

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF JUSTICE

### 28 CFR Part 58

[Docket No: EOUST 101]

RIN 1105-AB29

#### Procedures for Completing Uniform Forms of Trustee Final Reports in Cases Filed Under Chapters 7, 12, and 13 of Title 11

**AGENCY:** Executive Office for United States Trustees (EOUST), Justice.  
**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Justice, through its component, EOUST, is issuing this notice of proposed rulemaking (rule) pursuant to Section 602 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). The BAPCPA requires the Department to issue rules requiring uniform forms for final reports (Uniform Forms) by trustees in cases under chapters 7, 12, and 13 of title 11. The BAPCPA requires the rule to strike the best achievable practical balance between: the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; economy, simplicity, and lack of undue burden on persons with a duty to file these reports; and appropriate privacy concerns and safeguards.

**DATES:** Submit comments on or before April 4, 2008.

**ADDRESSES:** Comments on the rule may be submitted via [www.regulations.gov](http://www.regulations.gov), by telefax to (202) 307-2397, or by postal mail to Executive Office for United States Trustees ("EOUST"), 20 Massachusetts Ave., NW., 8th Floor, Washington, DC 20530. To ensure proper handling of comments, please reference "Docket No. EOUST 101" on all written and electronic correspondence.

**FOR FURTHER INFORMATION CONTACT:** Roberta A. DeAngelis, Acting General Counsel, or Larry Wahlquist, Office of

General Counsel, at (202) 307-1399 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on <http://www.regulations.gov>.

Personal identifying information and confidential business information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

##### Discussion of Rule

The administration of all chapter 7, 12, and 13 bankruptcy cases is entrusted to private persons who are trustees under the supervision and oversight of a regional United States Trustee. As distinguished from trustees, United States Trustees are employees of the Department of Justice.

In every case, a trustee must file with the court and submit to the United

States Trustee a final report and final account of his or her case administration. The United States Trustee reviews these reports and they are then filed with the court.

While the trustee final report forms currently used across the country essentially serve the same purpose and convey the same information, the format of the forms and required attachments, and even the names of the forms, can be different. In fact, there are over a hundred different versions of these forms in use throughout the country. With the passage of BAPCPA, Congress directed the Attorney General to draft rules creating nationally uniform forms for trustee final reports. The Attorney General delegated this authority to the Director, Executive Office for United States Trustees. In response to this congressional mandate, the Director publishes this rule, which requires trustees to utilize nationally uniform final report forms rather than the local forms currently in effect. This rule does not impose requirements on the general public; it affects only trustees who are supervised by United States Trustees.

UST Forms 102-7-TFR, 102-7-NFR, 102-7-TDR, 102-7-NDR, 102-12-FR-S, 102-13-FR-S, 102-12-FR-C, and 102-13-FR-C are the final report Uniform Forms required by this rule. The information required by these forms is set forth in proposed section 58.7 in the amendatory text below. These Uniform Forms will facilitate the review of a trustee's case administration, which will assist in maintaining the public's trust in the bankruptcy system. In addition, these reports, once filed in a case, will be available to the general public at the office of the clerk of the United States Bankruptcy Court where a case is pending during the hours established by the bankruptcy court clerk. Members of the public should contact individual United States Bankruptcy Courts to obtain information about the policies and procedures for inspection of final reports filed in any particular case. Final reports in cases are also available through the Internet by accessing the Electronic Case Filing System under PACER at <http://www.pacer.psc.uscourts.gov>.

These Uniform Forms shall be filed via the United States Bankruptcy Courts Case Management/Electronic Case Filing System (CM/ECF) as a "smart form." A smart form is a document that

is data enabled. When it is saved into the industry standard Portable Document Format (PDF), stored data tags are then available for extraction and searching. This is contrary to a form that is not data-enabled, where the PDF is simply an image of the form and data is not uniformly available for searching. The data-enabled form builds upon the existing Adobe PDF/A standard (Version 1.4). Specifically, the standard incorporates the use of XMP metadata or Acroform field and value (F/V) tags within an Adobe PDF document. The current data schema (DTD) is found on [www.usdoj.gov/ust](http://www.usdoj.gov/ust). Trustees may obtain these "smart form" Uniform Forms from their vendor of trustee case management software. Members of the public may obtain blank Uniform Forms from each United States Trustee field office and from the United States Trustee Program Web site at <http://www.usdoj.gov/ust>.

The usage of these Uniform Forms will accomplish Congress' mandate to develop nationally uniform forms for trustee final reports as directed in the BAPCPA. Instead of many different versions of trustee final reports, trustees throughout the country will use the same eight forms. This will greatly assist consumers in being able to understand the administration of bankruptcy cases, especially when a consumer is located in a different region from where the bankruptcy case is located. The usage of these Uniform Forms will also assist Congress in compiling data to accurately analyze bankruptcy trends when making policy decisions.

#### Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review" section 1(b), The Principles of Regulation. The Department has determined that this rule is a "significant regulatory action" and, accordingly, this rule has been reviewed by the Office of Management and Budget ("OMB").

The Department has also assessed both the costs and benefits of this rule as required by section 1(b)(6) and has made a reasoned determination that the benefits of this regulation justify its costs. The costs considered in this regulation include the time incurred by private trustees to complete the Uniform Forms. Since most of the information in the chapter 7 Uniform Forms is already collected in most districts, the additional time required to collect the requisite information and to complete the Uniform Forms should be minimal.<sup>1</sup>

<sup>1</sup> It is estimated that completion of the chapter 7 Uniform Forms, other than UST Form 102-7-NDR,

An exception may be UST Form 102-7-NDR, which asks for information not presently collected in any district for no-asset cases. The cost of this form is addressed in the Regulatory Flexibility Act section.

In addition, the Uniform Forms will be added to the trustee case management software utilized by chapter 7 trustees. This software is provided to chapter 7 trustees by various banks free of charge in exchange for trustees depositing estate funds in these banks. For chapter 12 and chapter 13 trustees, it is anticipated that an increase in costs will be incurred due to the usage of these chapters 12 and 13 Uniform Forms. However, any associated cost will be an approved administrative expense of a standing trustee's trust operation.<sup>2</sup>

It is estimated that the cost to the government for developing these Uniform Forms is approximately \$20,000. The estimated cost to develop a system to store information extracted from these forms, and to analyze the data, is approximately \$650,000. Over the next several years, the EOUST anticipates utilizing base resources available for information technology to meet the costs associated with developing the Uniform Forms and a system to store the information extracted from the forms. There will be no additional cost to the government. In fact, this rule will reduce the costs to the government of compiling the information submitted by private trustees. Since the Uniform Forms will be data enabled, the current system of manually compiling case closing information will be replaced by a less time intensive automated system.

The benefits of this rule include establishing national uniformity in the final reports submitted by trustees, which will enable Congress, and the general public, to obtain more detailed information regarding bankruptcy cases nationally. This rule will enable Congress and the public to identify, among other things, the amount of debt scheduled in bankruptcy cases, the percentage of claims paid to creditors, the amount of debt discharged, and the value of assets abandoned by trustees.

#### Executive Order 13132

This rule will not have a substantial direct effect on the States, on the

will take approximately the same amount of time as the current chapter 7 final reports. Therefore, there should not be an appreciable difference in costs to complete the chapter 7 Uniform Forms as compared to current chapter 7 final report forms.

<sup>2</sup> Please see the Regulatory Flexibility Act section for an explanation of the chapters 12 and 13 Uniform Forms costs.

relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Director has reviewed this rule and certifies that none of the Uniform Forms, except for 102-7-NDR, will have a significant economic impact on a substantial number of small entities. This rule will affect only approximately 1,400 trustees. In addition, trustees already submit to the court essentially the same information as that required by this rule though formats vary in judicial districts. This rule simply creates uniform forms for all trustees to use throughout the country rather than local court forms.

For chapter 12 and chapter 13 trustees, it is estimated that there will be an increase in costs in the amount of approximately \$7.00 per final report. However, this is less than 1% of chapters 12 and 13 trustees' total operating expenses. Chapters 12 and 13 standing trustees allocate this cost toward an annual budget, which means trustees deduct this cost from funds disbursed from debtors' estates to creditors. Thus, the chapters 12 and 13 Uniform Forms will not have a significant economic impact upon standing trustees.<sup>3</sup> Public comments regarding the economic impact of the Uniform Forms upon trustees are requested.

It is anticipated that UST Form 102-7-NDR may have a significant economic impact upon chapter 7 trustees because this form asks for information not presently collected in any district for no-asset cases. Accordingly, EOUST has prepared the following initial Regulatory Flexibility Act analysis.

A typical chapter 7 trustee may close as many as 500 no asset cases each year. The current practice allows trustees to file a docket entry "virtual form" for no asset cases, which enables a trustee to quickly complete the process on-line without having to complete a separate form and upload it to the court's electronic filing system. Additionally, a trustee may file many such virtual forms simultaneously in batch mode format.

<sup>3</sup> Chapters 12 and 13 case trustees closed less than .001% of chapters 12 and 13 cases in fiscal year 2007.

With the introduction of the UST Form 102-7-NDR form, the current practice of filing virtual forms for no-asset cases via the court's electronic filing system will no longer be an option.

It is estimated that it will take approximately ten minutes of staff time to collect and input the information required by UST Form 102-7-NDR. A typical staff assistant earns approximately \$25 per hour, which means a trustee could incur an additional \$2,100 a year in increased costs. However, EOUST is currently exploring alternatives with the Administrative Office of the United States Courts to enhance the transmission of electronic data collected by the courts to EOUST. These include alternatives that would reduce or eliminate the need for trustees to manually enter the information for UST Form 102-7-NDR, which will reduce much of the increased costs mentioned above for this form.<sup>4</sup> In addition, EOUST has requested the Administrative Office of the United States Courts to update their electronic filing system to allow trustees to file multiple UST Form 102-7-NDR forms at once to reduce the burden on trustees and on the court. EOUST specifically invites comments from the public suggesting other methods of reducing or eliminating any additional costs associated with completing the UST Form 102-7-NDR.

#### Paperwork Reduction Act

These forms are associated with an open bankruptcy case. Therefore, the exemption under 5 CFR 1320.4(a)(2) applies.

#### Unfunded Mandates Reform Act of 1995

This rule does not require the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531. This rule does not include a federal mandate that may result in the annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of more than the annual threshold established by the Act (\$123 million in 2005, adjusted annually for inflation). Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

<sup>4</sup> The enhanced data transmission contemplated by EOUST would also reduce the increased costs for chapters 12 and 13 trustees in completing the Uniform Forms.

#### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.* This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, and innovation; or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### Privacy Act Statement

28 U.S.C. 589b authorizes the collection of the information in the final reports. As part of the trustee's reporting to the court, the United States Trustee, and creditors concerning the trustee's administration of the bankruptcy estate, the United States Trustee will review the information contained in these reports. The United States Trustee will not share the information with any other entity unless authorized under the Privacy Act, 5 U.S.C. 552a *et seq.* EOUST has published a System of Records Notice that delineates the routine use exceptions authorizing disclosure of information. See 71 FR 59818, 59822 (Oct. 11, 2006), JUSTICE/UST-002, "Bankruptcy Trustee Oversight Records." Providing this information is mandatory under 11 U.S.C. 704.

#### List of Subjects in 28 CFR Part 58

Bankruptcy, Trusts and trustees.

For the reasons set forth in the preamble, 28 CFR part 58 is proposed to be amended as set forth below:

#### PART 58—[AMENDED]

1. The authority citation for part 58 is revised to read as follows:

**Authority:** 5 U.S.C. 301, 552; 11 U.S.C. 109(h), 111, 521(b), 727(a)(11), 1141(d)(3), 1202; 1302, 1328(g); 28 U.S.C. 509, 510, 586, 589b.

2. Add section 58.7 to read as follows:

#### § 58.7 Procedures for completing uniform forms of trustee final reports in cases filed under chapters 7, 12, and 13 of the Bankruptcy Code.

(a) *UST Form 102-7-TFR, Chapter 7 Trustee's Final Report.* A chapter 7 trustee must complete UST Form 102-7-TFR final report (TFR) before the case may be closed. This report must be submitted to the United States Trustee after liquidating the estate's assets, but before making distribution to creditors, and before filing it with the United

States Bankruptcy Court. Pursuant to 28 U.S.C. 589b(d), the TFR must contain the following:

- (1) Summary of the trustee's case administration;
- (2) Copies of the estate's financial records;
- (3) List of allowed claims;
- (4) Fees and administrative expenses;
- (5) Proposed dividend distribution to creditors; and
- (6) Trustee's certification under penalty of perjury that all assets have been liquidated or properly accounted for, and that funds of the estate are available for distribution.

(b) *UST Form 102-7-NFR Chapter 7 Trustee's Notice of Trustee's Final Report.* After the TFR has been reviewed by the United States Trustee and filed with the United States Bankruptcy Court, if the net proceeds realized in an estate exceed \$1,500, UST Form 102-7-NFR (NFR) must be sent to all creditors as the notice required under Fed. R. Bankr. P. 2002(f). The NFR must show the receipts, approved disbursements, and any balance identified on the TFR, as well as the information required in the TFR's Exhibit D. In addition, the NFR must identify the procedures for objecting to any fee application or to the TFR.

(c) *UST Form 102-7-TDR Chapter 7 Trustee's Final Account, Certification The Estate Has Been Fully Administered and Application of Trustee To Be Discharged.* After distributing all estate funds, a trustee must submit to the United States Trustee and file with the United States Bankruptcy Court the trustee's final account, UST Form 102-7-TDR (TDR). The TDR must contain the trustee's certification that the estate has been fully administered and the trustee's request to be discharged as trustee. Pursuant to 28 U.S.C. 589b(d), the TDR must also include the following:

- (1) The length of time the case was pending;
- (2) Assets abandoned;
- (3) Assets exempted;
- (4) Receipts and disbursements of the estate;
- (5) Claims asserted;
- (6) Claims allowed; and,
- (7) Distributions to claimants and claims discharged without payment, in each case by appropriate category.

(d) *UST Form 102-7-NDR Chapter 7 Trustee's Report of No Distribution.* In cases where there is no distribution of funds the case trustee must submit to the United States Trustee and file with the United States Bankruptcy Court UST Form 102-7-NDR (NDR). The NDR must contain the trustee's certification, under penalty of perjury, that the estate has

been fully administered, that the trustee has neither received nor disbursed any property or money on account of the estate except exempt property to the debtor, and that there is no property available for distribution over and above that exempted by law. In addition, the NDR must set forth the trustee's request to be discharged as trustee. Pursuant to 28 U.S.C. 589b(d), the NDR must also include the following information:

(1) The length of time the case was pending;

(2) Assets abandoned;

(3) Assets exempted;

(4) Claims asserted;

(5) Claims scheduled; and,

(6) Claims discharged without payment.

(e) *UST Form 102-12-FR-S, Chapter 12 Standing Trustee's Final Report and Account and UST Form 102-13-FR-S, Chapter 13 Standing Trustee's Final Report and Account.* After the final distribution to creditors in a chapter 12 or 13 case in which a standing trustee has been appointed, a trustee must submit to the United States Trustee and file with the United States Bankruptcy Court either UST Form 102-12-FR-S for chapter 12 cases or UST Form 102-13-FR-S for chapter 13 cases, which are the trustee's final report and account. In these forms, a trustee must include a certification that the estate has been fully administered if not converted to another chapter and a request to be discharged as trustee. Pursuant to 28 U.S.C. 589b(d), these forms must also include the following information:

(1) The length of time the case was pending;

(2) Assets abandoned;

(3) Assets exempted;

(4) Receipts and disbursements of the estate;

(5) Expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 12 or 13 (as applicable) of title 11;

(6) Claims asserted;

(7) Claims allowed;

(8) Distributions to claimants and claims discharged without payment, in each case by appropriate category;

(9) Date of confirmation of the plan;

(10) Date of each modification thereto; and,

(11) Defaults by the debtor in performance under the plan.

(f) *UST Form 102-12-FR-C, Chapter 12 Case Trustee's Final Report and Account, and UST Form 102-13-FR-C, Chapter 13 Case Trustee's Final Report and Account.* After the final distribution to creditors in a chapter 12 or 13 case in which a case trustee has been appointed, the trustee must submit to

the United States Trustee and file with the United States Bankruptcy Court either UST Form 102-12-FR-C for chapter 12 cases, or UST Form 102-13-FR-C for chapter 13 cases, which are the trustee's final report and account. In these forms, a trustee must include a certification, submitted under penalty of perjury, that the estate has been fully administered if not converted to another chapter and the trustee's request to be discharged from further duties as trustee. Pursuant to 28 U.S.C. 589b(d), these forms must also include the following information:

(1) The length of time the case was pending;

(2) Assets abandoned;

(3) Assets exempted;

(4) Receipts and disbursements of the estate;

(5) Expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 12 or 13 (as applicable) of title 11;

(6) Claims asserted;

(7) Claims allowed;

(8) Distributions to claimants and claims discharged without payment, in each case by appropriate category;

(9) Date of confirmation of the plan;

(10) Date of each modification thereto; and,

(11) Defaults by the debtor in performance under the plan.

(g) *Mandatory Usage of Uniform Forms.* The Uniform Forms associated with this rule must be utilized by trustees when completing their final reports and final accounts. All trustees serving in districts where a United States Trustee is serving must use the Uniform Forms in the administration of their cases, in the same manner, and with the same content, as set forth in this rule:

(1) All Uniform Forms may be electronically or mechanically reproduced so long as all the content and the form remain consistent with the Uniform Forms as they are posted on EOUST's Web site;

(2) The Uniform Forms shall be filed via the United States Bankruptcy Court's Case Management/Electronic Case Filing System (CM/ECF) as a "smart form" meaning the forms are data enabled.

Dated: January 18, 2008.

**Clifford J. White III,**

*Director, Executive Office for United States Trustees.*

**Note:** The following appendix will not appear in the Code of Federal Regulations.

## Appendix—Overview of Uniform Forms

### Form Title

UST Form 102-7-TFR—Chapter 7 Trustee's Final Report

UST Form 102-7-NFR—Chapter 7 Trustee's Notice Of Trustee's Final Report And Application For Compensation

UST Form 102-7-TDR—Chapter 7 Trustee's Final Account, Certification That The Estate Has Been Fully Administered And Application To Be Discharged

UST Form 102-7-NDR—Chapter 7 Trustee's Report Of No Distribution

UST Form 102-12-FR-S—Chapter 12 Standing Trustee's Final Report And Account

UST Form 102-13-FR-S—Chapter 13 Standing Trustee's Final Report And Account

UST Form 102-12-FR-C—Chapter 12 Case Trustee's Final Report And Account

UST Form 102-13-FR-C—Chapter 13 Case Trustee's Final Report And Account

Before a bankruptcy case may be closed, a chapter 7 trustee must make a final report and final account of the administration of cases in which the trustee liquidates non-exempt assets of debtors. To begin the case closing process with the new Uniform Forms, the chapter 7 trustee will prepare and submit UST Form 102-7-TFR (TFR) to the United States Trustee who reviews the report prior to it being filed with the United States Bankruptcy Court. The trustee prepares and submits this TFR after completing the liquidation of the assets, but before making distributions to creditors. The TFR contains a summary of the trustee's case administration, copies of the estate financial records, a list of allowed claims, fees and administrative expenses, and a proposed dividend distribution to creditors. The trustee certifies under penalty of perjury that all assets have been liquidated or properly accounted for, and that funds of the estate are available for distribution. After the TFR has been reviewed by the United States Trustee and filed with the United States Bankruptcy Court, if the net proceeds realized in an estate exceed \$1,500, a notice required under Fed. R. Bankr. P. 2002(f) is sent to all creditors with a summary of the TFR final report. This notice is UST Form 102-7-NFR.

After distribution of all estate funds, a trustee submits to the United States Trustee the trustee's final account, UST Form 102-7-TDR (TDR), which is the last report in the chapter 7 case. This TDR contains the length of time the case was pending, assets abandoned, assets exempted, receipts and disbursements of the estate, claims asserted, claims allowed, and distributions to claimants and claims discharged without payment. The TDR also contains the trustee's certification that the estate has been fully administered and the trustee's request to be discharged as trustee.

In cases in which there is no distribution of funds, no asset cases, the case trustee prepares and files with the United States Bankruptcy Court UST Form 102-7-NDR, which is entitled the Report of No Distribution (NDR). UST Form 102-7-NDR contains the trustee's certification, under

penalty of perjury, that the estate has been fully administered, that the trustee has neither received nor disbursed any property or money on account of the estate except exempt property to the debtor, that there is no property available for distribution over and above that exempted by law, and the trustee's request to be discharged as trustee. The NDR will also include information concerning the length of time the case was pending, assets abandoned, assets exempted, claims asserted, claims scheduled, and claims discharged without payment.

After the final distribution to creditors in a chapter 12 or 13 case in which a standing trustee has been appointed, the trustee will file with the United States Bankruptcy Court UST Form 102-12-FR-S for chapter 12 cases or UST Form 102-13-FR-S for chapter 13 cases, which are the trustee's final report and account. In these forms, a trustee includes a certification that the estate has been fully administered if not converted to another chapter and contains the trustee's request to be discharged as trustee. These forms also include the information required for the TDR as well as the date of confirmation of the chapter 12 or 13 plan, date of each modification, and defaults by the debtor in performance under the plan, if applicable. A standing trustee is appointed by the United States Trustee under 28 U.S.C. 586 and may administer more than one chapter 13 or chapter 12 case, as opposed to a case trustee that is appointed under 11 U.S.C. 1302 or 11 U.S.C. 1202 and may administer only the one case to which the trustee is appointed.

After the final distribution to creditors in a chapter 12 or 13 case in which a case trustee has been appointed, the trustee will file with the United States Bankruptcy Court either UST Form 102-12-FR-C for chapter 12 cases, or UST Form 102-13-FR-C for chapter 13 cases, which are the trustee's final report and account. In these forms, a trustee includes a certification, submitted under penalty of perjury, that the estate has been fully administered if not converted to another chapter and the trustee's request to be discharged from further duties as trustee. In addition, the forms contain the same information as that required for chapters 12 and 13 standing trustees.

[FR Doc. E8-1450 Filed 2-1-08; 8:45 am]

BILLING CODE 4410-40-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52

[EPA-R05-OAR-2007-1085; FRL-8519-2]

#### Approval and Promulgation of State Implementation Plans; Ohio: Proposed Approval of Revised Oxides of Nitrogen (NO<sub>x</sub>), Phase II, and Revised NO<sub>x</sub> Trading Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing approval of a revision to the Ohio State Implementation Plan (SIP) submitted by letter on June 16, 2005. This revision addresses the requirements of EPA's NO<sub>x</sub> SIP Call which requires further reductions in NO<sub>x</sub> emissions based on cost-effective control measures for large internal combustion engines. The revision also addresses some revisions to the State's NO<sub>x</sub> SIP Call trading program. EPA is proposing to determine that the Ohio SIP revision satisfies the requirements for Phase II of the NO<sub>x</sub> SIP Call and the NO<sub>x</sub> SIP Call trading program because, when implemented, these will meet Ohio's emission reduction requirements under Phase II of the NO<sub>x</sub> SIP Call.

**DATES:** Comments must be received on or before March 5, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2007-1085, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

3. *Fax*: (312) 886-5824.

4. *Mail*: "EPA-R05-OAR-2007-1085", John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery or Courier*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** John Paskevicz, Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6084, [paskevicz.john@epa.gov](mailto:paskevicz.john@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a non-controversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in

the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, EPA will withdraw the direct final rule and will address all public comments received in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives meaningful adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: January 11, 2008.

**Gary Gulezian,**

*Acting Regional Administrator, Region 5.*

[FR Doc. E8-1799 Filed 2-1-08; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 400, 405, 410, 412, 413, 414, 488, and 494

[CMS-3818-RCN]

RIN 0938-AG82

#### Medicare and Medicaid Programs; Conditions for Coverage for End Stage Renal Disease Facilities—Extension of Timeline for Publication of Final Rule

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

**ACTION:** Extension of timeline for publication of final rule.

**SUMMARY:** This notice announces an extension of the timeline for publication of the "Medicare and Medicaid Programs; Conditions for Coverage for End Stage Renal Disease Facilities" final rule. This notice is issued in accordance with section 1871(a)(3)(B) of the Social Security Act (the Act), which requires that a notice be published in the **Federal Register** if a final regulation, due to exceptional circumstances, will take longer to publish than 3 years after the publication date of the proposed rule. In this case, the complexity of the rule and scope of public comments warrants the extension of the timeline for publication.