brief statement of the basis for the decision. If the motion is denied, the Commission shall briefly state the grounds for denial. The Commission may allow the movant to participate as amicus curiae, if appropriate.

§ 585.6 When will I receive a copy of the record on which the Chair relied?

Within 10 days of the filing of an appeal brief, or as soon thereafter as practicable, the record on which the Chair relied will be transmitted to the appellant.

§ 585.7 When will the Commission issue its decision?

(a) The Commission shall issue its decision within 90 days after it receives the appeal brief, or its ruling on a request for intervention, if applicable, unless the subject of the appeal is whether to dissolve or make permanent a temporary closure order issued under § 573.6 chapter, in which case the Commission shall issue its decision within 60 days.

(b) The Commission shall serve the final decision upon the appellants, and any limited participant.

Dated: January 23, 2012, Washington, DC.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Commissioner.

[FR Doc. 2012–1767 Filed 1–27–12; 11:15 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 559

RIN 3141–AA48

Review and Submittal of a Tribe's Facility License Information

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Indian Gaming Commission is proposing revisions to its regulations that would provide for an expedited review of a tribe's facility license information and streamline the submittal of information relating to a proposed facility license. The proposed rule also provides for tribes to submit a certification attesting that the gaming operation is being conducted in a manner that adequately protects the environment and the public health and safety. Further, the proposed rule requires a facility license to be submitted before the opening of any new place, facility, or location on Indian lands where class II or III gaming will occur. Likewise, a tribe must notify the Chair if a facility license is terminated, expires, or if a gaming place, facility, or location closes or reopens, unless the closure is seasonal or temporary.

DATES: The agency must receive comments on or before April 2, 2012.

ADDRESSES: You may submit comments by any one of the following methods, however, please note that comments sent by electronic mail are strongly encouraged.

- *Email comments to: reg.review@nigc.gov*.
- *Mail comments to:* Armando J. Acosta, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005.
- *Hand deliver comments to:* 1441 L Street NW., Suite 9100, Washington, DC 20005.
- *Fax comments to:* Armando J. Acosta, National Indian Gaming Commission at (202) 632–0045.

FOR FURTHER INFORMATION CONTACT: Armando J. Acosta, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: (202) 632–7009; email: *reg.review@nigc.gov*

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposed rules.

II. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* was signed into law on October 17, 1988. The Act establishes the National Indian Gaming Commission (''Commission'') and sets out a comprehensive framework for the regulation of gaming on Indian lands. The purposes of IGRA include: providing a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; ensuring that the Indian tribe is the primary beneficiary of the gaming operation; and declaring that the establishment of independent federal regulatory authority for gaming on Indian lands, the establishment of federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission, are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue. 25 U.S.C. 2702.

The Act provides for tribal gaming on Indian lands within such tribe's jurisdiction. 25 U.S.C. 2710. The Act further provides the Chair and the Commission with civil regulatory authority for any violation of any provision of IGRA, Commission regulations, or approved tribal gaming ordinances. 25 U.S.C 2713. The Act requires ''a separate license issued by the Indian tribe shall be required for each place, facility, or location on Indian lands at which class II (and class III) gaming is conducted.'' 25 U.S.C. 2710(b)(1) and (d)(1)(A)(iii). Further, IGRA requires that tribal ordinances provide that ''the construction and maintenance of the gaming facilities, and the operation of that gaming is conducted in a manner which adequately protects the environment and public health and safety.'' 25 U.S.C. 2710(b)(2)(E).

Part 559 serves three purposes. The first is to receive information from tribes about the Indian lands status of each gaming facility. The second is to obtain information from tribal governments certifying that the construction, maintenance, and operation of the gaming facilities are conducted in a manner that adequately protects the environment and the public health and safety, as required by the IGRA. Finally, Part 559 serves to inform the Commission of those places, facilities, or locations at which Indian gaming is presently being conducted.

On November 18, 2010, the Commission issued a Notice of Inquiry and Notice of Consultation (NOI) advising the public that the Commission was conducting a comprehensive review of its regulations and requesting public comment on which of its regulations were most in need of revision, in what order the Commission should review its regulations, and the process the Commission should utilize to make revisions. 75 FR 70680 (Nov. 18, 2010). Part 559 was included in the first group of regulations reviewed in consultation.

II. Development of the Proposed Rule

The Commission conducted multiple tribal consultations as part of its review of part 559. Tribal consultations were held in every region of the country and were attended by numerous tribal leaders or their representatives. In addition to tribal consultations, on June 11, 2011, the Commission requested

public comment on a preliminary draft of amendments to part 559.

A. General Issues

In response to the NOI, several comments stated that the current facility licensing regulations exceeded the Commission's authority under IGRA. However, many comments also stated that the June 11, 2011 draft facility licensing regulations more closely tracked the text and purpose of IGRA. Another commentator suggested that self-regulating tribes be exempted from this requirement. However, facility licenses are a statutory requirement and even self-regulating tribes must issue facility licenses. Therefore, the proposed rule does not exempt self-regulating tribes from the facility license requirement.

B. Submission of Indian lands information

The June 11, 2011 preliminary discussion draft amended the timeframe for submittal of the facility license from 120 days to 60 days. It also added a subsection that required the Commission to quickly verify the status of the Indian lands of the place, facility, or location where class II or class III gaming will occur. However, commentators objected to this change, noting that the draft created a new process committing the Chair to act while the tribe waited for the Chair's action. Comments pointed out that there is no legal requirement for an Indian lands determination prior to gaming on that land. The Commission agrees with the comments and has attempted to address this issue in the proposed regulation. The proposed regulation reinstates the 120-day timeframe for submittal of the facility license information to the Commission, while allowing a tribe to request an expedited 60-day review to confirm that the Tribe has submitted the materials required under part 559. The proposed regulation also allows a tribe to request a written confirmation from the Chair that the tribe has submitted the materials required under part 559. Similar to existing part 559, the proposed rule does not require the issuance of a written opinion that the site on which Indian gaming is proposed is Indian lands eligible for gaming, as that term is defined by IGRA.

Several commentators requested that the regulation be clarified to state that tribal governments possess authority to independently issue facility licenses and may open new facilities while the Commission's ''verification process'' is pending. The Commission agrees that IGRA preserves a tribe's authority to issue facility licenses. The proposed rule further clarifies that the notification process does not require the Commission to verify the Indian lands status within the 120-day timeframe. IGRA limits gaming to Indian lands eligible for gaming under IGRA. If a tribe opens a new facility on lands not eligible for gaming, it does so at the risk of violating IGRA and other applicable laws. Additional comments suggested that the proposed regulation clarify that after the passage of 120 days, there is a presumption that the tribe has provided the required information and that the Commission has verified the Indian land status, unless it notifies the tribe otherwise. The Commission disagrees with such a presumption because Commission action or inaction cannot change IGRA's limitations on which Indian lands are eligible for gaming. Accordingly, the proposed regulation does not require a verification or action on whether the land is Indian land eligible for gaming, as that term is defined in IGRA.

The Commission received comments suggesting that the notice requirements include copies of relevant treaties, statutes, executive orders, court orders, or other documentation, while other comments stated that tribes should not be required to provide documents that should already be in the federal government's possession. The proposed regulation does not change the submission requirements for new facilities. While the Commission agrees that tribes should not be required to submit copies of documents that should already be in the federal government's possession, maintaining this requirement will help to provide certainty to tribes and the Commission that it has all of the relevant information.

C. Notification Requirements for Facility Openings and Closures

Part 559 requires tribes to renew or reissue a facility license at least once every three years. Proposed part 559 eliminates this requirement. The Commission's view is that unless a change to the facility has been made that changes the legal land description, tribes may establish the duration of their facility licenses through tribal law. The preliminary draft regulation still required the tribe to provide the Commission with notice of a facility opening or closing and to provide a copy of each renewed facility license. The proposed rule maintains the approach set forth in the preliminary draft. The proposed rule continues to require submittal of reissued facility licenses whenever they are issued by the tribe.

Comments were varied in their recommendation for the number of days a facility must be closed before notification should be sent to the Commission. Some supported no notification to the Commission for seasonal closures, while others suggested 60 days, 90 days, and 180 days. The proposed rule retains the requirement of notification when a facility license is terminated or not renewed, or when a facility closes or reopens so that the Commission has accurate, up-to-date records of which facilities are operating at any given point in time. However, the proposed rule does not require a tribe to notify the Commission of a seasonal closure or a temporary closure of less than 180 days.

D. Environmental and Public Health and Safety Submission Requirements

In response to the NOI, the Commission received comments which stated that requiring the submittal of EPHS information was onerous, duplicative, and outside the authority and expertise of the Commission. Commentators noted that EPHS issues were already addressed in tribal, state, and federal laws, tribal-state compacts, and inter-governmental agreements. Comments stated that, in addition to tribal governmental departments that regulate such matters, federal agencies already regulate the EPHS issues in Indian country. The Commission agrees that in any particular situation, multiple governmental entities may already regulate EPHS issues at gaming facilities. The proposed rule streamlines the current submittal requirements in part 559 by requiring the submittal of a certification by the tribe attesting that it has determined that the construction, maintenance, and operation of the gaming facility is conducted in a manner that adequately protects the environment and the public health and safety. The proposed rule maintains the Chair's discretion to request additional EPHS information from a tribe. Some comments requested that the proposed rule identify the circumstances under which the Chair could request such information. The proposed draft does not do so, as it is not possible to identify every possible scenario under which the Chair would exercise this discretion.

E. Consolidation of § 502.22 Into § 559.4

Responses to the NOI indicated that the Commission should review § 502.22 in conjunction with the review of part 559. In response to these comments, the Commission proposes incorporating § 502.22 into § 559.4 and repealing

§ 502.22. This amendment is intended to promote clarity and effectiveness for the regulated community.

Regulatory Matters

Regulatory Flexibility Act

The proposed rule will not have a significant impact 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 rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 804(2). 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 the 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 proposed 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 the proposed 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 (OMB) as required by 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 3141–0012, which expired on January 31, 2011. The NIGC is in the process of reinstating that Control Number.

Text of the Proposed Rules

For the reasons discussed in the preamble, the Commission proposes to revise 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(b)(10), 2710, 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 obtain an attestation certifying that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner that 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 Chair that it is considering issuing a new facility license?

(a) A tribe shall submit to the Chair 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.

(1) A tribe may request an expedited review of 60 days and the Chair shall respond to the tribe's request, either granting or denying the expedited review, within 30 days.

(2) Although not necessary, a tribe may request written confirmation from the Chair.

(b) 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, if any;

(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.

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

§ 559.3 When must a tribe submit a copy of a newly issued or renewed facility license to the Chair?

A tribe must submit to the Chair a copy of each newly issued or renewed facility license within 30 days of issuance.

§ 559.4 What must a tribe submit to the Chair with the copy of each facility license that has been issued or renewed?

A tribe shall submit to the Chair with each facility license an attestation certifying that by issuing the facility license, the tribe has determined 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. This means that a tribe has identified and enforces laws, resolutions, codes, policies, standards or procedures applicable to each gaming place, facility, or location that protect the environment and the public health and safety, including standards under a tribal-state compact or Secretarial procedures.

§ 559.5 Does a tribe need to notify the Chair if a facility license is terminated or expires or if a gaming place, facility, or location closes or reopens?

A tribe must notify the Chair within 30 days if a facility license is terminated or expires or if a gaming place, facility, or location closes or reopens. A tribe need not provide a notification of seasonal closures or temporary closures with a duration of less than 180 days.

§ 559.6 May the Chair require a tribe to submit applicable and available 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 applicable and available Indian lands or environmental and public health and safety documentation requested by the Chair.

§ 559.7 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.

Dated: January 23, 2012.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Dated: January 23, 2012.

Daniel J. Little,

Associate Commissioner.

[FR Doc. 2012–1915 Filed 1–27–12; 11:15 am]

BILLING CODE 7565–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 9

RIN 2900–AO30

Servicemembers' Group Life Insurance—Stillborn Child Coverage

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its Servicemembers' Group Life Insurance (SGLI) regulations in order to provide that, if a stillborn child is otherwise eligible to be insured by the SGLI coverage of more than one member, the child would be insured by the coverage of the child's SGLI-insured mother.

DATES: Comments must be received by VA on or before April 2, 2012.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AO30—Servicemembers' Group Life Insurance—Stillborn Child Coverage.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll free number.) In addition, during the comment period, comments are available online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Gregory C. Hosmer, Senior Attorney-Advisor, Department of Veterans Affairs Regional Office and Insurance Center (310/290B), P.O. Box 8079, Philadelphia, Pennsylvania 19101, (215) 842–2000, ext 4280. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Veterans' Survivor Benefits Improvements Act of 2001, Public Law 107–14, established a program of family insurance coverage under Servicemembers' Group Life Insurance (SGLI) through which a SGLI-insured service member's insurable dependents could also be insured. Section 1965(10) of title 38, United States Code, defined ''insurable dependent'' as a service member's spouse or child. Under 38 U.S.C. 1967(a), the child of a SGLI-insured member is automatically insured for $10,000.

Section 1967(a)(4)(B) prohibits an insurable dependent who is a child from being insured at any time under the SGLI coverage of more than one member, i.e., more than one SGLI-insured parent. If a child is otherwise eligible to be insured by the coverage of more than one member, under section 1967(a)(4)(B) the child is insured by the coverage of the member whose eligibility for SGLI occurred first, ''except that if that member does not have legal custody of the child, the child shall be insured by the coverage of the member who has legal custody of the child.'' Which parent has legal custody of a child is determined in accordance with applicable State law.

Section 402 of the Veterans' Benefits Improvement Act of 2008, Public Law 110–389, expanded the definition of ''insurable dependent'' for SGLI purposes to include a ''member's stillborn child.'' On November 18, 2009, VA added paragraph (k) to 38 CFR 9.1 to define the term ''member's stillborn child'' for purposes of SGLI coverage. 74 FR 59479.

Our research has determined that the law of the 50 States is silent as to which parent of a stillborn child has legal custody of the stillborn child. VA would not be able to determine the legal custodian of a stillborn child in accordance with State law. Therefore, we propose that a stillborn child of two SGLI-covered parents will always be insured under the mother's coverage.

Ease of application is just one reason for adopting such a simple rule. VA proposes this rule also because a stillborn child was exclusively in the mother's physical custody. Furthermore, if the paternity of a stillborn child were in issue, it would be particularly onerous to require a stillborn's father to establish paternity of the stillborn child. It would be more compassionate under such circumstances to simply apply a standing rule that obviates the need for such determinations. We therefore propose a rule to amend 38 CFR 9.5 by adding paragraph (e) to provide that, if a stillborn child is otherwise eligible to be insured by the coverage of more than one member, the stillborn child would be insured by the coverage of the SGLI-insured mother.

This rule would apply to claims filed on or after the publication of the final rule.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This rule would have no such effect on State, local, and tribal governments or the private sector.

Paperwork Reduction Act

This proposed rule contains no provision constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity).