

used by schools, and saws used commercially in frequency and duration of use;

16. Studies, research, or data on entry information of materials being cut at blade contact (*i.e.*, approach angle, approach speed, and approach force);

17. Information that supports or disputes preliminary economic analyses on the cost of employing technologies that reduce blade contact injuries on table saws;

18. Studies, research, or data on appropriate indicators of performance for blade-to-skin requirements that mitigate injury;

19. Studies, research, or data that validates human finger proxies for skin-to-blade tests;

20. Studies, research, or data on detection/reaction systems that have been employed to mitigate blade contact injuries;

21. Studies, research, or data on the technical challenges associated with developing new systems that could be employed to mitigate blade contact injuries;

22. Studies, research, or data on guarding systems that have been employed to prevent or mitigate blade contact injuries;

23. Studies, research, or data on kickback of a workpiece during table saw use;

24. The costs and benefits of mandating a labeling or instructions requirement; and

25. Other relevant information regarding the addressability of blade contact injuries.

Comments and other submissions should be identified by identified by Docket No. CPSC–2011–0074 and submitted in accordance with the instructions provided above. All comments and other submissions must be received by December 12, 2011.

Dated: October 5, 2011.

Todd A. Stevenson,
Secretary, Consumer Product Safety
Commission.

[FR Doc. 2011–26171 Filed 10–7–11; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 514

RIN 3141–AA40

Fees

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Proposed rule.

SUMMARY: The National Indian Gaming Commission (NIGC) proposes to amend its fee regulations by requiring tribes to submit their fees and fee statements on a quarterly basis, basing the fee calculation on the gaming operation's fiscal year, establishing an assessment for fees submitted one to 90 days late, and establishing a fingerprinting fee payment process.

DATES: The agency must receive comments on or before December 12, 2011.

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

• *E-mail comments to:*

reg.review@nigc.gov.

• *Mail comments to:* 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:* National Indian Gaming Commission at 202–632–0045.

FOR FURTHER INFORMATION CONTACT:

National Indian Gaming Commission, 1441 L Street, NW., Suite 9100 Washington, DC 20005. Telephone: 202–632–7009; e-mail: *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 proposal.

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 IGRA established an agency funding framework whereby gaming operations licensed by tribes pay a fee to the Commission for each gaming operation that conducts Class II or Class III gaming activity that is regulated by IGRA. 25 U.S.C. 2717(a)(1). These fees are used to fund the Commission in carrying out its regulatory authority. Fees are based on the gaming operation's gross revenues which are defined as the annual total amount of money wagered, less any amounts paid out as prizes or paid for prizes awarded and less allowance for amortization of capital expenditures for structures. 25 U.S.C. 2717(a)(6). The rate of fees is established annually by the Commission and shall be payable on a quarterly basis. 25 U.S.C. 2717(a)(3). IGRA limits the total amount of fees imposed during any fiscal year to .08 percent of the gross gaming revenues of all gaming operations subject to regulation under IGRA. Failure of a gaming operation to pay the fees imposed by the Commission's fee schedule can be grounds for a civil enforcement action. 25 U.S.C. 2713(a)(1). The purpose of Part 514 is to establish how the NIGC sets and collects those fees, to establish a basic formula for tribes to utilize in calculating the amount of fees to pay, and to advise of the consequences for failure to pay the fees.

On November 18, 2010, the National Indian Gaming Commission (NIGC) issued a Notice of Inquiry and Notice of Consultation advising the public that the NIGC 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 NIGC should utilize to make revisions. 75 FR 70680. On April 4, 2011, after holding eight consultations and reviewing all comments, NIGC published a Notice of Regulatory Review Schedule (NRR) setting out a consultation schedule and process for review. 76 FR 18457. Part 514 was included in the first regulatory group reviewed pursuant to the NRR.

III. Development of the Proposed Rule

The Commission conducted a total of 11 tribal consultations as part of its review of Part 514. Tribal consultations were held in every region of the country

and were attended by over 189 tribes and 535 tribal leaders or their representatives. In addition to tribal consultations, on May 10, 2011, the Commission requested public comment on a Preliminary Draft of amendments to Part 514. 76 FR 26967. After considering the comments received from the public and through tribal consultations, the Commission proposes five amendments to Part 514: changing the fee calculation from a calendar year to a fiscal year basis; changing the payment schedule to a quarterly payment system; ensuring language is consistent with industry standards; creating a ticketing system for payments submitted late; and formalizing the fingerprinting fee system. The Commission does not propose any amendments to the definition of gross gaming revenue.

A. Change the Fee Calculation to a Calculation Based on a Gaming Operation's Fiscal Year

Currently, each gaming operation regulated by IGRA must submit fee statements showing the calculation of assessable gross revenues for the previous calendar year. The Preliminary Draft of amendments to Part 514 proposed changing the timeframe of the fee calculation from the calendar year to the gaming operation's fiscal year. It is important to note that fees set by the Commission continue to be based on the gross gaming revenues of tribes, subject to the .08 percent limit established by 25 U.S.C. 2717. Comments received on the Preliminary Draft of Part 514 generally supported basing annual fees on a gaming operation's fiscal year rather than a calendar year. One commenter objected to the use of a fiscal year for calculating annual fees. The commenter expressed concern created by a conversion from a calendar year to a fiscal year and the inevitable overlap period that conversion would create.

In this proposed rule, Section 514.7 addresses the overlap period by requiring the tribe to notify the Commission of the "stub period" and submit the financial statements and fees for that period within 90 days of the tribe's request. Further, this proposed rule does not mandate a tribe change their fiscal year. While many tribes utilize a fiscal year that is not based on the calendar year, other tribes do utilize a fiscal year based on a calendar year. The Commission believes that the use of a fiscal year for calculating annual fees and completing fee statements will result in fewer inaccuracies in the calculation. The Commission notes that errors in calculating the fees have occurred as a result of a gaming

operation's fiscal year being different than the calendar year. This proposed amendment changes the annual timeframe for calculating the fees; the formula contained in the regulation for calculating the assessable gross gaming revenue remains the same. The Commission believes that this proposed amendment will result in greater efficiencies for both NIGC and tribes by reducing the likelihood of errors in the fee calculation.

B. Require Submission of Quarterly Fee Statements and Payments

Part 514 currently requires each gaming operation regulated by IGRA to submit bi-annual fee statements showing its assessable gross revenues and to submit fee payment with those statements. The statements must show the amounts derived from each class of game, the amounts deducted for prizes, and amounts deducted for amortization of structures. The statements must also include the computation of the fees payable, showing all the amounts used in the calculation. The statements are due on or before June 30th and December 31st of each year.

The Preliminary Draft of Part 514 proposed changing from a bi-annual submission requirement to a quarterly submission requirement. Comments support this proposed amendment, noting however, that there should be no prohibition on pre-paying the fees for an entire year. The Commission is not proposing a revision that would prohibit pre-payment. However, quarterly fee statements are still required, even if the fee has been prepaid. Based on a review of the comments received, the Commission proposes to amend Part 514 to require the submission of quarterly fee statements and payments.

C. Ensure Regulation Language is Consistent With Industry Standards

The discussion draft Part 514 proposed amendments which would utilize standard industry language. The discussion draft proposed changing "admission fees" to "entry fees". "Entry fee" is a term commonly used in the gaming industry and the Commission believes the clarification will eliminate concern that an "admission fee" includes admission to concerts or other non-gaming activity. The Commission did not receive any comments on the Preliminary Draft that opposed the changes. Accordingly, the Commission proposes amending Part 514 to incorporate these revisions.

D. Revise the Late Payment Fee System

IGRA and NIGC regulations provide that a failure to pay fees may result in

closure or revocation of approval of any license, ordinance, or resolution required under IGRA. The NIGC has issued Notices of Violation (NOV) and civil fine assessments to tribes submitting their fees late. The Commission notes that because the NIGC does not receive federal appropriations to fund its operations, it is vital that fees are submitted in a timely manner to ensure the continued funding of NIGC operations. Tribes have commented that a NOV for the late payment of fees can be an unnecessarily punitive response. In response to this concern, the Commission circulated in the Preliminary Draft a fine system that would address fees paid less than and up to 90 days after they are due.

Comments received on the Preliminary Draft supported the development of a system that addresses a late payment in a tiered approach. Comments acknowledged the need for submission of fees in a timely manner, but also noted that the circumstances of minor delays should be considered before issuance of a NOV and civil fine assessment.

The Commission proposes amending Part 514 to add a "ticket" system which assesses a fine for a late fee payment. The proposed Rule distinguishes between "late payments" and "failure to pay annual fees." A payment received between 1 and 90 days late is a "late payment" and would be subject to an increasing percentage based late payment fine. A payment received after 90 days constitutes a "failure to pay annual fees" and subjects the tribe to a potential NOV and civil fine assessment. The proposed rule also includes a mechanism whereby the Chair may consider any mitigating circumstances surrounding the late payments and reduce the fine due. Per federal law, any fines are payable to U.S. Treasury, not the NIGC.

E. Formalize the Fingerprinting Fee Process

The NOI asked whether the Part should include a section on fingerprint processing fees. Comments received in response to the NOI supported this revision.

The Commission included in the Preliminary Draft provisions for the collection of fees for processing fingerprints. The section requires the Commission to adopt preliminary rates for processing fingerprints at the same time as the annual fee schedule is set and modified (March 1 and June 1 of each year). If a tribe fails to pay its bill for fingerprint fees, the Chair may suspend further fingerprint card processing for that tribe.

Comments received supported this revision. Some comments expressed concern about fluctuating costs and the need to adjust costs as needed. In order to address this issue, the proposed rule provides for the Commission to review the fee rate annually and establish a preliminary rate in March and adopt a final rate in July of each year. Another comment recommended the fingerprinting fees being included in the calculation of net revenues as a statutorily required operating expense. The proposed draft does not include this language as *net revenues* is a statutorily defined term.

The proposed amendment includes the provisions circulated in the Preliminary Draft. The Commission believes formalizing the procedures for assessing fingerprint card processing fees in a regulation provides transparency and clarity.

F. Definition of Gross Gaming Revenue

In the Notice of Inquiry, the Commission asked whether the definition of *gross gaming revenue* should be revised to include the GAAP definition. The discussion draft however, did not include this revision. Comments noted that the GAAP definition, while providing a standard definition, may be inconsistent with the definition contained in the Act. The Commission agrees and therefore does not propose any change to the definition of *gross gaming revenue*.

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 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of \$100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions. Nor will the proposed rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the 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 rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the 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 3141-0007, which expired in August of 2011. The NIGC is in the process of reinstating that Control Number.

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

Dated: October 3, 2011, Washington, DC.

Text of the Proposed Rules

For the reasons discussed in the Preamble, the Commission proposes to revise 25 CFR part 514 to read as follows:

PART 514—FEES

Sec.

514.1 What is the purpose of this part?

514.2 When will the annual rates be published?

514.3 What is the maximum fee rate?

514.4 What are “assessable gross revenues” and how does a tribe calculate the amount of the annual fees it owes?

514.5 When must a tribe pay its annual fees?

514.6 What are the quarterly statements that must be submitted with the fee payments?

514.7 What should a tribe do if it changes its fiscal year?

514.8 Where should fees, quarterly statements, and other communications about fees be sent?

514.9 What happens if a tribe submits its fee payment or quarterly statement late?

514.10 When does a late payment or quarterly statement submission become a failure to pay?

514.11 Can a tribe or gaming operation appeal a proposed late fee?

514.12 When does a notice of late submission and/or a proposed late fee become a final order of the Commission and final agency action?

514.13 How are late submission fees paid, and can interest be assessed?

514.14 What happens if a tribe overpays its fees or if the Commission does not expend the full amount of fees collected in a fiscal year?

514.15 May tribes submit fingerprint cards to the NIGC for processing?

514.16 How does the Commission adopt the fingerprint processing fee?

514.17 How are fingerprint processing fees collected by the Commission?

Authority: 25 U.S.C. 2706, 2710, 2710, 2717, 2717a

§ 514.1 What is the purpose of this part?

Each gaming operation under the jurisdiction of the Commission, including a tribe with a certificate of self-regulation, shall pay to the Commission annual fees as established by the Commission. The Commission, by a vote of not less than two of its members, shall adopt the rates of fees to be paid.

§ 514.2 When will the annual rates be published?

(a) The Commission shall adopt preliminary rates for each calendar year no later than March 1st of each year, and, if considered necessary, shall modify those rates no later than June 1st of that year.

(b) The Commission shall publish the rates of fees in a notice in the **Federal Register**.

§ 514.3 What is the maximum fee rate?

(a) The rates of fees imposed shall be—

(1) No more than 2.5 percent of the first \$1,500,000 (1st tier), and

(2) No more than 5 percent of amounts in excess of the first \$1,500,000 (2nd tier) of the assessable gross revenues from each gaming operation subject to the jurisdiction of the Commission.

(b) If a tribe has a certificate of self-regulation, the rate of fees imposed shall be no more than .25 percent of assessable gross revenues from self-regulated class II gaming operations.

§ 514.4 What are “assessable gross revenues” and how does a tribe calculate the amount of the annual fee it owes?

(a) For purposes of computing fees, assessable gross revenues for each gaming operation are the annual total amount of money wagered on class II and III games, entry fees (including table or card fees), less any amounts paid out as prizes or paid for prizes awarded, and less an allowance for amortization of capital expenditures for structures as

reflected in the gaming operation’s audited financial statements.

(b) Each gaming operation subject to these regulations shall calculate the annual fee based on the gaming operation’s fiscal year.

(c) Unless otherwise provided by the regulations, generally accepted accounting principles shall be used.

(d) The allowance for amortization of capital expenditures for structures shall be either:

(1) An amount not to exceed 5% of the cost of structures in use throughout the year and 2.5% (two and one-half percent) of the cost of structures in use during only a part of the year; or

(2) An amount not to exceed 10% of the total amount of depreciation expenses for the year.

(e) Examples of computations follow:

(1) For paragraph (d)(1) of this section:

| | | |
|---|-------------|-------------|
| Gross gaming revenues: | | |
| Money wagered | \$1,000,000 | |
| Entry fees | 5,000 | |
| | | \$1,005,000 |
| Less: | | |
| Prizes paid in cash | 500,000 | |
| Cost of other prizes awarded | 10,000 | 510,000 |
| Gross gaming profit | 495,000 | |
| Less allowance for amortization of capital expenditures for structures: | | |
| Capital expenditures for structures made in— | | |
| Prior years | 750,000 | |
| Current year | 50,000 | |
| Maximum allowance: | | |
| \$750,000 × .05 = | 37,500 | |
| 50,000 × .025 = | 1,250 | 38,750 |
| Assessable gross revenues | | 456,250 |

(2) For paragraph (d)(2) of this section:

| | | |
|---|---------|-------------|
| Gross gaming revenues: | | |
| Money wagered | | \$1,000,000 |
| Entry fees | \$5,000 | 1,005,000 |
| Less: | | |
| Prizes paid in cash | 500,000 | |
| Cost of other prizes awarded | 10,000 | 510,000 |
| Gross gaming profit | 495,000 | |
| Less allowance for amortization of capital expenditures for structures: | | |
| Total amount of depreciation per books | 400,000 | |
| Maximum allowance: | | |
| \$400,000 × .10 = | | 40,000 |
| Gross gaming revenues | 455,000 | |
| Assessable gross revenues | 455,000 | |

(f) All class II and III revenues from gaming operations are to be included.

§ 514.5 When must a tribe pay its annual fees?

Each gaming operation shall calculate the amount of fees to be paid and remit them with the quarterly statement required in § 514.6. The fees payable shall be computed using:

(a) The most recent rates of fees adopted by the Commission pursuant to paragraph (a) of § 514.1,

(b) The assessable gross revenues for the previous fiscal year as calculated using § 514.4, and

(c) The amounts paid and credits received during the fiscal year, if applicable.

§ 514.6 What are the quarterly statements that must be submitted with the fee payments?

(a) Each gaming operation subject to the jurisdiction of the Commission shall file with the Commission quarterly statements showing its assessable gross revenues for the previous fiscal year.

(b) These statements shall show the amounts derived from each type of game, the amounts deducted for prizes, and the amounts deducted for the amortization of structures.

(c) The quarterly statements shall be sent to the Commission within three (3) months, six (6) months, nine (9) months, and twelve (12) months of the end of the gaming operation’s fiscal year.

(d) The quarterly statements shall identify an individual or individuals to be contacted should the Commission

need to communicate further with the gaming operation. The telephone numbers of the individual(s) shall be included.

(e) Each quarterly statement shall include the computation of the fees payable, showing all amounts used in the calculations. The required calculations are as follows:

(1) Multiply the 1st tier assessable gross revenues, as calculated using § 514.4, by the rate for those revenues adopted by the Commission.

(2) Multiply the 2nd tier assessable gross revenues, as calculated using § 514.4, by the rate for those revenues adopted by the Commission.

(3) Add (total) the results (products) obtained in paragraphs (e)(1) and (2) of this section.

(4) Multiply the total obtained in paragraph (e)(3) of this section by ¼.

(5) The amount computed in paragraph (e)(4) of this section is the amount to be remitted.

(f) Examples of fee computations follow:

(1) Where a filing is made for the first quarter of the fiscal year, the previous year's assessable gross revenues as calculated using section 514.4 of this Part are \$2,000,000, the fee rates adopted by the Commission are 0.0% on the first \$1,500,000 and .08% on the remainder, the amounts to be used and the computations to be made are as follows:

| | |
|--------------------------------------|-------|
| 1st tier revenues—\$1,500,000 × 0.0% | |
| = | 0 |
| 2nd tier revenues—500,000 × .08% = | \$400 |
| Annual fees | 400 |
| Multiply for fraction of year— ¼ or | .25 |
| Fees for first payment | 100 |
| Amount to be remitted | 100 |

(2) [Reserved]

(g) As required by part 571 of this chapter, quarterly statements must be reconciled with a tribe's audited or reviewed financial statements for each gaming location. These reconciliations must be made available upon the request of any authorized representative of the NIGC.

§ 514.7 What should a tribe do if it changes its fiscal year?

If a gaming operation changes its fiscal year, it shall notify the Commission of the change within thirty (30) days. The Commission may request that the tribe prepare and submit to the Commission the fees and statements required by this subsection for the stub period from the end of the previous fiscal year to the beginning of the new fiscal year. The submission must be sent to the Commission within ninety (90) days of its request.

§ 514.8 Where should fees, quarterly statements, and other communications about fees be sent?

The statements, remittances and communications about fees shall be transmitted to the Commission at the following address: Comptroller, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005. Checks should be made payable to the National Indian Gaming Commission (do not remit cash).

§ 514.9 What happens if a tribe submits its fee payment or quarterly statement late?

(a) In the event that a gaming operation fails to submit a fee payment or quarterly statement in a timely

manner, the Chair of the Commission may issue a notice specifying:

(1) The date the statement and/or payment was due;

(2) The number of calendar days late the statement and/or payment was submitted;

(3) A citation to the federal or tribal requirement that has been or is being violated;

(4) The action being considered by the Chair; and

(5) Notice of rights of appeal pursuant to part 577 of this chapter.

(b) Within fifteen (15) days of service of the notice, a respondent may submit written information about the notice to the Chair. The Chair shall consider any information submitted by the respondent as well as the respondent's history of untimely submissions or failure to file statements and/or fee payments over the preceding five (5) years in determining the amount of the late fee, if any.

(c) When practicable, within thirty (30) days of issuing the notice described in paragraph (a) of this section to a respondent, the Chair of the Commission may assess a proposed late fee against a respondent for each failure to file a timely quarterly statement and/or fee payment:

(1) For statements and/or fee payments one (1) to thirty (30) calendar days late, the Chair may propose a late fee of up to, but not more than ten percent (10%) of the fee amount for that quarter, as calculated in § 514.6(e);

(2) For statements and/or fee payments thirty-one (31) to sixty (60) calendar days late, the Chair may propose a late fee of up to, but not more than fifteen percent (15%) of the fee amount for that quarter, as calculated in § 514.6(e);

(3) For statements and/or fee payments sixty-one (61) to ninety (90) calendar days late, the Chair may propose a late fee of up to, but not more than twenty percent (20%) of the fee amount for that quarter, as calculated in § 514.6(e).

§ 514.10 When does a late payment or quarterly statement submission become a failure to pay?

(a) Statements and/or fee payments over ninety (90) calendar days late constitute a failure to pay the annual fee, as set forth in IGRA, 25 U.S.C. 2717(a)(3), and NIGC regulations, 25 CFR 573.6(a)(2). In accordance with 25 U.S.C. 2717(a)(3), failure to pay fees shall be grounds for revocation of the approval of the Chair of any license, ordinance or resolution required under IGRA for the operation of gaming.

(b) In accordance with § 573.6(a)(2) of this chapter, if a tribe, management

contractor, or individually owned gaming operation fails to pay the annual fee, the Chair may issue a notice of violation and, simultaneously with or subsequently to the notice of violation, a temporary closure order.

§ 514.11 Can a tribe or gaming operation appeal a proposed late fee?

(a) Proposed late fees assessed by the Chair may be appealed under part 577 of this chapter.

(b) At any time prior to the filing of a notice of appeal under part 577 of this chapter, the Chair and the respondent may agree to settle the notice of late submission, including the amount of the proposed late fee. In the event a settlement is reached, a settlement agreement shall be prepared and executed by the Chair and the respondent. If a settlement agreement is executed, the respondent shall be deemed to have waived all rights to further review of the notice or late fee in question, except as otherwise provided expressly in the settlement agreement. In the absence of a settlement of the issues under this paragraph, the respondent may contest the proposed late fee before the Commission in accordance with part 577 of this chapter.

§ 514.12 When does a notice of late submission and/or a proposed late fee become a final order of the Commission and final agency action?

If the respondent fails to appeal under part 577 of this chapter, the notice and the proposed late fee shall become a final order of the Commission and final agency action.

§ 514.13 How are late submission fees paid, and can interest be assessed?

(a) Late fees assessed under this part shall be paid by the person or entity assessed and shall not be treated as an operating expense of the operation.

(b) The Commission shall transfer the late fee paid under this subchapter to the U.S. Treasury.

(c) Interest shall be assessed at rates established from time to time by the Secretary of the Treasury on amounts remaining unpaid after their due date.

§ 514.14 What happens if a tribe overpays its fees or if the Commission does not expend the full amount of fees collected in a fiscal year?

(a) The total amount of all fees imposed during any fiscal year shall not exceed the statutory maximum imposed by Congress. The Commission shall credit pro-rata any fees collected in excess of this amount against amounts otherwise due according to § 514.4.

(b) To the extent that revenue derived from fees imposed under the schedule

established under this paragraph are not expended or committed at the close of any fiscal year, such funds shall remain available until expended to defray the costs of operations of the Commission.

§ 514.15 May tribes submit fingerprint cards to the NIGC for processing?

Tribes may submit fingerprint cards to the Commission for processing by the Federal Bureau of Investigation (FBI) and the Commission may charge a fee to process fingerprint cards on behalf of the tribes.

§ 514.16 How does the Commission adopt the fingerprint processing fee?

(a) The Commission shall review annually the costs involved in processing fingerprint cards and, by a vote of not less than two of its members, shall adopt preliminary rates for each calendar year no later than March 1st of that year, and, if considered necessary, shall modify those rates no later than June 1st of that year.

(b) The fingerprint fee charge shall be based on fees charged by the Federal Bureau of Investigation and costs incurred by the Commission. Commission costs include Commission personnel, supplies, equipment costs, and postage to submit the results to the requesting tribe.

§ 514.17 How are fingerprint processing fees collected by the Commission?

(a) Fees for processing fingerprint cards will be billed monthly to each Tribe for cards processed during the prior month. Tribes shall pay the amount billed within forty-five (45) days of the date of the bill.

(b) The Chair may suspend fingerprint card processing for a tribe that has a bill remaining unpaid for more than forty-five (45) days.

(c) Fingerprint fees shall be sent to the following address: Comptroller, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005. Checks should be made payable to the National Indian Gaming Commission (do not remit cash).

Dated: October 3, 2011, Washington, DC.

Tracie L. Stevens,
Chairwoman.

Steffani A. Cochran,
Vice-Chairwoman.

Daniel J. Little,
Associate Commissioner.

[FR Doc. 2011-25955 Filed 10-7-11; 8:45 am]

BILLING CODE 7565-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-140280-09]

RIN 1545-BK16

Tax Return Preparer Penalties Under Section 6695

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that would modify existing regulations related to the tax return preparer penalties under section 6695 of the Internal Revenue Code (Code). These proposed regulations are necessary to monitor and to improve compliance with the tax return preparer due diligence requirements of section 6695(g). The proposed regulations affect tax return preparers. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by November 10, 2011. Outlines of topics to be discussed at the public hearing scheduled for November 7, 2011, must be received by November 1, 2011.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-140280-09), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-140280-09), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov/Regs> (IRS REG-140280-09). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Spence Hanemann, (202) 622-4940; concerning submissions of comments, the hearing, or to be placed on the building access list to attend the hearing, Richard Hurst, (202) 622-7180 (not toll-free numbers) or richard.a.hurst@irs.counsel.treas.gov.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these proposed regulations

was previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545-1570. Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer,

SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by November 10, 2011. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proper collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced; and

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology.

The collection of information is in § 1.6695-2(b)(1) and (b)(4) of these proposed regulations, and is an increase in the total annual burden from the burden in the current regulations. The collection of this information will improve the IRS' ability to enforce compliance with the due diligence requirements under section 6695(g) with respect to determining eligibility for, or the amount of, the earned income credit (EIC) under section 32.

Currently, the IRS estimates that there are 550,000 persons who are tax return preparers with respect to determining the eligibility for, or the amount of, EIC.

This collection of information is mandatory. The likely respondents are individuals and businesses.

Estimated total annual recordkeeping and reporting burden is 3,025,000 hours.

Estimated annual burden per tax return preparer varies from 30 minutes to 10 hours, depending on individual circumstances, with an estimated average of 5 hours and 30 minutes.

Estimated number of affected practitioners is 550,000.

Estimated annual frequency of responses is one time per tax return or claim for refund on which EIC is reported.