OBRA '90, directed that beneficiaries be informed about their rights and options in regard to Medicare supplemental (Medigap) insurance. After that section was enacted, changes such as Medicare reform, the implementation of Part C of the Medicare Program (known at the time as the "Medicare+Choice" program and since renamed the "Medicare Advantage" program), and ongoing consolidation within the managed care industry had greatly increased beneficiaries' choices. This created a need for sources of accurate and unbiased information to allow beneficiaries to make informed choices. Greater choice for beneficiaries and specific statutory changes required SHIPs to modify, and in many instances expand, the size of their programs and the scope of services they provide.

The interim final rule revised § 403.502, Availability of grants, to clarify that we award grants to States subject to fund availability, and if applicable, subject to the satisfactory progress in the State's project during the preceding grant period.

We revised § 403.504(a) to specify that, for available grant funds, up to and including \$10,000,000, grants will be apportioned to States according to the grant award process currently in place. In addition, we revised § 403.504(b) to highlight the availability of funds as a condition of award.