separate building, in a separate wing of a building, or in quarters at the blind end of a corridor and includes adequate space and equipment for all processing steps up to, but not including, filling into final containers; and

(B) Not conducting test procedures that potentially involve the presence of microorganisms other than the vaccine strains or the use of tissue culture cell lines other than primary cultures in space used for processing live vaccine; or

(ii) If manufacturing is conducted in a multiproduct manufacturing building or area, using procedural controls, and where necessary, process containment. Process containment is deemed to be necessary unless procedural controls are sufficient to prevent cross contamination of other products and other manufacturing areas within the building. Process containment is a system designed to mechanically isolate equipment or an area that involves manufacturing using live vaccine organisms. All product, equipment, and personnel movement between distinct live vaccine processing areas and between live vaccine processing areas and other manufacturing areas, up to, but not including, filling in final containers, must be conducted under conditions that will prevent cross contamination of other products and manufacturing areas within the building, including the introduction of live vaccine organisms into other areas. In addition, written procedures and effective processes must be in place to adequately remove or decontaminate live vaccine organisms from the manufacturing area and equipment for subsequent manufacture of other products. Written procedures must be in place for verification that processes to remove or decontaminate live vaccine organisms have been followed.

* * * * *

Dated: July 30, 2007.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E7–20609 Filed 10–17–07; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Parts 502, 522, 559 and 573

RIN 3141–AA23

Facility License Standards

AGENCY: National Indian Gaming Commission (''NIGC'' or ''Commission'').

ACTION: Proposed rules.

SUMMARY: The proposed rules add new sections and a new part to the Commission's regulations in order to ensure that each place, facility or location where class II or class III gaming will occur is located on Indian lands eligible for gaming as required by the Indian Gaming Regulatory Act. The rules are also intended to ensure that gaming facilities are constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

DATES: Submit comments on or before December 3, 2007.

ADDRESSES: Comments can be mailed, faxed, or e-mailed. Mail comments to ''Comments on Facility Licensing Standards,'' National Indian Gaming Commission, 1441 L Street, NW., Washington, DC 20005, Attn: Jerrie Moore, Legal Assistant. Comments may be faxed to 202–632–7066 (not a toll-free number). Comments may be sent electronically to *licensing_regulations@nigc.gov*.

FOR FURTHER INFORMATION CONTACT: Penny J. Coleman, Acting General Counsel, at (202) 632–7003; fax (202) 632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On October 17, 1988, Congress enacted the Indian Gaming Regulatory Act (''IGRA'' or ''Act''), 25 U.S.C. 2701–21, creating the National Indian Gaming Commission (''NIGC'' or ''Commission'') and developing a comprehensive framework for the regulation of gaming on Indian lands. 25 U.S.C. 2702. The NIGC was granted, among other things, oversight and enforcement authority, including the authority to monitor tribal compliance with the Act, Commission regulations, and tribal gaming ordinances.

First, the IGRA allows gaming on Indian lands pursuant to 25 U.S.C. 2703(4), although it contains a general prohibition against gaming on lands acquired into trust by the United States for the benefit of the tribe after the Act's effective date of October 17, 1988, unless one of several exceptions are met. 25 U.S.C. 2719. The Commission has jurisdiction only over gaming operations on Indian lands and therefore must establish that it has jurisdiction as a prerequisite to its monitoring, enforcement, and oversight duties. 25 U.S.C. 2702(3).

Second, the NIGC needs to obtain information on a tribe's environmental and public health and safety laws to oversee the implementation of approved tribal gaming ordinances. Before opening a gaming operation, a tribe must adopt an ordinance governing gaming activities on its Indian lands. 25 U.S.C. 2710. The Act specifies a number of mandatory provisions to be contained in each tribal gaming ordinance and subjects such ordinances to agency review and the NIGC Chairman's approval. *Id.* Approval by the Chairman is predicated on the inclusion of each of the specified mandatory provisions in the tribal gaming ordinance. *Id.* Among these is a requirement that the ordinance must contain a provision ensuring that ''the construction and maintenance of the gaming operation, and the operation of that gaming is conducted in a manner that adequately protects the environment and the public health and safety.'' 25 U.S.C. 2710(b)(2)(E). Since 1993, when the Commission became operational, the Chairman has required each tribal gaming ordinance submitted for approval to include the express environmental and public health and safety statement set out in 25 U.S.C. 2710(b)(2)(E).

The Commission recognizes that tribal governments, as an incident of inherent tribal sovereignty, have broad autonomy and authority over internal tribal affairs, including, in particular, matters pertaining to tribal lands and the health and welfare of the people and the community. Moreover, the Commission is aware that the principle of tribal self-determination is a cornerstone of federal Indian law and policy and has remained so for more than a quarter century.

The Commission believes that tribes must have some form of basic laws in the following environmental and public health and safety areas: (1) Emergency preparedness, including but not limited to fire suppression, law enforcement and security; (2) food and potable water; (3) construction and maintenance; (4) hazardous materials; and (5) sanitation (both solid waste and wastewater). Accordingly, in 2002, the Commission issued an interpretive rule for environment, public health, and safety. 67 FR 46,109 (Jul. 12, 2002) (''Interpretive Rule'').

The NIGC has conducted many environment and public health and safety inspections since the issuance of the Interpretive Rule and has worked with a consultant to allow the agency to gain expertise in this area. Through this inspection process, the NIGC has identified weaknesses in tribal laws or enforcement thereof and has worked with tribes to cure deficiencies.

The Commission respects the rights of tribes to develop their own laws and be

governed by them. These rights must be viewed in conjunction with the IGRA mandate that the tribal governments and the NIGC have a responsibility to the gaming public and to gaming operation employees to ensure that their operations do not pose a risk to the health or safety of the public or the environment. 25 U.S.C. 2710(b)(2)(E); 25 CFR part 580.

In the years since the adoption of the Interpretive Rule, the Commission has identified several deficiencies in it. Namely, the Interpretive Rule does not assist the Commission in identifying what environmental and public health and safety laws apply to each gaming operation nor ensure that tribal gaming regulatory authorities are enforcing those laws. There is a need for a submission to the Commission of a certification by the tribe that it has identified laws applicable to its gaming operation and is in compliance with them together with a document listing those laws. A certification process would help tribes and the Commission to identify problem areas where laws are needed so that the NIGC may offer technical advice and encourage adoption and enforcement of appropriate laws. The new rules proposed today would not replace the Interpretive Rule but would work in conjunction with it.

II. Development of the Proposed Rules Through Consultation With Indian Tribes

The Commission identified a need for facility license standards to address Indian lands and environmental and public health and safety concerns in 2005. In accordance with its government-to-government consultation policy, 69 FR 16,973 (Mar. 31, 2004), the Commission consulted with Indian tribes so they could provide early and meaningful input regarding formulation of the proposed rules. Before it began drafting the proposed rules, the Commission advised tribes of its intent to create standards and asked tribes for comments and suggestions on licensing regulations covering both Indian lands and environmental and public health and safety standards at consultation sessions around the country beginning in October of 2005.

Thereafter, the Commission prepared draft facility licensing regulations covering Indian lands and environmental and public health and safety standards. A copy of the draft regulations was sent to leaders of all gaming tribes for comment on May 12, 2006. The NIGC also posted the draft on its Web site, *http://www.nigc.gov*, for public comment. Fifty-six tribes provided written comments. In addition, between May 12, 2006, and March 20, 2007, the Commission invited 309 tribes to meet with it in consultation asking, among other matters, for comment on the draft regulations. While some tribes declined the Commission's invitations, the Commission conducted over 53 separate government-to-government consultation meetings with individual tribes and their leaders or representatives.

The comments and suggestions received were carefully reviewed, and as a result, the Commission decided to redraft the regulations. Tribes questioned the NIGC's authority to issue the regulations for tribes conducting class III gaming and the NIGC's authority to issue regulations in this area overall. Tribes also challenged the first draft as unduly onerous and costly. The first draft applied to open as well as new gaming operations and required tribes to submit a signed legal opinion finding that the site was on IGRA Indian lands; a certification that the gaming site was on Indian lands; plat maps; copies of trust deeds; copies of any court decisions, settlement agreements, Congressional acts, Executive Orders, or Secretarial proclamations or decisions affecting title or ownership of the land; documentation on site ownership and leasehold interests; and documentation the site was located within reservation boundaries or was within tribal jurisdiction and the tribe exercised governmental power over it. The first draft had also required tribes to submit the table of contents of each applicable environmental and public health and safety law. The Commission agreed that the requirements to submit a signed legal opinion on the Indian lands status of gaming lands and the table of contents for each applicable environmental and public health and safety law would be unduly burdensome and expensive and therefore removed them.

The Commission sent a revised draft to leaders of all gaming tribes for comment on March 21, 2007, and posted the draft on its Web site, asking for comments by May 15, 2007. NIGC Press Release PR–63 06–2007. The comment period deadline was subsequently extended to May 30, 2007. NIGC Press Release PR–65 08–2007. The NIGC posted the initial request for comments and the extension letter on its Web site in order to obtain additional public comment. In addition, the Commission invited 273 tribes to meet with it in consultation asking, among other matters, for comment on the regulations. While some tribes declined the Commission's invitations, between March 20, 2007, and July 31, 2007, the Commission conducted over 60 separate government-to-government consultation meetings with individual tribes and their leaders or representatives. Tribes submitted 78 comments to the revised draft.

Comments on the revised draft were again carefully reviewed and considered by the Commission in formulating these proposed regulations. Tribes continued to question the NIGC's authority to issue the regulations. The Commission, however, continues to believe it has authority to issue licensing standards, determine whether a site constitutes Indian lands, and ensure tribal compliance with the environmental and public health and safety provision of the IGRA. The NIGC noted the continued concern of many tribes regarding the Indian lands submission burden and has substantially lessened the burden in the proposed rules published today as well as limited the submission requirements for this regulation to new gaming operations. The NIGC has therefore substantially reduced the Indian lands collection while requiring tribes to submit additional documentation if necessary.

The second draft also required all gaming tribes to amend their gaming ordinances within two years of the effective date of the regulations in order to incorporate specific environmental and public health and safety provisions into their gaming ordinance. The NIGC concurs with the commentators that the ordinance amendment concept is unnecessary and would prove unduly burdensome and costly both to the tribes and the agency and has removed this provision.

Tribes also commented that submission of a certification that the tribe is in compliance with applicable environmental and public health and safety laws and a list of those laws was burdensome and an infringement on tribal sovereignty. The Commission believes that the environmental and public health and safety requirements do not infringe on tribal sovereignty and are not unduly onerous. The requirements for environmental and public health and safety certifications and lists of laws appear to have been misconstrued as the regulations do not require tribes to adopt any specific laws or send in all of their laws, but are meant to keep the NIGC current on the status of the tribes' laws.

As of the date of publication, the Commission has to date conducted over 113 separate government-to-government consultation meetings with individual tribes and their leaders or representatives and received many

written comments on its drafts. Through these consultations, the Commission actively endeavored to provide all tribes with a reasonable and practical opportunity to meet and consult with the Commission on a government-to-government basis and provide early and meaningful tribal input regarding the formulation and implementation of these proposed rules.

III. Purpose and Scope

The proposed rules are intended to ensure that each place, facility, or location where class II or class III gaming will occur is located on Indian lands eligible for gaming under the IGRA. The proposed rules are also intended to assure that gaming facilities are constructed, maintained, and operated in a manner that adequately protects the environment and public health and safety. In addition, the proposed rules will allow the Commission to track the opening and closing of tribal gaming facilities. Each gaming place, facility, or location where a tribe conducts, or intends to conduct, class II or class III gaming pursuant to the IGRA would be subject to the proposed rules.

IV. Ordinance Submission Requirements of 25 CFR Part 522

The IGRA requires that gaming be on Indian lands eligible for gaming under the Act and that a tribe include in its ordinance a provision that ''construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety.'' 25 U.S.C. 2710(b)(2)(E). The addition of paragraph (i) to 25 CFR 522.2, concerning ordinance submission requirements, directs that a tribe shall provide any Indian lands or environmental and public health and safety documentation that the Chairman requests at his or her discretion as needed.

V. Definitions for 25 CFR Part 502

The Commission proposes definitions for terms not previously defined in its regulations. These definitions would have general application to all of the NIGC regulations where the terms are used.

In the proposed rule, the Commission defines the term ''facility license'' to clarify the term used in 25 U.S.C. 2710(b)(1), which requires a tribe to issue a separate license for each place, facility, or location on Indian lands at which class II or class III gaming is or will be conducted.

The Commission also proposes to define the requirement in 25 U.S.C. 2710(b)(2)(E) that a tribal gaming ordinance must contain a provision ensuring that ''the construction and maintenance of the gaming operation, and the operation of that gaming is conducted in a manner that adequately protects the environment and the public health and safety.'' The Commission clarifies that this term means a tribe has identified and is enforcing laws applicable to its gaming operations in the areas of emergency preparedness, food and potable water, construction and maintenance, hazardous materials, and sanitation.

VI. Facility License Notifications, Renewals, and Submissions

Proposed 25 CFR part 559 sets forth standards for renewal of gaming facility licenses, standards for notification to the Commission when a facility license is renewed or terminated, and standards for notification to the Commission prior to the licensing and opening of new gaming facilities.

A tribe would submit a notice to the Chairman that it is considering issuing a facility license to a new facility at least one hundred and twenty (120) days before opening. The notice would contain the name, address, legal description and tract number of the property. Other information would be required if the deed for the property is not maintained by the Bureau of Indian Affairs, Department of the Interior. In that case, the tribe would submit a copy of the deed and documentation of the property's ownership. Charitable events lasting not more than one week would be excluded from this requirement.

In addition, proposed part 559 would require renewals of facility licenses at least once every three years. A copy of each facility license would be sent to the Chairman within thirty days of issuance, with a supporting certification that the tribe has identified and enforces applicable environmental and public health and safety laws and a list of those laws. The Chairman has discretion to request additional Indian lands or environmental and public health and safety documentation as needed. Further, a tribe would notify the Chairman if a facility license is terminated or not renewed, or if the facility closes.

VII. Order of Temporary Closure

Proposed 25 CFR 573.6(a)(4) amends the current regulation, which already allows the Chairman to order temporary closure of a facility when a gaming facility operates without a license from a tribe. The amendment would correct the faulty citation to be replaced with the correct citation. The amended rule would also allow the Chairman to issue an order of temporary closure if a gaming facility operates without a facility license in violation of proposed rule 25 CFR part 559.

Regulatory Matters

Regulatory Flexibility Act

The proposed rules 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.* Moreover, Indian tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The proposed rules are not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rules do not have an annual effect on the economy of $100 million or more. The rules will not cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions and do 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 Mandates 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). Regardless, the proposed rules do not impose an unfunded mandate on state, local, or tribal governments or on the private sector of more than $100 million per year. Thus, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with Executive Order 12630, the Commission has determined that the proposed rules do 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 proposed rules do not unduly burden the judicial system and meet the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the proposed rules do 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 proposed rules require information collection under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, and are subject to review by the Office of Management and Budget. The title, description, and respondent categories are discussed below, together with an estimate of the annual information collection burden.

With respect to the following collection of information, the Commission invites comments on: (1) Whether the proposed collection of information is necessary for proper performance of its functions, including whether the information would have practical utility; (2) the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Indian Gaming Facility Documentation and Certification, proposed 25 CFR part 559.

Summary of information and description of need:

The IGRA establishes that Indian gaming may be conducted only on Indian lands. 25 U.S.C. 2703(4), 2710(a)(1), 2710(b)(1), 2710(d)(1). The IGRA further provides that the Indian lands outside of a tribe's reservation boundaries as of the effective date of the Act, October 17, 1988, must be held in trust by the United States for the tribe or tribal member(s) as of October 17, 1988. 25 U.S.C. 2719(a). If not, the site must meet one of the exceptions from 25 U.S.C. 2719(b). To carry out its regulatory requirements, the Commission must know the status of lands where tribal gaming is occurring. Without the required showing that gaming is conducted on ''Indian lands,'' it is unclear whether the NIGC or the State exercises jurisdiction over the gaming.

In addition, a September 2005 report by the Office of Inspector General (''OIG'') for the United States Department of the Interior (''DOI'') recommended that the NIGC establish a process by which tribes that have taken land into trust since 1988 certify the lands' status and establish and maintain a database containing eligibility information and/or lands determinations for all Indian gaming operations. The NIGC has established an Indian lands database and seeks to populate the database with information on new gaming facilities. The data will be utilized for internal reporting and recordkeeping purposes; to determine jurisdiction and legality of gaming; and to respond to inquiries from other government agencies and Congress regarding where Indian gaming is occurring and proposed. Any public requests for information contained in the database will be subject to the Freedom of Information Act, 5 U.S.C. 552, the Privacy Act of 1974, 5 U.S.C. 552a, and 25 U.S.C. 2716.

Proposed section 559.2 requires that a tribe submit a notice to the NIGC at least one hundred and twenty (120) days before a new gaming facility will be opened, alerting the agency that a facility license is under consideration. The notice will contain the name and address of the property; the legal description of the property; a copy of any deeds or trust documents to the property if not maintained by the Bureau of Indian Affairs, Department of the Interior (''BIA''), the tract number for the property as assigned by the BIA Land Title Records Offices (''LTRO''), or a short explanation as to why no deed exists; and documentation on the property's ownership if not maintained by the BIA.

The notice and its information provide necessary data without which the NIGC is unable easily to identify the site or to verify that a gaming site will be on eligible Indian lands pursuant to the IGRA and enter that information into the agency's Indian lands database.

First, the name and address of the future facility are needed by the NIGC in order to identify the site and are needed for the agency's Indian lands database. Second, the NIGC is constrained in its attempts to research the gaming eligibility status of a site under the IGRA without a legal description and LTRO tract number. Although many deeds and ownership documentation are maintained at BIA LTRO, without information from a tribe regarding the address, legal description, and tract number of where gaming is to be conducted, the NIGC cannot reliably or efficiently know which deeds to request. Previous requests to the BIA indicate that the BIA is often unable to assist the NIGC without a legal description and tract number of the land. The legal description and tract number also allow the NIGC to work with the BIA to verify, for example, whether land is within or contiguous to 1988 reservation boundaries, is within an Oklahoma former reservation, or is within the last reservation boundaries not in Oklahoma. *See* 25 U.S.C. 2703(4), 2719. Third, the NIGC is requesting that tribes submit deeds not maintained by the BIA. Tribes often operate their own real estate offices and maintain their trust deeds themselves. If no deed was ever issued for the property, the tribe is in the best position to explain why no deed was issued. Moreover, if land is owned in fee, the tribe should have obtained a copy of the deed in the course of developing the new project. Documentation of ownership indicates that the land is owned by the tribe or a tribal member and is an indication of jurisdiction. A tribe is required to have jurisdiction and exercise governmental power over its gaming lands. *See* 25 U.S.C. 2703(4), 2710(b)(1). The Commission presumes that a tribe has both jurisdiction and exercises governmental power on its reservation lands but needs to ensure this for all off-reservation sites as they are threshold requirements for tracts to be considered Indian lands. 25 U.S.C. 2703(4), 2710, and 2719.

Proposed part 559 also requires that each gaming facility license be renewed at least once every three years and that a tribe must submit a copy of each new facility license to the NIGC within 30 days of issuance. Supporting documentation submitted with the new facility license includes a tribal certification that a tribe has identified and enforces the environmental and public health and safety laws applicable to its gaming operation and a document listing the applicable laws.

The NIGC requires the certification and list of laws in order to identify what environmental and public health and safety standards apply to each gaming operation and to ensure that tribal gaming regulatory authorities are enforcing the standards for the gaming operations. The certification and list would allow the Commission to rely on a tribe's assertion that it is in compliance with applicable laws.

Respondents:

This information request is specific to tribal governments that operate gaming facilities and to tribal governments considering opening new gaming facilities in accordance with the IGRA. The maximum number of potential respondents is approximately 562, the number of federally recognized Indian

tribes. *See* Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs, 72 FR 13,648 (Mar. 22, 2007). Currently, approximately 226 tribes operate approximately 419 gaming facilities.

Information Collection Burden:

The proposed rules require tribes opening new gaming facilities to submit: (1) The facility name; (2) mailing addresses, legal descriptions, and LTRO tract numbers for the proposed gaming site; and (3) copy of the trust deed(s) and documentation on site ownership if not maintained by the BIA. If a tribe maintains its real property deeds through contract with the BIA, it will have ready access to the legal description and LTRO tract number. There could be some burden on the tribe to learn the legal description of the property. The legal description can be obtained from the county recorder's office, through working with the BIA, or from the tribe's own realty office. There would also be a minimal burden on the tribe to locate a copy of a deed or to write a brief explanation that no deed was ever issued for the property in the rare instances where this is so on tribal reservation lands. Likewise, there would be a burden on tribes to provide documentation of ownership if not maintained by the BIA. Such documentation can be obtained from the county recorder's office or from the tribe's own realty office if contracted to maintain such information. The NIGC believes that providing a legal description, LTRO tract number, trust deed, or land ownership information could require investment of time only. This portion of the information request will not be recurring and tribes will only be required under this proposed rule to comply with the information request if they plan on opening a new tribal facility. In general, the NIGC believes tribes wishing to open gaming establishments on fee lands would need to obtain this information as part of the normal course of business. Therefore, the Indian lands portion of the rule would add only limited additional expense to Indian gaming operations.

The proposed rule further requires submission at least once every three years of: (1) A copy of each gaming site's facility license; and (2) a tribal certification that it has identified and is in compliance with applicable environment and public health and safety laws. The document listing the applicable laws must be included with the first submission only. After that, if no changes are made to the list, the tribe only needs to certify to the NIGC that no substantial modifications were made to the list. The NIGC believes that there will be minimal burden for a tribe to identify the laws applicable to its gaming operation. Tribes should already be aware of and enforcing laws applicable to their gaming operations so the time and cost associated with a certification and list of laws should be minimal. One-time costs may be incurred by tribal governments drafting and adopting laws if there are none in the identified areas.

Over the past year, the Commission requested Indian lands information from several tribes for existing facilities. The information collection there was substantially greater than that contained in the proposed rule. The NIGC had asked tribes to provide a legal description, a copy of the trust deed, a map of the property, documentation from the BIA on its decision to take the land into trust, and a legal analysis of why each open tribal gaming site qualified as Indian lands eligible for gaming under the IGRA. Tribes reported that the collection took approximately 4 hours if the information had already been compiled. Tribes conducting gaming on pre-IGRA trust lands estimated 20 hours of response time and tribes gaming under an exception in 25 U.S.C. 2719(b) estimated up to 80 hours of response time with an average estimated range of costs for each facility of approximately $350 (20 hours × $17.50) to $1,400 (80 hours × $17.50). The Commission expects that the most of the response time and cost will be eliminated under the current information request as the NIGC is requesting only name and address of the property; the legal description of the property; a copy of any deeds to the property if not maintained by the BIA, or a short explanation as to why no deed exists; and documentation on the property's ownership if not maintained by the BIA. The Commission estimates that the hour burden will drop to 2 hours at a cost of $35 (2 × $17.50) under the proposed rule if the BIA maintains the deed and documentation of site ownership, going up to 10 hours at a cost of $175 (10 × $17.50) if the BIA does not maintain such information. The NIGC expects to work with the BIA to establish a process for obtaining lands information that is held by the BIA.

Additionally, under the proposed rule, the Commission's collection of information on Indian lands would require submission of information on future facilities; it is unlikely that a tribe would have to provide information on more than one facility at a time or very many times over the course of several years.

The Commission has requested copies of environmental and public health and safety laws from many tribes in preparation for inspections under the Interpretive Rule, 67 FR 46,109 (Jul. 12, 2002), but has not asked tribes to report the time required to provide the information. This information collection request is for a copy of each gaming site's facility license, a tribal certification that it has identified and is in compliance with applicable environment and public health and safety (''EPHS'') laws, and a document listing the titles of those laws other than federal laws.

The NIGC believes that there will be minimal burden for a tribe to identify the laws applicable to its gaming operation, other than federal laws, in the areas of emergency preparedness, food and water, construction and maintenance, hazardous materials, and sanitation. Tribes should already be aware of and enforcing laws applicable to their gaming operations so time and cost associated with a certification and list of laws should be minimal. The estimated hour burden of assembling EPHS laws and creating a list is 3–8 hours, or approximately $52.50 (3 × 17.50) to $140 (8 × $17.50) depending on whether the tribe already maintains such a list.

Once every three years, a tribe could incur costs of hiring consultants, attorneys, engineers, or inspectors to certify compliance with applicable EPHS laws, and this is estimated to be $1,000 to $7,000 for inspection and certification. One estimate was for a series of inspectors over 3–5 days at a total cost of $5,000–$7,000.

Potentially, a few tribes will have to make significant changes to their infrastructure before a certificate of compliance can be issued. In such cases, the costs may be estimated as ranging from $40,000 to $250,000 and include ongoing compliance costs in addition to inspection costs. The wide range of costs depends on whether a tribe has already developed and identified applicable EPHS laws and has an ongoing program aimed at assuring the public health and safety. The higher cost estimates came from operations with full-time EPHS employees and represent the overall cost of the tribe's EPHS program rather than simply costs associated with inspection and certification. Operations with full-time EPHS employees pay for them as part of the overall cost of the tribe's EPHS program rather than as costs associated with inspection and certification. The costs associated with the customary and usual business practice of maintaining EPHS and fixing code violations are not

a direct result of a certification requirement, but rather required already by tribal laws, including the tribal gaming ordinance, which requires a tribe to construct, maintain, and operate its gaming facilities in a manner that protects the public pursuant to 25 U.S.C. 2710(b)(2)(E). The hour cost of having the appropriate tribal entity create a certification after the inspections is estimated at 2 hours for a cost of $35 (2 × $17.50).

Also, if a tribe does not have laws in one of the enumerated areas, it may require employment of an attorney or other specialist to research other laws in this area and may require the attorney to draft tribal law if the tribe opts not to adopt a uniform code or law of another jurisdiction. The NIGC estimates the cost for this as approximately $5,000–$10,000.

The proposed rule also requires an information collection if a facility license is terminated or not renewed or if a gaming place, facility, or location closes. The NIGC believes the tribe will create documentation for this through governmental meeting minutes or through a notification to the gaming operation and need only forward a copy of that information to the Commission. The estimated hour burden of forwarding this information to the Commission is a half hour for approximately $8.75 (.5 × $17.50).

Comments: Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3507(d), the Commission has submitted a copy of this proposed rule to OMB for its review and approval of this information collection. Interested persons are requested to send comments regarding the burden, estimates, or any other aspect of the information collection, including suggestions for reducing the burden: (1) Directly to the Office of Information and Regulatory Affairs, OMB, Attn: Desk Officer for the National Indian Gaming Commission, 725 17th Street NW., Washington, DC 20503; and (2) to Penny J. Coleman, Acting General Counsel, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005 or via fax (202) 632–7066 (not a toll-free number) or via e-mail at *licensing_regulations@nigc.gov*. Comments are due November 19, 2007.

List of Subjects in 25 CFR Parts 502, 522, 559, and 573

Gambling, Indians—lands, Indians—tribal government, Reporting and recordkeeping requirements.

Text of the Proposed Rules

For the reasons set forth in the preamble, the Commission proposes to amend its regulations at 25 CFR Chapter III as follows:

PART 502—DEFINITIONS OF THIS CHAPTER

1. The authority citation for part 502 continues to read as follows:

Authority: 25 U.S.C. 2701 *et seq.*

2. Add new § 502.22 to read as follows:

§ 502.22 Construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety.

Construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety means a tribe has identified and enforces laws, resolutions, codes, policies or procedures applicable to each gaming place, facility or location that protect the environment and the public health and safety, including standards negotiated under a tribal-state compact. Laws, resolutions, codes, policies or procedures in this area shall cover, at a minimum:

(a) Emergency preparedness, including but not limited to fire suppression, law enforcement, and security;

(b) Food and potable water;

(c) Construction and maintenance;

(d) Hazardous materials;

(e) Sanitation (both solid waste and wastewater); and

(f) Other environmental or public health and safety standards adopted by the tribe in light of climate, geography, and other local conditions and applicable to its gaming facilities, places or locations.

3. Add new § 502.23 to read as follows:

§ 502.23 Facility license.

Facility license means a separate license issued by a tribe to each place, facility, or location on Indian lands where the tribe elects to allow class II or III gaming.

PART 522—SUBMISSION OF GAMING ORDINANCE OR RESOLUTION

4. The authority citation for part 522 continues to read as follows:

Authority: 25 U.S.C. 2706, 2710, 2712.

5. Add new paragraph (i) to § 522.2 to read as follows:

§ 522.2 Submission requirements.

(i) A tribe shall provide Indian lands or environmental and public health and safety documentation that the Chairman may in his or her discretion request as needed.

6. Add new part 559 to read as follows:

PART 559—FACILITY LICENSE NOTIFICATIONS, RENEWALS, AND SUBMISSIONS

Sec.

Authority: 25 U.S.C. 2701, 2702(3), 2703(4), 2705, 2706, 2710 and 2719.

§ 559.1 What is the scope and purpose of this part?

(a) The purpose of this part is to ensure that each place, facility, or location where class II or III gaming will occur is located on Indian lands eligible for gaming and that the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety pursuant to the Indian Gaming Regulatory Act.

(b) Each gaming place, facility, or location conducting class II or III gaming pursuant to the Indian Gaming Regulatory Act or on which a tribe intends to conduct class II or III gaming pursuant to the Indian Gaming Regulatory Act is subject to the requirements of this part.

§ 559.2 When must a tribe notify the Chairman that it is considering issuing a new facility license?

(a) A tribe shall submit to the Chairman a notice that a facility license is under consideration for issuance at least 120 days before opening any new place, facility, or location on Indian lands where class II or III gaming will occur. The notice shall contain the following:

(1) The name and address of the property;

(2) A legal description of the property;

(3) The tract number for the property as assigned by the Bureau of Indian Affairs, Land Title and Records Offices;

(4) If not maintained by the Bureau of Indian Affairs, Department of the Interior, a copy of the trust or other deed(s) to the property or an explanation as to why such documentation does not exist; and

(5) If not maintained by the Bureau of Indian Affairs, Department of the Interior, documentation of the property's ownership.

(b) A tribe does not need to submit to the Chairman a notice that a facility license is under consideration for issuance for occasional charitable events lasting not more than a week.

§ 559.3 How often must a facility license be renewed?

At least once every three years, a tribe shall issue a separate facility license to each existing place, facility or location on Indian lands where a tribe elects to allow gaming.

§ 559.4 When must a tribe submit a copy of a facility license to the Chairman?

A tribe must submit to the Chairman a copy of each issued facility license within 30 days of issuance.

§ 559.5 What must a tribe submit to the Chairman with the copy of each facility license that has been issued?

(a) A tribe shall submit to the Chairman with each facility license an attestation certifying that by issuing the facility license:

(1) The tribe has identified the environmental and public health and safety laws applicable to its gaming operation;

(2) The tribe is in compliance with those laws; and

(3) The tribe has ensured and is ensuring that the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety.

(b) A document listing all laws, resolutions, codes, policies or procedures identified by the tribe as applicable to its gaming operations, other than Federal laws, in the following areas:

(1) Emergency preparedness, including but not limited to fire suppression, law enforcement, and security;

(2) Food and potable water;

(3) Construction and maintenance;

(4) Hazardous materials;

(5) Sanitation (both solid waste and wastewater); and

(6) Other environmental or public health and safety standards adopted by the tribe in light of climate, geography, and other local conditions and applicable to its gaming facilities, places or locations.

(c) After the first submission of a document under paragraph (b) of this section, upon reissuing a license to an existing gaming place, facility, or location, and in lieu of complying with paragraph (b) of this section, a tribe may certify to the Chairman that it has not substantially modified its laws protecting the environment and public health and safety.

§ 559.6 Does a tribe need to notify the Chairman if a facility license is terminated or not renewed or if a gaming place, facility, or location closes?

A tribe must notify the Chairman within 30 days if a facility license is terminated or not renewed or if a gaming place, facility, or location closes or reopens.

§ 559.7 May the Chairman request Indian lands or environmental and public health and safety documentation regarding any gaming place, facility, or location where gaming will occur?

A tribe shall provide Indian lands or environmental and public health and safety documentation that the Chairman may in his or her discretion request as needed.

§ 559.8 May a tribe submit documents required by this part electronically?

Yes. Tribes wishing to submit documents electronically should contact the Commission for guidance on acceptable document formats and means of transmission.

PART 573—ENFORCEMENT

7. The authority citation for part 573 continues to read as follows:

Authority: 25 U.S.C. 2705(a)(1), 2706, 2713, 2715.

8. Amend § 573.6 by revising paragraph (a)(4) to read as follows:

§ 573.6 Order of temporary closure.

(a) * * *

* * * * *

(4) A gaming operation operates for business without a license from a tribe, in violation of part 522 or part 559 of this chapter.

* * * * *

Dated: October 11, 2007.

Philip N. Hogen,

Chairman.

Cloyce V. Choney,

Commissioner.

Norman H. DesRosiers,

Commissioner.

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4003

RIN 1212–AB15

Rules for Administrative Review of Agency Decisions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: Pension Benefit Guaranty Corporation (PBGC) proposes amending its regulation on Administrative Review of Agency Decisions (29 CFR part 4003) to clarify that the agency's Appeals Board may refer certain categories of appeals to other PBGC departments for a written response and to remove determinations under section 4022A of the Employee Retirement Income Security Act of 1974 (ERISA) from the scope of part 4003. The proposed amendments also include minor clarifying and technical changes to the rules for administrative review of agency decisions.

DATES: Comments must be submitted on or before December 17, 2007.

ADDRESSES: Comments, identified by Regulatory Information Number (RIN) 1212–AB15, may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the Web site instructions for submitting comments.
- *E-mail: reg.comments@pbgc.gov*.
- *Fax:* 202–326–4224.
- *Mail or Hand Delivery:* Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026.

All submissions must include the Regulatory Information Number for this rulemaking (1212–AB15). Comments received, including personal information provided, will be posted to *http://www.pbgc.gov*. Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or