Credits and the organization is a limited partnership, the requirements of section 42 of the IRS code, including the requirements of section 42(h)(5), apply. The general partner may also be the sponsor, so long as it meets the requirements of this part for sponsors and general partners.

■ 12. In § 891.813, revise paragraphs (b) and (c) to read as follows:

§ 891.813 Eligible uses for assistance provided under this subpart.

* * * * *

(b) Assistance under this subpart may not be used for excess amenities, as stated in § 891.120(c), or for Section 202 "prohibited facilities," as stated in § 891.220. Such amenities or Section 202 prohibited facilities may be included in a mixed-finance development only if:

(1) The amenities or prohibited facilities are not financed, maintained, or operated with funds provided under the Section 202 or Section 811 program;

(2) The amenities or prohibited facilities are designed with appropriate safeguards for the residents' health and safety; and

(3) The assisted residents are not required to use, participate in, or pay a fee for the use or maintenance of the amenities or prohibited facilities, although they are permitted to do so voluntarily. Any fee charged for the use, maintenance, or access to amenities or prohibited facilities by residents must be reasonable and affordable for all residents of the development.

(c) Notwithstanding any other provision of this section, § 891.315 on "prohibited facilities" shall apply to mixed-finance developments containing units assisted under Section 811.

■ 13. In § 891.830, revise paragraphs (b) and (c)(4) to read as follows:

§ 891.830 Drawdown.

* * * * *

(b) Non-capital advance funds may be disbursed before capital advance proceeds or the capital advance funds may be drawn down in an approved ratio to other funds, in accordance with a drawdown schedule approved by HUD.

(c) * * *

(4) The capital advance funds drawn down will be used only for eligible costs actually incurred in accordance with the provisions of this subpart and the approved mixed-finance project, which include costs stated in 12 U.S.C. 1701q(h) and 42 U.S.C. 8013(h). Capital advance funds may be used for paying off bridge or construction financing, or repaying or collateralizing bonds, but only for the portion of such financing or bonds that was used for capital advance units; and

* * * * *

■ 14. Revise § 891.832 to read as follows:

§ 891.832 Prohibited relationships.

(a) Paragraph (a) of § 891.130, describing conflicts of interest, applies to mixed finance developments.

(b) Paragraph (b) of § 891.130, describing identity of interest, does not apply to mixed-finance developments.

■ 15. Revise § 891.848 to read as follows:

§ 891.848 Project design and cost standards.

(a) The project design and cost standards at § 891.120 apply to mixed-finance developments under this subpart, with the exception of § 891.120(c), subject to the provisions of § 891.813(b).

(b) For Section 202 mixed-finance developments, the prohibited facilities requirements described at § 891.220 shall apply to only the capital advance-funded portion of the Section 202 mixed-finance developments under this subpart, subject to the provisions of § 891.813(b).

(c) For Section 811 mixed-finance developments, the prohibited facilities requirements described at § 891.315 shall apply to the entire mixed-finance development.

Dated: June 17, 2013.

Carol J. Galante,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2013–14721 Filed 6–19–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 518

RIN 3141–AA44

Self-Regulation of Class II Gaming

AGENCY: National Indian Gaming Commission, Department of the Interior.

ACTION: Final rule; technical and correcting amendments.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) is revising its rules concerning the issuance of certificates for tribal self-regulation of Class II gaming: To correct a section heading in the table of contents; to correct a conflict in the deadlines contained in one of the sections which, if left uncorrected, would at times require the Commission to issue certain preliminary findings on the same day that it receives a tribe's response to the Office of Self Regulation's recommendation and report; and to correct referencing errors in two of its rules.

DATES: The effective date of these regulations is September 1, 2013.

FOR FURTHER INFORMATION CONTACT: John Hay, Senior Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: 202–632–7003.

SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA or the Act), Public Law 100–497, 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The Act established the Commission and set out a comprehensive framework for the regulation of gaming on Indian lands. While the Act requires the Commission to "monitor class II gaming conducted on Indian lands on a continuing basis," 25 U.S.C. 2706(b)(1), any Indian tribe which operates a Class II gaming facility and meets certain other conditions may petition the Commission for a certificate of self-regulation. 25 U.S.C. 2710(c). The Act authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement" IGRA. 25 U.S.C. 2706(b)(10).

II. Development of the Rule

On April 4, 2013, the Commission published a final rule amending its regulations for the review and approval of petitions seeking the issuance of a certificate for tribal self-regulation of Class II gaming. 78 FR 20236, April 4, 2013. After publication, the Commission discovered that the deadline contained in 25 CFR 518.7(c)(5) for tribes to respond to the Office of Self Regulation's recommendation and report, and the deadline contained in 25 CFR 518.7(d) for the Commission to issue preliminary findings to said recommendation and report, could potentially fall on the same day, thus preventing the Commission from fully considering the tribal response before it has to issue its preliminary findings. Therefore, the Commission is revising its regulations to provide that its preliminary findings will be issued 45 days after receipt of the recommendation and report, so that the Commission has sufficient time to review and consider adequately a tribe's response to said recommendation and report. This revision is consistent with how the Commission envisioned tribes

obtaining a certificate of self-regulation and ensures that all tribal submissions will be fully considered before the Commission issues a decision.

Additionally, the Commission has discovered that the final rule published on April 4, 2013, contained: An incorrect section heading in the part's table of contents; incorrectly referenced a specific section in one of its rules; and that the reference to IGRA contained in § 518.10(a) should read "25 U.S.C. 2710(b)(2)(C)." Therefore, the Commission is also revising its regulations to correct the table of contents, and to correct the referencing errors in § 518.8(b) and § 518.10(a).

III. Certain Findings

Under the Administrative Procedure Act, a notice of proposed rulemaking is not required when an agency, for good cause, finds that notice and public comments are impracticable, unnecessary, or contrary to the public interest. Here, because this rule is not yet in effect and will not be so until September 1, 2013, and because the revisions herein are technical in nature and intended to correct inadvertent errors, the Commission is publishing a technical amendment.

Regulatory Matters

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities as defined by the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Indian tribes are not considered to be small entities for purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more. This rule will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies or geographic regions, and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that this proposed rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

National Environmental Policy Act

The Commission has determined that this rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Paperwork Reduction Act

The information collection requirements contained in this rule were previously approved by the Office of Management and Budget as required by the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, and assigned OMB Control Number 3141–0008. The OMB control number expires on October 31, 2013.

List of Subjects in 25 CFR Part 518

Gambling, Indian-lands, Indian-tribal government, reporting and recordkeeping requirements.

For the reasons set forth in the Preamble, the Commission is amending 25 CFR part 518 as follows:

PART 518—SELF-REGULATION OF CLASS II GAMING

■ 1. The authority citation for part 518 continues to read as follows:

Authority: 25 U.S.C. 2706(b)(10); E.O. 13175.

■ 2. Revise the section heading to § 518.14 to read as follows:

§ 518.14 May a tribe request a hearing on the Commission's proposal to revoke its certificate of self-regulation?

* * * * *

■ 3. Revise § 518.7(d) to read as follows:

§ 518.7 What process will the Commission use to review and certify petitions?

* * * * *

(d) After receiving the Office of Self-Regulation's recommendation and report, and a tribe's response to the report, the Commission shall issue preliminary findings as to whether the eligibility and approval criteria are met. The Commission's preliminary findings will be provided to the tribe within 45 days of receipt of the report.

* * * * *

§ 518.8 [Amended]

■ 4. In § 518.8(b), remove the reference "§ 518.11" and add in its place "§ 518.9 of this part."

§ 518.10 [Amended]

■ 5. In § 518.10(a), remove the reference "25 U.S.C. 2710(b)(2)(c)" and add in its place "25 U.S.C. 2710(b)(2)(C)."

Tracie L. Stevens,
Chairwoman.
Daniel J. Little,
Associate Commissioner.

[FR Doc. 2013–14669 Filed 6–19–13; 8:45 am]
BILLING CODE 7565–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0415]

RIN 1625–AA00

Safety Zones; Fourth of July Fireworks Displays Within the Captain of the Port Charleston Zone, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary safety zones during Fourth of July Fireworks Displays on navigable waterways in Murrells Inlet, and North Myrtle Beach, South Carolina. These safety zones are necessary to protect the public from the hazards associated with launching fireworks over navigable waters of the United States. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within any of the safety zones unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective from 9 p.m. until 10:30 p.m. on July 4, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0415. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this

the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on helicopters identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866;

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2013–06–07 Eurocopter France Helicopters: Amendment 39–17404; Docket No. FAA–2012–1014; Directorate Identifier 2010–SW–058–AD.

(a) Applicability

This AD applies to Model SA–365N1, AS–365N2, and AS 365 N3 helicopters, with the GV76–1 vertical gyro unit installed on the left-hand (LH) or right-hand (RH) shelf in the rear cargo compartment, pre-MOD 365P081895, certificated in any category, all serial numbers except 6698, 6701, 6723, 6737, and 6741.

(b) Unsafe Condition

This AD defines the unsafe condition as an undetected flight display error of a slow drift in the roll axis. This condition could result in disorientation of the pilot and subsequent loss of control of the helicopter.

(c) Effective Date.

This AD becomes effective May 9, 2013.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Before further flight, revise the Limitations section of the Rotorcraft Flight Manual (RFM) by inserting a copy of this AD into the RFM or by pen and ink changes to the RFM that prohibits flight in instrument meteorological conditions (IMC) or night visual flight rules (VFR) for each helicopter with a vertical gyro unit GV76–1 installed on the rear cargo compartment shelf without reinforcement per Modification 365P081895.

(2) Within 110 hours time-in-service, modify the GV76–1 vertical gyro unit shelf as depicted in Figures 1 through 3 and by following the Accomplishment Instructions, paragraphs 2.A. through 2.B.2.e., of Eurocopter Alert Service Bulletin No. 34.00.31, Revision 1, dated July 28, 2010. After reinforcing the shelf, operationally test the GV76–1 vertical gyro unit and functionally test the navigation systems.

(3) After modifying the GV76–1 vertical gyro unit shelf, remove this AD from the Limitations section of the RFM or remove any changes to the Limitations section of the RFM that prohibit flight in IMC or VFR as a result of paragraph (e)(1) of this AD.

(4) Modifying the GV76–1 vertical gyro unit shelf is terminating action for the requirements of this AD.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Mark F. Wiley, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *mark.wiley@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency AD No. 2010–0100R1, dated August 4, 2010, and corrected August 11, 2010.

(h) Subject.

Joint Aircraft Service Component (JASC) Code: 3421, Attitude Gyro and Indicator System.

(i) Material Incorporated by Reference.

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Eurocopter Alert Service Bulletin No. 34.00.31, Revision 1, dated July 28, 2010.

(ii) Reserved.

(3) For Eurocopter service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, Texas 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Fort Worth, Texas, on March 21, 2013.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–07211 Filed 4–3–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 518

RIN 3141–AA44

Self-Regulation of Class II Gaming

AGENCY: National Indian Gaming Commission.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) amends its regulation for the review and approval of petitions seeking the issuance of a certificate for tribal self-regulation of Class II gaming.

DATES: *Effective Date:* The effective date of these regulations is September 1, 2013.

FOR FURTHER INFORMATION CONTACT: John Hay, National Indian Gaming

Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: 202–632–7003.

SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA or the Act), enacted on October 17, 1988, established the National Indian Gaming Commission (Commission). Pursuant to the Act, the Commission regulates Class II gaming and certain aspects of Class III gaming on Indian lands.

II. Previous Rulemaking Activity

On November 18, 2010, the Commission issued a Notice of Inquiry and Notice of Consultation ("NOI") advising the public that the NIGC was conducting a comprehensive review of its regulations and requesting public comment regarding which of its regulations were most in need of revision, in what order the NIGC should review its regulations, and the process the NIGC should utilize to make revisions. 75 FR 70680 (Nov. 18, 2010). On April 4, 2011, after holding eight consultations and reviewing all of the public comments received, the Commission published a Notice of Regulatory Review Schedule (NRR), setting out a consultation schedule and process for review. 76 FR 18457 (April 4, 2011). Part 518 was included in the fourth regulatory group reviewed as part of the NRR.

The Commission conducted numerous tribal consultations as part of its review of part 518—Self-Regulation of Class II Gaming. Tribal consultations were held in every region of the country and were attended by many tribal leaders or their representatives. In addition to tribal consultations, on August 16, 2011, the Commission requested public comment on a preliminary draft of part 518. After considering the written comments received from the public, as well as comments made by participants at tribal consultations, the Commission published a Notice of Proposed Rulemaking on January 31, 2012 (77 FR 4714), proposing changes to part 518 to: (a) focus the criteria for receiving a certificate of self-regulation on a tribe's ability to regulate Class II gaming; and (b) clearly define and streamline the process by which a self-regulation petition is reviewed and a final determination is made by the Commission.

III. Review of Public Comments

In response to our Notice of Proposed Rulemaking, published January 31, 2012, 77 FR 4714, we received the following comments.

General Comments

Comments: A few commenters stated that, although self-regulation is a goal for many tribes, the current regulations make the application and annual reporting process overly burdensome. The proposed rule makes self-regulation more available to all tribes.

Response: The Commission agrees and has chosen to retain the proposed changes in the final rule.

Comments: A few commenters stated that the inclusion of the full Commission in the review and approval process in the proposed rule assures tribes that their applications will be thoroughly vetted and that a final decision will be reached by the appropriate decision-makers.

Response: The Commission agrees and has retained the level of Commission involvement in the final rule.

Comment: One commenter expressed concern that the Commission will use the petition process to review tribal revenue allocation plans and suggested that a review of these plans be specifically excluded.

Response: The regulation does not require tribes to submit their tribal revenue allocation plans to the NIGC for review. However, the Commission is required to determine whether the gaming activity has been conducted in compliance with IGRA, which addresses the use of net gaming revenues. Accordingly, the Commission declines to exclude tribal revenue allocation plans specifically from its review.

Comment: One commenter stated that, until the NIGC allows the self-regulation program to function in the manner intended by Congress, tribes will continue to be discouraged from exercising their statutory right to attain self-regulation status.

Response: The Commission believes that the changes to the regulation will encourage more tribes to take advantage of the self-regulation program and the benefits of self-regulation.

518.3 Who is eligible to petition for a certificate of self-regulation?

Comment on § 518.3(b): One commenter suggested that "all gaming" be changed to "Class II gaming," submitting that § 518.3(b) strongly implies that, in order for the NIGC to determine eligibility, the Commission will have to verify Class III compact and gaming compliance for those operations that have both Class II and Class III gaming activity.

Response: The Commission has declined to incorporate the commenter's suggestion because, first, the majority of tribal gaming operations are both Class II and Class III. Further, the Commission is not aware of any tribe that separates its regulatory body by class of gaming. Therefore, it is appropriate for the Commission to examine the petitioning tribe's regulation of its gaming as a whole. Finally, IGRA does not limit self-regulation certification to only tribes that conduct Class II gaming in a stand-alone facility, but allows tribes with hybrid Class II/Class III gaming operations also to become self-regulating.

518.4 What must a tribe submit to the Commission as part of its petition?

Comments on § 518.4(a)–(c): A number of commenters stated that any submission requirements in § 518.4 not directly related to a tribe's capacity for self-regulation or the qualifying criteria for petitioning tribes in § 518.5, should be removed entirely or revised to ensure that each requirement is directly related to assessing a tribe's regulatory capacity.

Response: The Commission has eliminated superfluous submission requirements and tailored the remaining requirements to elicit information demonstrating a tribe's regulatory framework and capacity to regulate its gaming activities.

Comments on § 518.4(c)(v): A number of commenters questioned the benefit and relevance of requiring tribes to submit the resumes tribal regulatory agency employees, recommending that the submission requirements in § 518.4(c)(v) be eliminated. Section 518.4(c)(v) requires that a petitioning tribe submit a list of the current regulators and employees of the tribal regulatory body, their complete resumes, their titles and the dates they began employment. In the commenters' view, the NIGC is not, and should not be, in a position to evaluate the competence of individual staff members employed by a tribal regulatory agency.

Response: The resumes of tribal gaming regulators demonstrate the experience and capability of the tribal regulators. The competence of tribal gaming regulators bears directly on a tribe's ability to regulate its gaming. Therefore, the Commission has determined to retain this requirement in the final rule.

Comments on § 518.4(c)(v): A few commenters stated that, although a detailed TGRA organizational chart could be a valuable tool in assessing a TGRA's capabilities, there is no value in submitting a list of current regulators and employees of the tribal regulatory

body. Instead, they suggested that the NIGC require only that employee names and background files be made available at the time of the NIGC site visit during the approval process.

Response: The Commission agrees with the comments and has revised the regulation to require tribes to make the names and background files of current regulators available to the NIGC, upon request.

Comments on § 518.4(c)(vii): A few commenters stated that the provision in § 518.4(c)(vii) requiring a tribe to list all gaming internal controls is not only burdensome, but also unnecessary, because it provides little or no insight into a tribe's capacity for self-regulation. The commenters also submitted that this requirement is redundant, because tribal internal control systems (TICS) are evaluated annually as part of the IGRA-required audit.

Response: The Commission disagrees. Each tribe should have readily available a list of internal gaming controls, which is a useful tool in examining the robustness of a tribe's regulatory framework.

Comment on § 518.4(c)(vii): One commenter suggested that the agreed-upon-procedures attestation would be sufficient to satisfy the concerns of § 518.4(c)(vii), which requires petitioning tribes to submit a list of internal controls used at the gaming facility.

Response: The Commission has determined that, although an agreed-upon-procedures attestation would fulfill some of the purposes of § 518.4(c)(vii), an up-to-date list of the internal gaming controls is beneficial to its review. For purposes of a certificate of self-regulation, IGRA requires that the NIGC determine that the tribe has "conducted the operation on a fiscally and economically sound basis." In that regard, a list of internal controls can be used by the NIGC to examine the effectiveness of the tribe in enforcing compliance with its own controls. Further, the NIGC needs to ascertain the strength of these controls at the time the petition is being reviewed, not at the time of the agreed-upon-procedures attestation.

Comment on §§ 518.4(c)(v) and (vii): One commenter suggested eliminating the submission requirements in § 518.4(c)(v) and § 518.4(c)(vii) because they do not focus on a tribal government's capacity for self-regulation.

Response: The Commission views the existence and enforcement of internal controls to be an important indicator of the tribe's ability to regulate its gaming activity. Therefore, the Commission has retained those requirements in the final rule.

518.5 What criteria must a tribe meet to receive a certificate of self-regulation?

Comment on § 518.5(a): A few commenters stated that the criteria in § 518.5(a) remain inundated with subjective terms that do not provide any meaningful guidance as to how they will be interpreted by the NIGC. Without greater objectivity, the subjective terms provide the NIGC too much discretion in deciding whether a petition should be approved.

Response: The majority of the criteria set forth in § 518.5(a) are explicitly provided for by Congress in IGRA for purposes of evaluating whether a certificate of self-regulation should be issued. Thus, Congress directed that the Commission conduct an evaluation utilizing such terms.

Comment on § 518.5(a): A few commenters stated that § 518.5 simply restates the statute and does not define or clarify how the terms "safe, fair, and honest," "generally free," "adequate systems," and "fiscally and economically sound" will be interpreted by the NIGC during the approval process. The commenters noted that, to be effective, regulations must do more than simply restate what the statute requires, and the rulemaking process should result in regulations that provide meaningful guidance to readers as to how a statutory method will be implemented by the agency.

Response: The Commission believes that the terms contained in the regulation are clear, and has, therefore, declined to remove them from the regulation. The Commission is available to assist tribes to understand and satisfy the qualifying criteria should tribes have questions or require clarification.

Comment on § 518.5: One commenter stated that, in the commenter's view, the purpose of § 518.5 should be two-fold: first, to provide guidance regarding what the many subjective terms used in § 518.5 mean so that tribal governments will understand how to meet the criteria, and second, to reasonably constrain the NIGC's discretion with regard to its approval process.

Response: As noted above, the Commission believes that the terms contained in the regulation are clear, and has, therefore, declined to remove them from the regulation. The Commission is available to assist tribes to understand and satisfy the qualifying criteria should tribes have questions or require clarification.. Thus, the Commission intends to provide additional guidance to petitioning tribes upon request.

Comment on § 518.5(a)(1)(i): One commenter suggested that the NIGC could require tribal governments to show three years of clean audits, free of any material findings, to demonstrate that it has "conducted its gaming activity in a manner that has resulted in an effective and honest accounting of all revenues."

Response: The Commission agrees that past audits are an important way for a tribe to demonstrate that it has met the approval criteria. However, the Commission has determined that those tribes having some anomalies in their audits should not be foreclosed from approval. Therefore, although the Commission will take into account audit findings when making its determination, past audits will not be the only way for a tribe to demonstrate that it has "conducted its gaming activity in a manner that has resulted in an effective and honest accounting of all revenues."

Comment on § 518.5(a)(1)(iii): One commenter stated that, to show that a tribe's gaming activities have been "generally free of evidence of criminal or dishonest activity," a tribal government could certify that it: (1) Maintains a robust system to detect and preclude money laundering activities, pursuant to Title 31; (2) maintains a system designed to ensure the exclusion of unsavory persons from the gaming facility; and (3) effectively deals with any suspected criminal activity relative to employees, customers, and vendors by referring suspected to the appropriate law enforcement agency for investigation and prosecution.

Response: The Commission agrees that such a certification would be one way to demonstrate that the tribe's gaming activities have been "generally free of evidence of criminal or dishonest activity." However, the Commission declines to incorporate the suggested change because other, equally acceptable types of evidence exist to demonstrate compliance with the provision, and the Commission believes that tribes should be afforded flexibility when fulfilling the requirements of this section.

Comments on §§ 518.5(a)(2)–(4): A few commenters suggested that the term "gaming operation," found in § 518.(a)(2) and § 518.5(a) (4), be changed to "Class II gaming operation," and the term "gaming activity," found in § 518.5(a)(3), be changed to "Class II gaming activity," pointing out that, by not limiting the qualifying criteria to Class II gaming operations or activities, it is implied that the NIGC will have to verify Class III compact and gaming compliance for those operations that

have both Class II and Class III gaming activity.

Response: Because the majority of tribal gaming operations are both Class II and Class III, the Commission believes it is appropriate and practical to examine and evaluate a petitioning tribe's regulation of its gaming as a whole. Like petitioning tribes that conduct Class II gaming only, petitioning tribes conducting hybrid operations are also required to comply with IGRA, NIGC regulations, and the tribe's own gaming ordinance and gaming regulations.

Comment on § 518.5(a)(3): A commenter expressed concern that the Commission will require petitioning tribal governments to show absolute and perfect compliance with Federal and tribal laws during the requisite 3-year period. The commenter pointed out that IGRA does not require absolute compliance with Federal and tribal laws to receive a self-regulation certificate, instead using the more flexible terms "generally free" and "adequate."

Response: Consistent with 25 U.S.C. 2710(c)(4)(a), the Commission requires a petitioning tribe to demonstrate that it has adopted and is implementing adequate systems for the accounting of all of its Class II gaming activity. When a tribe's operation consists of both Class II and Class III gaming activities, the tribe is required to demonstrate that it has adopted and is implementing adequate systems for the accounting of all gaming activity. The Commission retains the discretion to determine whether or not violations are sufficiently serious to prevent the issuance of a certificate of self-regulation.

Comment on § 518.5(b): One commenter stated that § 518.5(b) makes the certification process more difficult by imposing a number of additional requirements, some of which exceed the statutory requirements for conducting tribal gaming.

Response: The Commission disagrees. The indicators in the list set forth in §§ 518.5(b)(1)–(9) are not mandatory prerequisites for a tribe to be issued a certificate of self-regulation, but are intended to offer guidance to petitioning tribes as to how they may demonstrate to the Commission that they have met the criteria of § 518.5(a). This list is not intended to be exhaustive or to prevent the Commission from considering other factors.

Comments on §§ 518.5(b)(ix) and (xii): A few commenters stated that two of the examples listed in §§ 518.5(b)(ix) and (vii) should be removed because they reference vendor licensing standards and procedures, which are not required by IGRA. Vendor licensing is a matter of tribal, not Federal, law.

Response: Although vendor licensing is not addressed in IGRA, except for management contractors, it is a strong indicator that a tribe has the ability to properly regulate its gaming. Section 518.5(b) simply provides guidance to tribes and is not a list of factors that must be present for the tribe's petition for self-regulation to be approved. Thus, the regulation does not require a tribe to have any specific standards or procedures for vendor licensing, and the absence of any standards or procedures is not specifically a grounds for denial.

518.7 What process will the Commission use to review and certify petitions?

Comments on § 518.7(f): A few commenters stated that they were concerned that the self-regulation process for approving or denying petitions was too rigid, and suggested removing the proposed § 518.7(f) and replacing it with procedures that allow tribes seeking to become self-regulating a more informal and collaborative process.

Response: The Commission believes that the inclusion of a formal process in the regulations preserves a tribe's right to due process, and neither precludes informal meetings with the Commission nor prevents collaboration with the Commission throughout the approval process, if requested.

Comments on § 518.7(f): A few commenters suggested that § 518.7(f), which designates final Commission determinations as final agency actions, be removed. The commenters maintain that Commission decisions related to self-regulation should never be final agency actions since this designation will either terminate the process or set up an adversarial process of appeal, and, in either event, will foreclose the possibility of further collaborative efforts between the NIGC and petitioning tribes.

Response: The Commission disagrees. By allowing a decision to become final agency action, the Commission is ensuring that tribes have the right to challenge the Commission's final decisions, and their underlying rationales, in Federal court. The Commission has determined that this is an important right for tribes and should not be limited.

Comment on § 518.7(f): One commenter suggested the inclusion of additional, less formal procedures to facilitate a more informal, collaborative process, which would be more conducive to problem-solving. For example, the procedures for issuing preliminary determinations could be replaced with procedures for developing and entering into intergovernmental agreements that identify deficiencies in a petitioning tribe's application and outline the steps necessary for the tribe to attain self-regulation status. Further, the procedures for hearings could be replaced with procedures for meetings in which the NIGC and the tribe informally discuss perceived shortfalls in the petition and how the shortfalls can be remedied to the NIGC's satisfaction.

Response: The regulations do not prevent tribes and the NIGC from meeting informally and engaging in regular communication, outside of the formal process, regarding any aspect of the self-regulation process up to the Commission's final determination. The Commission envisions regular and meaningful collaboration and communication with interested tribes to assist them with achieving certification.

Comment on § 518.7(g): One commenter suggested removing § 518.7(g), which allows tribal governments to withdraw and resubmit a petition for self-regulation. It is the commenter's view that tribal governments should only have to submit a petition once, and that any information provided by a tribe in response to identified deficiencies in the petition should be submitted as supplemental materials to the petition. This would prevent a tribe from having to go through the complete certification process multiple times, as well as the unchanged portion of a tribe's petition from repeatedly undergoing the same initial review process. Instead, the NIGC would review only the supplemental materials to verify that the identified deficiencies had been adequately resolved. If the NIGC subsequently found remaining issues in the petition, such issues could similarly be resolved through additional supplementary submissions.

Response: The Commission disagrees. Tribal governments should have the right to withdraw a petition for any reason. Further, allowing tribes to complete the certification process piecemeal, potentially over many months or even years, fails to recognize that the status and strength of a tribe's gaming regulation could change after a petition is submitted, thus rendering the Commission's review untimely and ineffective.

518.10 What must a self-regulating tribe provide the Commission to maintain its self-regulatory status?

Comment: One commenter suggested changing the word "on" April 15 in § 518.10(a) to "by" April 15, to give self-

regulating tribes more flexibility in satisfying the required annual submission.

Response: The Commission agrees and the recommended change has been adopted.

Comment on § 518.10(a): One commenter expressed strong support for the proposed change to remove the annual requirement that tribes report the usage of its net gaming revenues.

Response: The Commission agrees and this change is reflected in the final rule.

Comment on § 518.10(a)(2): One commenter expressed support for the proposed change in § 518.10(a)(2) narrowing the scope of employees covered under this section to include only those employees working for the tribal regulatory body.

Response: The Commission agrees that narrowing the scope of this section to employees of the tribal regulatory body, as opposed to *all* employees hired and licensed by the tribe, decreases the burden on self-regulating tribes and properly focuses attention on a tribe's ability to regulate its gaming activity.

Comment on § 518.10(a)(2): One commenter stated that the term "licensed," as used in proposed § 518.10(a)(2), should be removed because it is an inaccurate characterization of tribal gaming regulatory employees. In practice, while most employees of tribal regulatory bodies are screened and subjected to background investigations, they are generally not "hired and licensed" by the tribe. Nor do they fit within the meaning of the terms "key employee" or "primary management official," two categories of employee which are required to be licensed under IGRA. Another commenter stated that because most employees of tribal regulatory bodies are not "hired *and* licensed," under the language in § 518.10(2), there would be very few tribal regulatory employees who would be required to submit complete resumes. The commenter does not see any other option in light of the language of 25 U.S.C. 2710(c)(5)(b), and notes that this requirement alone may dissuade his tribe from pursuing a certificate of self-regulation.

Response: The Commission understands the concern over the use of the terms "hired and licensed." However, IGRA, at 25 U.S.C. 2710(c)(5)(B), mandates that self-regulating tribes submit this information for employees "hired and licensed by the tribe subsequent to the issuance of a certificate of self-regulation." Since the statute specifically uses the terms "hired and licensed," the Commission declines to make the recommended change. Moreover, some tribes do in fact subject the individuals who work for their gaming regulatory bodies to licensing and, as a consequence, the standard is applicable.

Comment on § 518.10: One commenter stated that, because all tribes must comply with the background and licensing regulatory requirements of parts 556 and 558, the NIGC already has suitability reports for all employees who are licensed by the tribal gaming regulatory authority. A tribe's compliance with parts 556 and 558 should be sufficient to satisfy the annual submission requirements of § 518.10.

Response: The Commission disagrees. Parts 556 and 558 address licensing for key employees and primary management employees only. IGRA mandates a much broader pool of individuals that must be addressed by self-regulating tribes through their annual submissions.

518.11 Does a tribe that holds a certificate of self-regulation have a continuing duty to advise the Commission of any additional information?

Comments on § 518.11: A few commenters disagreed with the revision in § 518.11that requires a tribe to report material changes within "three business days," and recommended that the original term, "immediately," be restored. In their view, the proposed time frame of three business days may be too short. The general term of "immediately" is seen as being a more reasonable time frame because it is broad enough to allow tribal governments to resolve possible issues on their own before reporting them to the NIGC. As primary regulators, tribes should be given sufficient time and flexibility to resolve possible issues.

Response: The Commission disagrees. This provision is designed to allow the Commission to be notified when a material change occurs so that it may make its own determination as to whether the change affects the eligibility of a tribe to maintain its certificate of self-regulation. In many instances, a material change may not affect a tribe's certification, leaving no issue for the tribe to resolve. In addition, reporting a material change after it has been resolved renders the intent of the statutory provision meaningless, because the material change has been addressed without Commission consideration of it and its impact upon the certificate. Notifying the Commission within three business days allows the Commission to assess the situation, to provide technical assistance where appropriate, to monitor how quickly a tribe responds and to consider the ramifications if a tribe fails to take action.

Comments on § 518.11: A few commenters stated that they disagreed with some of the "circumstances" listed in § 518.11 that may constitute "changes in circumstances" requiring notification to the NIGC. The commenters noted that the circumstances listed in § 518.11 do not directly relate to the approval criteria for self-regulation or a tribe's regulatory capacity, and are overly subjective and vague. For example, the circumstance of "financial instability" could be construed to cover a range of issues not related to a tribe's regulatory capacity. Additionally, the circumstance of "a change in management contractor" is irrelevant to the self-regulation qualifying criteria in § 518.5, which do not include management contractors, and which were already deemed met by any tribe issued a self-regulation certificate. This circumstance is unnecessary to an assessment of a tribe's regulatory capacity, especially since the NIGC is responsible for conducting background investigations of management contractors under IGRA and will already have in its possession the requested information.

Response: The Commission agrees that a change in management contractor should not have to be reported to the Commission as a requirement of § 518.11. Therefore, the example of a change in management contractor has been removed. However, the Commission has determined to retain the example of "financial instability" because it may have a direct impact on a tribe's ability to regulate, especially in those cases in which a tribal gaming regulatory body is funded from the gaming activity.

518.12 Which investigative or enforcement powers of the Commission are inapplicable to self-regulating tribes?

Comment: One commenter was pleased that the proposed rule now describes, with specificity, the powers of the NIGC that are inapplicable once a tribe is issued a certificate of self-regulation.

Response: The Commission agrees and has retained the provision in the final rule.

Regulatory Matters

Regulatory Flexibility Act

This final rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility

Act, 5 U.S.C. 601 *et seq.* Indian tribes are not considered to be small entities for purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

This final rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions, and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency within the Department of the Interior, is exempt from compliance with the Unfunded Mandates Reform Act. 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that this proposed rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of General Counsel has determined that the final rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

National Environmental Policy Act

The Commission has determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*

Paperwork Reduction Act

The information collection requirements contained in this rule were previously approved by the Office of Management and Budget as required by 44 U.S.C. 3501, *et seq.*, and assigned OMB Control Number 3141–0008. The OMB control number expires on October 31, 2013.

List of Subjects in 25 CFR Part 518

Gambling, Indian-lands, Indian-tribal government, Reporting and recordkeeping requirements.

Accordingly, for the reasons discussed in the preamble, the Commission revises 25 CFR part 518 to read as follows:

PART 518 —SELF–REGULATION OF CLASS II GAMING

Sec.

518.1 What does this part cover?
518.2 Who will administer the self-regulation program for the Commission?
518.3 Who is eligible to petition for a certificate of self-regulation?
518.4 What must a tribe submit to the Commission as part of its petition?
518.5 What criteria must a tribe meet to receive a certificate of self-regulation?
518.6 What are the responsibilities of the Office of Self-Regulation in the certification process?
518.7 What process will the Commission use to review and certify petitions?
518.8 What is the hearing process?
518.9 When will a certificate of self-regulation become effective?
518.10 What must a self-regulating tribe provide the Commission to maintain its self-regulatory status?
518.11 Does a tribe that holds a certificate of self-regulation have a continuing duty to advise the Commission of any additional information?
518.12 Which investigative or enforcement powers of the Commission are inapplicable to self-regulating tribes?
518.13 When may the Commission revoke a certificate of self-regulation?
518.14 May a tribe request a hearing on the Commission's proposal to revoke its certificate?

Authority: 25 U.S.C. § 2706(b)(10); E.O. 13175.

§ 518.1 What does this part cover?

This part sets forth requirements for obtaining a certificate of self-regulation of Class II gaming operations under 25 U.S.C. 2710(c). When the Commission issues a certificate of self-regulation, the certificate is issued to the tribe, not to a particular gaming operation. The certificate applies to all Class II gaming activity conducted by the tribe holding the certificate.

§ 518.2 Who will administer the self-regulation program for the Commission?

The self-regulation program will be administered by the Office of Self-Regulation. The Chair shall appoint one Commissioner to administer the Office of Self-Regulation.

§ 518.3 Who is eligible to petition for a certificate of self-regulation?

A tribe is eligible to petition the Commission for a certificate of self-regulation of Class II gaming if, for a three (3)-year period immediately preceding the date of its petition:

(a) The tribe has continuously conducted such gaming;

(b) All gaming that the tribe has engaged in, or has licensed and regulated, on Indian lands within the tribe's jurisdiction, is located within a State that permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal law), in accordance with 25 U.S.C. 2710(b)(1)(A);

(c) The governing body of the tribe has adopted an ordinance or resolution that the Chair has approved, in accordance with 25 U.S.C. 2710(b)(1)(B);

(d) The tribe has otherwise complied with the provisions of 25 U.S.C. 2710; and

(e) The gaming operation and the tribal regulatory body have, for the three (3) years immediately preceding the date of the petition, maintained all records required to support the petition for self-regulation.

§ 518.4 What must a tribe submit to the Commission as part of its petition?

A petition for a certificate of self-regulation is complete under this part when it contains:

(a) Two copies on 8½" x 11" paper of a petition for self-regulation approved by the governing body of the tribe and certified as authentic by an authorized tribal official;

(b) A description of how the tribe meets the eligibility criteria in § 518.3, which may include supporting documentation; and

(c) The following information with supporting documentation:

(1) A brief history of each gaming operation(s), including the opening dates and periods of voluntary or involuntary closure;

(2) An organizational chart of the tribal regulatory body;

(3) A brief description of the criteria tribal regulators must meet before being eligible for employment as a tribal regulator;

(4) A brief description of the process by which the tribal regulatory body is funded, and the funding level for the three years immediately preceding the date of the petition;

(5) A list of the current regulators and employees of the tribal regulatory body, their complete resumes, their titles, the dates they began employment, and, if serving limited terms, the expiration date of such terms;

(6) A brief description of the accounting system(s) at the gaming operation which tracks the flow of the gaming revenues;

(7) A list of gaming activity internal controls at the gaming operation(s);

(8) A description of the record keeping system(s) for all investigations, enforcement actions, and prosecutions of violations of the tribal gaming ordinance or regulations, for the three (3)-year period immediately preceding the date of the petition; and

(9) The tribe's current set of gaming regulations, if not included in the approved tribal gaming ordinance.

§ 518.5 What criteria must a tribe meet to receive a certificate of self-regulation?

(a) The Commission shall issue a certificate of self-regulation if it determines that for a three (3)-year period, the tribe has:

(1) Conducted its gaming activity in a manner that:

(i) Has resulted in an effective and honest accounting of all revenues;

(ii) Has resulted in a reputation for safe, fair, and honest operation of the activity; and

(iii) Has been generally free of evidence of criminal or dishonest activity;

(2) Conducted its gaming operation on a fiscally and economically sound basis;

(3) Conducted its gaming activity in compliance with the IGRA, NIGC regulations in this chapter, and the tribe's gaming ordinance and gaming regulations; and

(4) Adopted and is implementing adequate systems for:

(i) Accounting of all revenues from the gaming activity;

(ii) Investigating, licensing and monitoring of all employees of the gaming activity;

(iii) Investigating, enforcing, prosecuting, or referring for prosecution violations of its gaming ordinance and regulations; and

(iv) Prosecuting criminal or dishonest activity or referring such activity for prosecution.

(b) A tribe may illustrate that it has met the criteria listed in paragraph (a) of this section by addressing factors such as those listed below. The list of factors is not all-inclusive; other factors not listed here may also be addressed and considered.

(1) The tribe adopted and is implementing minimum internal control standards which are at least as stringent as those promulgated by the Commission;

(2) The tribe requires tribal gaming regulators to meet the same suitability requirements as those required for key employees and primary management officials of the gaming operation(s);

(3) The tribe's gaming operation utilizes an adequate system for accounting of all gaming revenues from Class II gaming activity;

(4) The tribe has a dispute resolution process for gaming operation customers and has taken steps to ensure that the process is adequately implemented;

(5) The tribe has a gaming regulatory body which:

(i) Monitors gaming activities to ensure compliance with Federal and tribal laws and regulations;

(ii) Monitors the gaming revenues accounting system for continued effectiveness;

(iii) Performs routine operational or other audits of the Class II gaming activities;

(iv) Routinely receives and reviews gaming revenue accounting information from the gaming operation(s);

(v) Has access to, and may inspect, examine, photocopy and audit, all papers, books, and records of the gaming operation(s) and Class II gaming activities;

(vi) Monitors compliance with minimum internal control standards for the gaming operation;

(vii) Has adopted and is implementing an adequate system for investigating, licensing, and monitoring of all employees of the gaming activity;

(viii) Maintains records on licensees and on persons denied licenses, including persons otherwise prohibited from engaging in gaming activities within the tribe's jurisdiction;

(ix) Establishes standards for, and issues, vendor licenses or permits to persons or entities who deal with the gaming operation, such as manufacturers and suppliers of services, equipment and supplies;

(x) Establishes or approves the rules governing Class II games, and requires their posting;

(xi) Has adopted and is implementing an adequate system for the investigation of possible violations of the tribal gaming ordinance and regulations, and takes appropriate enforcement actions; and

(xii) Takes testimony and conducts hearings on regulatory matters, including matters related to the revocation of primary management officials, key employee and vendor licenses;

(6) The tribe allocates and appropriates a sufficient source of permanent and stable funding for the tribal regulatory body;

(7) The tribe has adopted and is implementing a conflict of interest policy for the regulators/regulatory body and their staff;

(8) The tribe has adopted and is implementing a system for adequate prosecution of violations of the tribal gaming ordinance and regulations or referrals for prosecution; and

(9) The tribe demonstrates that the operation is being conducted in a manner which adequately protects the environment and the public health and safety.

(c) The tribe assists the Commission with access and information-gathering responsibilities during the certification process.

(d) The burden of establishing self-regulation is upon the tribe filing the petition.

§ 518.6 What are the responsibilities of the Office of Self-Regulation in the certification process?

The Office of Self-Regulation shall be responsible for directing and coordinating the certification process. It shall provide a written report and recommendation to the Commission as to whether a certificate of self-regulation should be issued or denied, and a copy of the report and recommendation to the petitioning tribe.

§ 518.7 What process will the Commission use to review and certify petitions?

(a) Petitions for self-regulation shall be submitted by tribes to the Office of Self-Regulation.

(1) Within 30 days of receipt of a tribe's petition, the Office of Self-Regulation shall conduct a review of the tribe's petition to determine whether it is complete under § 518.4.

(2) If the tribe's petition is incomplete, the Office of Self-Regulation shall notify the tribe by letter, certified mail or return receipt requested, of any obvious deficiencies or significant omissions in the petition. A tribe with an incomplete petition may submit additional information and/or clarification within 30 days of receipt of notice of an incomplete petition.

(3) If the tribe's petition is complete, the Office of Self-Regulation shall notify the tribe in writing.

(b) Once a tribe's petition is complete, the Office of Self-Regulation shall conduct a review to determine whether the tribe meets the eligibility criteria in § 518.3 and the approval criteria in § 518.5. During its review, the Office of Self-Regulation:

(1) May request from the tribe any additional material it deems necessary to assess whether the tribe has met the criteria for self-regulation.

(2) Will coordinate an on-site review and verification of the information submitted by the petitioning tribe.

(c) Within 120 days of notice of a complete petition under § 518.4, the Office of Self-Regulation shall provide a recommendation and written report to

the full Commission and the petitioning tribe.

(1) If the Office of Self-Regulation determines that the tribe has satisfied the criteria for a certificate of self-regulation, it shall recommend to the Commission that a certificate be issued to the tribe.

(2) If the Office of Self-Regulation determines that the tribe has not met the criteria for a certificate of self-regulation, it shall recommend to the Commission that it not issue a certificate to the tribe.

(3) The Office of Self-Regulation shall make all information, on which it relies in making its recommendation and report, available to the tribe, subject to the confidentiality requirements in 25 U.S.C. 2716(a), and shall afford the tribe an opportunity to respond.

(4) The report shall include:

(i) Findings as to whether each of the eligibility criteria is met, and a summary of the basis for each finding;

(ii) Findings as to whether each of the approval criteria is met, and a summary of the basis for each finding;

(iii) A recommendation to the Commission as to whether it should issue the tribe a certificate of self-regulation; and

(iv) A list of any documents and other information received in support of the tribe's petition.

(5) A tribe shall have 30 days from the date of issuance of the report to submit to the Office of Self-Regulation a response to the report.

(d) After receiving the Office of Self-Regulation's recommendation and report, and a tribe's response to the report, the Commission shall issue preliminary findings as to whether the eligibility and approval criteria are met. The Commission's preliminary findings will be provided to the tribe within 30 days of receipt of the report.

(e) Upon receipt of the Commission's preliminary findings, the tribe can request, in writing, a hearing before the Commission, as set forth in § 518.8. Hearing requests shall be made to the Office of Self-Regulation, and shall specify the issues to be addressed by the tribe at the hearing and any proposed oral or written testimony the tribe wishes to present.

(f) The Commission shall issue a final determination 30 days after issuance of its preliminary findings or after the conclusion of a hearing, if one is held. The decision of the Commission to approve or deny a petition shall be a final agency action.

(g) A tribe may withdraw its petition and resubmit it at any time prior to the issuance of the Commission's final determination.

§ 518.8 What is the hearing process?

(a) Within 10 days of receipt of the request for a hearing, the Office of Self-Regulation shall notify the tribe of the date and place of the hearing. The notice shall also set a hearing schedule, the time allotted for testimony and oral argument, and the order of the presentation.

(1) To the extent possible, the hearing will be scheduled not later than 60 days after the notice is issued, and the hearing schedule will be issued at least 30 days prior to the hearing.

(2) [Reserved]

(b) The Commission shall issue a decision on the petition within 30 days after the hearing's conclusion. The decision shall set forth, with particularity, findings regarding the tribe's satisfaction of the self-regulation standards in this Part. If the Commission determines that a certificate will issue, it will do so in accordance with § 518.11.

(c) The decision of the Commission to approve or deny a petition shall be a final agency action.

§ 518.9 When will a certificate of self-regulation become effective?

A certificate of self-regulation shall become effective on January 1 of the year following the year in which the Commission determines that a certificate will issue. Petitions will be reviewed in chronological order based on the date of receipt of a complete petition.

§ 518.10 What must a self-regulating tribe provide the Commission to maintain its self-regulatory status?

Each tribe that holds a certificate of self-regulation shall be required to submit the following information by April 15 of each year following the first year of self-regulation, or within 120 days after the end of each fiscal year of the gaming operation, as required by 25 CFR 571.13:

(a) An annual independent audit, to be filed with the Commission, as required by 25 U.S.C. 2710(b)(2)(c); and

(b) A complete resume for all employees of the tribal regulatory body hired and licensed by the tribe subsequent to its receipt of a certificate of self-regulation, to be filed with the Office of Self-Regulation.

Failure to submit the information required by this section may result in revocation of a certificate of self-regulation.

§ 518.11 Does a tribe that holds a certificate of self-regulation have a continuing duty to advise the Commission of any additional information?

Yes. A tribe that holds a certificate of self-regulation has a continuing duty to advise the Commission within three business days of any changes in circumstances that are material to the approval criteria in § 518.5 and may reasonably cause the Commission to review and revoke the tribe's certificate of self-regulation. Failure to do so is grounds for revocation of a certificate of self-regulation. Such circumstances may include, but are not limited to, a change of primary regulatory official; financial instability; or any other factors that are material to the decision to grant a certificate of self-regulation.

§ 518.12 Which investigative or enforcement powers of the Commission are inapplicable to self-regulating tribes?

During any time in which a tribe has a certificate of self-regulation, the powers of the Commission, as set forth in 25 U.S.C. 2706(b)(1)–(4), shall be inapplicable.

§ 518.13 When may the Commission revoke a certificate of self-regulation?

The Commission may, after an opportunity for a hearing, revoke a certificate of self-regulation by a majority vote of its members if it determines that the tribe no longer meets the eligibility criteria of § 518.3, the approval criteria of § 518.5, the requirements of § 518.10 or the requirements of § 518.11. The Commission shall provide the tribe with prompt notice of the Commission's intent to revoke a certificate of self-regulation under this part. Such notice shall state the reasons for the Commission's action and shall advise the tribe of its right to a hearing under part 584 or right to appeal under part 585. The decision to revoke a certificate is a final agency action and is appealable to Federal District Court pursuant to 25 U.S.C. 2714.

§ 518.14 May a tribe request a hearing on the Commission's proposal to revoke its certificate of self-regulation?

Yes. A tribe may request a hearing regarding the Commission's proposal to revoke a certificate of self-regulation. Such a request shall be filed with the Commission pursuant to part 584. Failure to request a hearing within the time provided by part 584 shall constitute a waiver of the right to a hearing.

Dated: March 28, 2013, Washington, DC.

Tracie L. Stevens,

Chairwoman.

Daniel J. Little,

Associate Commissioner.

[FR Doc. 2013–07621 Filed 4–3–13; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Part 1206

Product Valuation

CFR Correction

In FR Doc. 2013–07512, appearing on page 19100, in the **Federal Register** of Friday, March 29, 2013, the subagency heading "Surface Mining Reclamation and Enforcement" is corrected to read "Office of Natural Resources Revenue".

[FR Doc. 2013–07993 Filed 4–3–13; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0409; FRL–9797–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determinations of Attainment of the 1997 8-Hour Ozone Standard for the Pittsburgh-Beaver Valley Moderate Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is making two separate and independent determinations regarding the Pittsburgh-Beaver Valley 1997 8-hour ozone nonattainment area (the Pittsburgh Area). First, EPA is making a determination that the Pittsburgh Area attained the 1997 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of June 15, 2010. This determination is based upon complete, quality assured, and certified ambient air monitoring data for the 2007–2009 monitoring period showing monitored attainment of the 1997 8-hour ozone NAAQS. Second, EPA is making a determination that the Pittsburgh Area is attaining the 1997 8-hour ozone NAAQS, based on complete, quality assured, and certified ambient air monitoring data for the 2009–2011 monitoring period, and preliminary data for 2012. This final determination suspends the requirement for the Pittsburgh Area to submit an attainment demonstration, reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures related to attainment of the 1997 8-hour ozone NAAQS for so long as the area continues to attain that NAAQS. These determinations do not constitute a redesignation to attainment. The Pittsburgh Area will remain designated nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the Pittsburgh Area meets the Clean Air Act (CAA) requirements for redesignation to attainment, including an approved maintenance plan. These actions are being taken under the CAA.

DATES: This final rule is effective on May 6, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2012–0409. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 814–2181, or by email at *pino.maria@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On December 10, 2012 (77 FR 73387), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. In the December 10, 2012 rulemaking action, EPA proposed to determine that the Pittsburgh Area attained the 1997 8-hour ozone NAAQS by its attainment date, June 15, 2010. EPA also proposed to make a clean data determination, finding that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS. No comments were received on the December 10, 2012 NPR.

II. Summary of SIP Revision

These actions do not constitute a redesignation of the Pittsburgh Area to attainment for the 1997 8-hour ozone NAAQS under CAA section 107(d)(3). Neither determination of attainment involves approving a maintenance plan for the Pittsburgh Area, nor determines that the Pittsburgh Area has met all the requirements for redesignation under the CAA, including that the attainment be due to permanent and enforceable measures. Therefore, the designation status of the Pittsburgh Area will remain nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA takes final rulemaking action to determine that the Pittsburgh Area meets the CAA requirements for redesignation to attainment.

A. Determination of Attainment by the Attainment Date

EPA is making a determination that the Pittsburgh Area attained the 1997 8-hour ozone NAAQS by its applicable attainment date of June 15, 2010. This determination is based upon complete, quality assured and certified ambient air monitoring data for the 2007–2009 monitoring period, which is the last full three-year period prior to the June 15, 2010 attainment date. The 2007–2009 data show that the Pittsburgh Area monitored attainment of the 1997 8-hour ozone NAAQS. The effect of a final determination of attainment by the Pittsburgh Area's attainment date is to discharge EPA's obligation under CAA section 181(b)(2) to determine, based on the Pittsburgh Area's air quality as of the attainment date, whether the area attained the standard by that date and to establish that the Pittsburgh Area will not be reclassified.

B. "Clean Data" Determination of Attainment

EPA is also making a determination that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS. This determination is based upon complete, quality assured and certified ambient air monitoring data that show the Pittsburgh Area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2009–2011 monitoring period. Preliminary data for 2012 are consistent with continued attainment. Under the provisions of EPA's implementation rule for the 1997 8-hour NAAQS (*see* 40 CFR 51.918), a final determination of attainment suspends the CAA requirements for the Pittsburgh Area to submit an attainment demonstration and the associated RFP plan, contingency measures, RACM analysis, and any other planning requirements related to attainment of the 1997 8-hour ozone NAAQS required for moderate areas under subpart 2 of the CAA. This suspension would remain in effect until such time, if any,