

### Information Collection Statement

4. The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rule. 5 CFR part 1320. This Final Rule contains no information reporting requirements, and is not subject to OMB approval.

### Environmental Analysis

5. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.<sup>2</sup> Issuance of this Final Rule does not represent a major federal action having a significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act.<sup>3</sup> Part 380 of the Commission's regulations lists exemptions to the requirement that an Environmental Analysis or Environmental Impact Statement be done. Included is an exemption for procedural, ministerial or internal administrative actions. 18 CFR 380.4(1) and (5). This rulemaking is exempt under that provision.

### Regulatory Flexibility Act [Analysis or Certification]

6. The Regulatory Flexibility Act of 1980 (RFA)<sup>4</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. This final rule concerns a matter of internal agency procedure and the Commission therefore certifies that it will not have such an impact. An analysis under the RFA is not required.

### Document Availability

7. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington DC 20426.

8. From FERC's Home Page on the Internet, this information is available in

the Federal Energy Regulatory Records Information System (FERRIS). The full text of this document is available on FERRIS in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in FERRIS, type the docket number excluding the last three digits of this document in the docket number field.

9. User assistance is available for FERRIS and the FERC's Web site during normal business hours from our Help line at (202)502-8222 or the Public Reference Room at (202) 502-8371 Press 0, TTY (202)502-8659. E-Mail the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

### Effective Date

10. These regulations are effective immediately upon issuance. In accordance with 5 U.S.C. 553(d)(3), the Commission finds that good cause exists to make this Final Rule effective immediately. The rule is intended to act as a contingency measure in order to preserve, rather than alter, the rights of persons appearing before the Commission. Therefore, there is no reason to make it effective at a later date.

11. The provisions of 5 U.S.C. 801 regarding Congressional review of Final Rules do not apply to this Final Rule, because the rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.

12. The Commission is issuing this as a final rule without a period for public comment. Under 5 U.S.C. 553(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice, or where the agency finds that notice and comment is unnecessary. This rule concerns only matters of agency procedure and will not significantly affect regulated entities or the general public.

### List of Subjects in 18 CFR Part 385

Administrative practice and procedure; Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

(S E A L)

**Magalie R. Salas**,  
Secretary.

■ In consideration of the foregoing, the Commission amends part 385, Chapter I, Title 18, *Code of Federal Regulations*, as follows:

### PART 385—[AMENDED]

■ 1. The authority citation for part 385 continues to read as follows:

**Authority:** 5 U.S.C. 551-557; 15 U.S.C. 717-717z, 3301-3432; 16 U.S.C. 791a-825r, 2601-2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85.

■ 2. Section 385.2007 is amended by revising paragraph (a)(2) to read as follows:

#### § 385.2007 Time (Rule 2007).

(a) \* \* \*

(2) The last day of any time period is included in the time period, unless it is a Saturday, Sunday, day on which the Commission closes due to adverse conditions and does not reopen prior to its official close of business, part-day holiday that affects the Commission, or legal public holiday as designated in section 6103 of title 5, U.S. Code, in which case the period does not end until the close of the Commission business of the next day which is not a Saturday, Sunday, day on which the Commission closes due to adverse conditions and does not reopen prior to its official close of business, part-day holiday that affects the Commission, or legal public holiday.

[FR Doc. 04-954 Filed 1-15-04; 8:45 am]

BILLING CODE 6717-01-P

## NATIONAL INDIAN GAMING COMMISSION

### 25 CFR Part 514

RIN 3141-AA16

### Fees

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Final rule.

**SUMMARY:** The National Indian Gaming Commission (NIGC or Commission) is amending its fee regulations. The regulations are being amended to reflect changes in the statutory limit set by Congress.

**DATES:** *Effective date:* February 16, 2004.

**ADDRESSES:** The complete file for this rule is available for public inspection, by appointment, during normal business hours at the NIGC, 1441 L Street, NW., Suite 9100, Washington, DC, 20005.

**FOR FURTHER INFORMATION CONTACT:** John R. Hay at 202/632-7003; fax 202/632-7066 (these are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** The Indian Gaming Regulatory Act (IGRA), enacted on October 17, 1988, established the National Indian Gaming Commission (Commission). The Commission is funded primarily from fees collected from Indian gaming operations. The Commission is changing

<sup>2</sup> Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶30,783 (1987).

<sup>3</sup> Order No. 486, 52 FR 47897 (Dec. 17, 1987); FERC Stats. & Regs. [Regulations Preambles 1986-1990] ¶30,783 (Dec. 10, 1984) (*codified at* 18 CFR part 380).

<sup>4</sup> 5 U.S.C. 601-612.

its current regulations to reflect changes in the statutory limit imposed by Congress. This regulation is being amended so that the amount of fees imposed by the Commission is directly related to congressional action. Under the current regulations, the Commission may only impose fees not exceeding \$8,000,000, during any fiscal year. For fiscal year, 2004 and 2005 Congress has increased that amount to a maximum of \$12,000,000. The change will allow the Commission to collect up to the statutory maximum and will eliminate the need to regularly amend this regulation as Congress raises or lowers the fee level.

The Commission received comments in response to a Notice of Proposed Rulemaking. All of the comments received came from Indian tribes. Due consideration has been given to each of the comments received. A discussion of the comments follows.

*Issue 1:* One commenter expressed a preference for having the monetary cap included in the regulation so that tribes will know how much NIGC is authorized to collect. They also commented that amending the regulation every six years was not a great burden.

*Response:* Congress has set the monetary cap for the next two fiscal years. Therefore, the NIGC would be required to change its regulations whenever Congress adjusts that cap. The NIGC's position is that the time and money spent on amending its regulations could be better spent in performing its primary duties.

*Issue 2:* The commenter stated that while Congress has authorized NIGC to collect an additional \$4,000,000 in overall fees, the Commission should not increase the individual fees paid by existing gaming enterprises but rather the increase should come from new gaming enterprises.

*Response:* It is the Commission's position that while small and large operations should be treated differently in regards to fee assessment, that new gaming operations should be treated the same as existing ones. This position is consistent with the guidelines established by IGRA.

*Issue 3:* One commenter suggested an additional change to the regulations since they felt there was an ambiguity in the regulation as to whether the Commission is required to credit amounts in excess the total amount of fees imposed or anything over the statutory maximum.

*Response:* The Commission does not see an ambiguity in the regulation. The Commission is only required to credit pro-rata any fees collected in excess of

the statutory maximum. As the NIGC does not impose fees in specific dollar amounts (or a specific total fee for all tribes), but rather imposes fees as a percentage of gross tribal gaming revenues, until all the tribes have submitted their fee payments, the total amount of fees collected is not a sum certain. Only if the total so collected exceeds the statutory maximum do pro-rata credits become necessary, and the Commission strives to avoid that necessity as it establishes the fee rate.

#### Regulatory Flexibility Act

The Commission certifies that the rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The factual basis for this certification is as follows:

Of the 330 Indian gaming operations across the country, approximately 150 have revenues under 10 million. Of these, approximately 90 operations have gross revenues under 3 million. Those operations that gross less than 1.5 million are exempt from fees. Since fee assessments are based on a percentage of gross revenues until the maximum allowed by Congress is reached, and new gaming operations continue to open, the amount individual tribal gaming operations will pay in fees will likely only increase slightly or may in fact decrease. For these reasons, the Commission has concluded that the rule will not have a significant economic impact on those small entities subject to the rule.

#### Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule will not result in an annual effect on the economy of more than \$100 million per year; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises.

#### Unfunded Mandates Reform Act

The Commission is an independent regulatory agency, and, as such, is not subject to the Unfunded Mandates Reform Act. Even so, the Commission has determined that this final rule does 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, 2 U.S.C. 1501 *et seq.*

#### Takings

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

#### Civil Justice Reform

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

#### Paperwork Reduction Act

The rule does not contain any information collection requirements for which OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501–3520) would be required.

#### National Environmental Policy Act

The Commission has determined that this rule does not constitute a major Federal Action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

Dated: January 12, 2004.

**Philip N. Hogen,**

*Chairman, National Indian Gaming Commission.*

#### Regulation Promulgation

##### List of Subjects in 25 CFR Part 514

Gambling, Indian-lands, Reporting and recordkeeping requirements.

■ Accordingly, 25 CFR Part 514 is amended as follows:

##### PART 514—FEES

■ 1. The authority citation for part 514 continues to read as follows:

*Authority:* 25 U.S.C. 2702 *et seq.*

■ 2. Section 514.1(d) is revised to read as follows:

##### § 514.1 Annual Fees.

\* \* \* \* \*

(d) 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 at the end of the quarter following the quarter during which the Commission makes such determination.

(1) The Commission will notify each gaming operation as to the amount of overpayment, if any, and therefore the

amount of credit to be taken against the next quarterly payment otherwise due.

(2) The notification required in paragraph (d)(1) of this section shall be made in writing addressed to the gaming operation.

\* \* \* \* \*

[FR Doc. 04-955 Filed 1-15-04; 8:45 am]

BILLING CODE 7565-01-P

## DEPARTMENT OF THE TREASURY

### Fiscal Service

#### 31 CFR Part 363

#### Regulations Governing New Treasury Direct System

**AGENCY:** Bureau of the Public Debt, Fiscal Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** New Treasury Direct (also referred to as Treasury Direct) is a book-entry, online system for purchasing, holding and conducting transactions in Treasury securities. This rule amends the regulations relating to accounts belonging to minors. This rule also sets forth the rules for custom accounts, which are accounts created for a specific purpose. This rule also removes references to special forms of registration for decedents' and incompetents' estates. Rather than change registrations for these circumstances, we will handle the transactions offline.

When we initiated New Treasury Direct, we published but deferred the implementation of several sections dealing with minor accounts. All deferred sections dealing with minor accounts have been deleted or amended in their entirety, and the new sections are effective with this rule.

**DATES:** This rule is effective January 16, 2004.

**ADDRESSES:** You can download this final rule at the following Internet address: <http://www.publicdebt.treas.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Elisha Whipkey, Director, Division of Program Administration, Office of Securities Operations, Bureau of the Public Debt, at (304) 480-6319 or [elisha.whipkey@bpd.treas.gov](mailto:elisha.whipkey@bpd.treas.gov).

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(304) 480-8692 or [edward.gronseth@bpd.treas.gov](mailto:edward.gronseth@bpd.treas.gov).

**SUPPLEMENTARY INFORMATION:** New Treasury Direct is an account-based, online, book-entry system for purchasing, holding, and conducting transactions in Treasury securities via the Internet. Currently, Series EE and Series I savings bonds are offered through New Treasury Direct. Initially, only adult individuals were able to open accounts in New Treasury Direct. This rule will permit a parent or person who provides the chief financial support for a minor to open and access an account for a minor as custodian of the account.

The custodian is a fiduciary for the minor. The account is held in the name and social security number of the minor. The securities held in the minor's account are registered in the name and social security number of the minor, with the minor as sole owner, owner with beneficiary, or primary owner with secondary owner of the securities. The minor's account is a separate account that is linked to the primary New Treasury Direct account of the custodian. The custodian may access the minor's account using the custodian's primary New Treasury Direct account as a portal.

Using his or her own New Treasury Direct account, the custodian may access the minor's account to purchase and make transactions in securities on the minor's behalf. The custodian must certify that he or she is acting on behalf of the minor when he or she opens the minor's account and in all subsequent transactions in the account. The custodian may transfer the securities without a change in registration to another custodian for the same minor. The custodian may grant the right to view the securities to another New Treasury Direct account holder, and may grant the right to redeem the securities to a secondary owner named on the minor's securities. When the minor reaches the age of 18 years, the transactions that the custodian may make in the minor's account are limited to purchasing securities and transferring securities to another account identified by the minor's social security number, whether that is an account maintained by another custodian for the minor, or the minor's own previously established primary account. (We will continue to refer to a minor who has attained the age of 18 years by the term "minor", until the minor's securities are transferred to the minor's (now adult's) own primary account.) The minor may also contact us when he reaches the age of 18 to have the securities transferred

from the custodian's account to the minor's primary account.

In addition to permitting accounts on behalf of minors, this rule permits custom accounts, which are accounts that are linked to the primary account of the owner. A custom account contains securities in the same form of registration as the primary account, but the owner may informally designate a purpose for the custom account. However, the designation has no legal effect on the securities held in the account; the registration of the securities determines ownership. The annual purchase limitation will include securities held in custom accounts.

We are also deleting sections referring to special forms of registration. Initially, we had planned to permit representatives of a decedent's estate and guardians of an incompetent to make online transactions in securities held by a decedent or an incompetent through the personal New Treasury Direct account of the representative or guardian. At this time we believe that the interests of our customers will be better served by focusing our resources on expanding the scope of our basic online services. We therefore provide offline servicing for estates through our customer service staff.

When we initiated New Treasury Direct, we published but deferred the implementation of several sections of the regulations, including those related to minors. We have since revised our thinking on the treatment of minor accounts. Therefore, the provisions of the regulations published in Volume 67 of the **Federal Register** at page 64276, on October 17, 2002, relating to minor accounts, will never be implemented. In their place, this rule will apply, as of the date of its publication in the **Federal Register**.

#### *Procedural Requirements*

This final rule does not meet the criteria for a "significant regulatory action" as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

This final rule relates to matters of public contract and procedures for United States securities. The notice and public procedures requirements and delayed effective date requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

As no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) does not apply.

We ask for no new collections of information in this final rule. Therefore,