

calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt

OMB Number: New.

Form Number: PD F 2066

Type of Review: New collection.

Title: Application by Survivors for Payment of Bond or Check Issued under the Armed Forces Leave Act of 1946, as Amended.

Description: The form serves as an application by survivors for payment of a bond or check issued under the Armed Forces Leave Act of 1946 to veterans of World War II. The veteran would have died before he or she received the proceeds.

Respondents: Individuals or households.

Estimated Number of Respondents: 400.

Estimated Burden Hours Per Response: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 200 hours.

OMB Number: New.

Form Number: PD F 2481.

Type of Review: New collection.

Title: Application for Recognition as Natural Guardian of a Minor Not under Legal Guardianship and for Disposition of Minor's Interest in Registered Securities.

Description: The form is executed by individuals to certify that they are the natural guardians of a specific minor not under legal guardianship. The situation involves Government Securities erroneously registered in the name of that minor. The alleged natural guardians request appropriate disposition of the securities.

Respondents: Individuals or households.

Estimated Number of Respondents: 25.

Estimated Burden Hours Per Response: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 13 hours.

OMB Number: New.

Form Number: PD F 3905.

Type of Review: New collection.

Title: Request for Securities Transaction.

Description: This form is used to request a transaction involving securities such as redemption, exchange, or transfer. The person executing the form furnishes specific instructions concerning the transaction.

Respondents: Individuals or households, State or local governments,

Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents:

7,000.

Estimated Burden Hours Per Response:

12 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,400 hours.

OMB Number: New.

Form Number: PD F 4222.

Type of Review: New Collection.

Title: Bond of Indemnity Without Surety.

Description: The form is used by an official of an organization to certify that an error was made in the issuance or registration of Government Securities. The official requests proper disposition and certifies that the organization will reimburse the U.S.A. if a claim arises as a result of the transaction.

Respondents: Businesses or other for-profit, Small business or organizations.

Estimated Number of Respondents: 50.

Estimated Burden Hours Per Response: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 25 hours.

OMB Number: 1535-0042.

Form Number: PD F 2216.

Type of Review: Reinstatement.

Title: Application by Preferred Creditor For Disposition Without Administration Where Deceased Owner's Estimate Includes United States Savings Bonds/Notes and/or Related Checks in an Amount Not Exceeding \$1,000 (Face Amount).

Description: This form is used by a preferred creditor of a decedent's estate to request payment of savings bonds/notes and/or related checks not exceeding \$500 when estate is not being administered.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents:

5,000.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 835 hours.

Clearance Officer: Rita DeNagy (202) 447-1315, Bureau of the Public Debt, room 137, BEP Annex, 300 13th Street, SW., Washington, DC 20239-0001.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive

Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 91-25413 Filed 10-31-91; 8:45 am]

BILLING CODE 4810-40-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet C. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 2, 1991.

Dated: July 26, 1991.

By Direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Revision

1. Student Verification of Enrollment, VA Form 22-8979.

2. This form is used by students in certifying attendance and continued enrollment in courses leading to a standard college degree and non-college degree programs. As an alternative to

the using VA Form 22-8979, VA has developed for use a toll-free telecommunications network which will allow students to enter their certification data directly into the benefits delivery system. Montgomery GI Bill students in California have been selected to test the SAVE (Student Automated Verification of Enrollment) Test Program system before it is expanded nationwide. VA plans to test this technology beginning in January of 1992.

3. Individuals or households.
4. An Estimate of the Total Annual Reporting Hours.
 - a. Students Using VA Form 22-8979—141,958 hours.
 - b. Students Participating in SAVE Test Program—1,850 hours.
5. The Estimated Average Burden Hours Per Respondent.
 - a. Students Using VA Form 22-8979—5 minutes.
 - b. Students Participating in SAVE Test Program—55 seconds.
6. On occasion; Monthly.
7. An Estimated Number of Respondents—260,500.
 - a. Students Using VA Form 22-8979—243,357.
 - b. Students Participating in SAVE Test Program—17,143.

[FR Doc. 91-26390 Filed 10-31-91; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Report of Amended Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

Notice is hereby given that the VA (Department of Veterans Affairs) intends to conduct a recurring computer matching a program matching SSA

(Social Security Administration) records of benefit recipients with VA pension and parents' dependency and indemnity compensation records.

The goal of this match is to identify VA benefit recipients who are also receiving Social Security Administration benefits payments reportable to VA as countable income.

The Department of Veterans Affairs (VA) plans to match records of veterans and surviving spouses and children who receive pension and parents who receive DIC (dependency and indemnity compensation) from VA with records of Social Security Administration Master Beneficiary Records payments maintained by the Social Security Administration (SSA). The match with SSA will provide VA with data from the SSA Master Beneficiary Record. VA will use the data to update the master records of VA beneficiaries receiving income dependent benefits and to adjust VA benefit payments as prescribed by law. Currently, information about a VA beneficiary's receipt of SSA benefits is obtained from reporting by the beneficiary. The proposed matching programs will enable the VA to ensure accurate reporting of SSA benefits.

Records to be Matched: SSA as "source agency" will provide social security benefit payment information from the systems of records designated Master Beneficiary Record 09-60-0090, 51 FR 16223, May 1, 1986, which will be matched against the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 21/22) contained in the Privacy Act Issuances, 1989 compilation, Volume II, pages 918-922 and as amended at **Federal Register** 56 FR 15667. In accordance with title 5 U.S.C. subsection 552(o)(2) and (r), copies of the agreement are being sent to both

Houses of Congress and to the Office of Management and Budget.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100-503.

The match is estimated to start December 1, 1991, but will start no sooner than 30 days after publication of this Notice in the **Federal Register**, or 30 days after copies of this Notice and the agreement of the parties is submitted to Congress and the Office of Management and Budget, whichever is later and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and, the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Interested individuals may comment on the proposed matches by writing to the Director, Compensation and Pension Service (21), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Robert Yurgal (213B), (202)233-3504.

SUPPLEMENTARY INFORMATION:

This information is required by title 5 U.S.C. 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: October 25, 1991.

Edward J. Derwinski
Secretary.

[FR Doc 91-26445 Filed 10-31-91; 8:45 am]

BILLING CODE 8320-01-M

Corrections

Federal Register

Vol. 56, No. 212

Friday, November 1, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

7 CFR Part 1600

RIN 0572-AA61

Meetings of the Board of Directors of the Rural Telephone Bank

Correction

In rule document 91-23231 beginning on page 49133 in the issue of Friday, September 27, 1991, make the following correction:

On page 49134, in the first column, in the heading above § 1600.1, "Meeting" should read "Meetings".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Seattle University, et al., Consolidated Decision on Applications for Duty-Free Entry of Election Microscopes

Correction

In notice document 91-25429 appearing on page 54561 in the issue of Tuesday, October 22, 1991, make the following correction:

In the third column, in the second line from the end, "applicant" should read "application".

BILLING CODE 1505-01-D

FEDERAL HOUSING FINANCE BOARD

Correction

In sunshine document 91-970 appearing on page 1443 in the issue of Monday, January 14, 1991, in the second column, in the file line at the end of the

document, "FR Doc. 91-969" should read "FR Doc. 91-970".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6884

[AK-932-4214-10; AA-5964, AA-3060, AA-5934]

Withdrawal of National Forest System Lands for the Kenai River Recreation Area, the Russian River Campground Area, and the Lower Russian Lake Recreation Area; Alaska

Correction

In rule document 91-23687 beginning on page 49847 in the issue of Wednesday, October 2, 1991, make the following corrections:

1. On page 49848, in the first column, in the land description, under T.5 N., R. 4 W., unsurveyed, in Sec. 34, in the second line, "N $\frac{1}{4}$ SW $\frac{1}{2}$," should read "N $\frac{1}{2}$ SW $\frac{1}{4}$,".

2. On the same page, in the same column, in paragraph 2., in the tenth line, "period" should read "prior".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-010-00-4212-12; IDI-27201]

Realty Action; Exchange of Public and State of Idaho Lands in Washington and Adams Counties, ID

Correction

In notice document 91-23272 beginning on page 49198 in the issue of Friday, September 27, 1991, make the following corrections:

1. On page 49198:

- In the second column, in the land description, under T.17 N., R. 5 W., in Sec. 13, "N $\frac{1}{2}$ S $\frac{1}{4}$;" should read "N $\frac{1}{2}$ S $\frac{1}{2}$;" and in Sec. 23, "E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$," should all be on the same line.
- In the third column, in the land description, under T. 16 N., R. 5 W., in Sec. 5, "N $\frac{1}{2}$ SE $\frac{1}{4}$," should read "N $\frac{1}{2}$ SW $\frac{1}{4}$,".

c. In the same column, in the same land description, in Sec. 15, "NE $\frac{1}{4}$ NE $\frac{1}{4}$," should read "NW $\frac{1}{4}$ NE $\frac{1}{4}$,".

d. In the same column, in the first paragraph, in the first line, "6,221" should read "6,221.70".

e. In the same column, in the land description, under T. 15 N., R. 6 W., in Sec. 1, "SE $\frac{1}{2}$;" should read "SE $\frac{1}{4}$;".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-02-4212-18]

Realty Action; Sale of Public Lands in Clarke County, NV

Correction

In notice document 91-24451 beginning on page 51230, in the issue of Thursday, October 10, 1991, make the following correction:

On the same page, in the second column, in Section 24, the legal description should read, "SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ ".

BILLING CODE 1505-01-D

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91-51]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

Correction

In notice document 91-13926 appearing on page 26844, in the issue of Tuesday, June 11, 1991, in the first column, in the file line at the end of the document, "FR Doc. 91-13626" should read "FR Doc. 91-13926".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-397]

Washington Public Power Supply System (Nuclear Project No. 2); Exemption

Correction

In notice document 91-7573, beginning on page 13340, in the issue of Monday, April 1, 1991, make the following correction:

On page 13341, in the third column, in the file line at the end of the document, "FR Doc. 91-7572" should read "FR Doc. 91-7573."

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 531, 550, and 575

RIN 3206-AE23

Special Pay Adjustments for Law Enforcement Officers in Selected Cities

Correction

In proposed rule document 91-25397 beginning on page 54549 in the issue of Tuesday, October 22, 1991, make the following corrections:

§ 531.302 [Corrected]

1. On page 54551, in the third column, in § 531.302, in the table, under the "Factor" heading, in the third entry from the bottom "16" should read "1.16."

§ 550.151 [Corrected]

2. On page 54553, in the second column, the section heading "§ 550.551" should read as set forth above.

§ 550.202 [Corrected]

3. On the same page, in the third column, in § 550.202, in the penultimate line "respectively but" should read "respectively; but".

§ 575.405 [Corrected]

4. On page 54554, in the second column, in § 575.405(c)(2), in the second line "5305" should read "5304".

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 771

Agency Administrative Grievance System

Correction

In proposed rule document 91-23197 beginning on page 48757 in the issue of Thursday, September 28, 1991, make the following correction:

§ 771.202 [Corrected]

On page 48761, in the second column, in § 771.202(c), in the ninth line, after "at" insert "and. A person acting as a fact-finder, presiding officer at a".

BILLING CODE 1505-01-D

Federal Register

Friday
November 1, 1991

Part II

National Indian Gaming Commission

25 CFR Part 502

Definitions Under the Indian Gaming
Regulatory Act; Proposed Rule and
Public Hearings

NATIONAL INDIAN GAMING COMMISSION

25 CFR Part 502

Definitions Under the Indian Gaming Regulatory Act

October 25, 1991

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule.

SUMMARY: The National Indian Gaming Commission is proposing regulations to implement definitions under the Indian Gaming Regulatory Act of 1988. The effect of the rule is to provide guidance to tribes, their attorneys, enforcement personnel and others interested in Indian gaming.

DATES: Commenters must submit their comments by December 31, 1991.

ADDRESSES: Commenters may mail or deliver their comments to: Definition Rule Comments, National Indian Gaming Commission, suite 250, 1850 M Street, NW., Washington, DC 20036-5083. Comments may be delivered or inspected between 9 a.m. to noon and 2 p.m. to 5 p.m., Monday through Friday. Commenters may also fax their comments to 202-632-7066.

FOR FURTHER INFORMATION CONTACT: Mary Jane Markley at 202-632-7003.

SUPPLEMENTARY INFORMATION: These regulations implement definitions under the Indian Gaming Regulatory Act (IGRA), signed into law on October 17, 1988. The IGRA established the National Indian Gaming Commission (Commission). Under the IGRA, the Commission is charged with regulating class II gaming, and certain aspects of class III gaming.

Style

In drafting these regulations, the Commission attempted to clarify the IGRA without changing the legislative intent. Wherever possible, the Commission used concise and clear language. The goal of the Commission is to make the regulations easy to use without sacrificing precision.

Purpose

The purpose of these regulations is to provide definitions under the IGRA. Future rule makings will contain program requirements for tribal ordinances, appeals, enforcement, management contracts and self-regulation.

Indian Lands

This definition clarifies the language of the IGRA. Note, however, that Indian

lands and Indian country as defined in 18 U.S.C. 1151 are not synonymous. The significance of the definition is that the IGRA applies only to gaming conducted on Indian lands.

Indian Tribe

The IGRA applies only to Indian tribes which meet this definition. The term encompasses those federally recognized tribes, bands, nations, communities (including pueblos) which possess powers of self-government. The Commission will rely on the expertise of the Interior Department with respect to which tribes are eligible for the special programs and services provided by the United States to Indians and which have powers of self-government.

House Banking Game

The significance of this definition is that it determines, in part, which games are included in class III gaming. House banking games include certain card games and casino games. House banking games differ from bingo. In bingo, the house is acting as a stakeholder, but does not have an interest in the outcome of the game. Therefore, for the purpose of these regulations bingo is not a house banking game.

Class I Gaming

The significance of this definition is that it determines which gaming is under the exclusive jurisdiction of a tribe.

Class II Gaming

The significance of this definition is that it determines which gaming is under the dual jurisdiction of the Commission and a tribe. Gaming that is not class I or class II is deemed class III gaming and must be conducted under a tribal-state compact.

The Commission has restructured the definition of class II gaming to reflect the intent of the IGRA. First, the Commission moved "lotto" from the last phrase of 25 U.S.C. 2703(7)(A)(i) to the first part of its definition of class II. The Commission is proposing adoption of the dictionary definition of lotto as synonymous with bingo.

Second, while the Commission has not attempted to define "other games similar to bingo," the Commission requests comments specifically directed to identifying games which may be considered in this category along with supporting documentation. The Commission is interested in identifying games which are similar to bingo. At the same time, "games similar to bingo" must not be games which would properly be classified as class III gaming according to the definition of that term.

In the view of the Commission, games such as craps, roulette, black jack or other casino games that are played with a bingo blower instead of dice, wheels, or cards, are class III games. Also, the combining of a class III game such as craps with bingo results in a class III game.

Third, while the statute placed the parenthetical phrase "(whether or not electronic, computer, or other technologic aids are used in connection therewith)" only after "bingo" in the first subparagraph of the definition, because the Commission divided that part of the definition into two paragraphs, the Commission also placed the parenthetical phrase in the paragraph which lists pull-tabs and other games.

Fourth, the Commission moved the class II exclusion of banking card games, "electronic or electromechanical facsimiles of any game of chance" and slot machines to its proposed definition of class III. Doing so reflects Congress' intent that games not classified as class I or class II are properly classified as class III. (The language in the IGRA reads: "The term 'class III gaming' means all forms of gaming that are not class I gaming or class II gaming.") (See the discussion under class III gaming below).

Fifth, with respect to grandfathered individually owned games, the Commission proposes that ownership interests of such games be the same as they were on the date of enactment, i.e., October 17, 1988. Concerning which games qualify as grandfathered games under paragraphs (4) and (5) of the proposed definition of class II gaming, the Commission invites comment.

Class III Gaming

The significance of the definition of class III gaming is that it defines the games which must be regulated under a tribal-state compact. With respect to the definition of class III gaming the Commission felt it was important to list examples of games that fall within class III rather than simply repeating the definition from the IGRA (i.e., " * * * all forms of gaming that are not class I gaming or class II gaming []). Therefore, the Commission listed games which Congress specifically excluded from class II, i.e., banking card games, slot machines, electronic or electromechanical facsimiles of games of chance, and games enumerated in the Senate Report to accompany S. 555 (casino games and parimutuel wagering). The Commission included in class III gaming roulette and keno as examples of casino games. Similarly, as

a further elaboration in the definition, the Commission defined house banking games and included such games in its definition of class III gaming.

An elementary principle of statutory construction is that an agency must give effect to all the terms used by Congress. *Colautti v. Franklin*, 439 U.S. 379 (1979). Therefore, in interpreting statutes, one cannot ignore distinctions intended by the use of distinctly different terms. In using the two terms ("electronic or electromechanical facsimiles of any game of chance" and "electronic, computer, or other technologic aids") in question, Congress intended the Commission to give effect to both. This the Commission did in proposing definitions for those terms (see below). The Commission has discussed the meaning of the two terms in meetings with representatives of various tribes and with attorneys for those tribes. In those meetings and in legal opinions, tribes and their attorneys presented the Commission with arguments which would give expansive meanings to "electronic or electromechanical facsimile." In reviewing all the arguments presented in favor of reading "aid" expansively, the Commission has accepted the view of its General Counsel that there is no sound legal rationale for accepting those arguments. In his view, reading the term "aid" expansively leaves little or no meaning to the term "facsimile." Nevertheless, the Commission solicits public comment which would classify as class II gaming those devices which may be defined as class II gaming while at the same time excluding those devices which are properly classified as class III gaming.

The Commission is mindful of the canon of construction regarding the resolution of statutory ambiguities in favor of Indians. However, the General Counsel has not found an ambiguity with respect to the use of the terms which describe allowable ("technological aid") and prohibited technology ("facsimile of any game of chance"). The General Counsel notes that, "The canon of construction regarding the resolution of ambiguities in favor of Indians, however, does not permit reliance on ambiguities that do not exist; nor does it permit disregard of the clearly expressed intent of Congress." *South Carolina v. Catawba Indian Tribe of South Carolina*, 491 U.S. 906 (1986).

In proposing definitions for "electronic, computer or technologic aid" and "electronic or electromechanical facsimile," the Commission relied heavily on the Senate Report accompanying S. 555. S.

Rep. No. 446, 100th Cong., 2d Sess. 9 (1988). This report distinguishes between allowable technology and prohibited facsimiles. In the view of the Commission, Congress intended to classify as class II gaming such technology which would enhance the playing of class II theme games, but not technology which would constitute facsimiles of those games. For example, the Commission recognizes as falling within the scope of class II technology devices which allow bingo players to keep track of cards, bingo blowers, or similar devices which may help in performing one function of bingo.

Electronic, Computer or Other Technological Aid

The significance of this definition is that it defines technology allowable in class II gaming. In the Senate Report, Congress mentions as allowable aids devices such as a computer, telephone, cable, television, or satellite. The Senate Report also states that such devices must be operated in accordance with applicable Federal communications law. The Commission requests comments concerning which Federal communications laws apply to such devices. The Commission included bingo blowers because they are devices which assist in performing one function of a bingo game.

Electronic or Electromechanical Facsimile

The significance of this definition is that it defines technology prohibited under the definition of class II gaming. Where technology goes beyond merely assisting in the playing of a game and becomes the game itself, the Commission proposes that such technology be classified as class III gaming and therefore under the jurisdiction of a tribal-state compact. To that end, the Commission proposes including any gambling device as defined in 15 U.S.C. 1171(a) (2) or (3) ("The Johnson Act") except devices which are not games themselves and meet the criteria for technologic aid (e.g., bingo blowers).

In the Highlights portion of the Senate Report, under the heading Grace period, the Report states, "[a]ll video machines and other electronic or electromechanical facsimiles of games of chance may continue to operate for 1 year after the date of enactment of the bill to give tribes the opportunity to negotiate tribal-state compacts to cover the operation of such games." In the view of the General Counsel, such language, along with the grace period language in 25 U.S.C. 2703(7)(D), provide clear and unambiguous guidance

concerning Congressional intent with respect to this term. Congress clearly intended to classify as class III, video machines and other facsimile games. The grace period language is further explained and examples given in the Senate Report under the section titled Explanation of Major Provisions. There, the Report lists video bingo. Therefore, in the view of the General Counsel video bingo is a class III game.

Net Revenues

The significance of this definition is that it defines the revenue base for determining the split of profits between a management contractor and a tribe. With respect to revenues generated by a subcontract, assignment, or agreement collateral to a management contract, the Commission intends that those revenues be included in the revenue base for determining the split of profits.

Management Contract

The significance of this definition is that it defines the category of contracts which must be reviewed and approved by the Chairman and to which the statutory requirements concerning splitting net revenues apply.

The Commission views documents or agreements, whatever they are labelled, where the subject matter is management of a gaming operation, as management contracts and therefore subject to the statutory requirements for such contracts.

The Commission looked to case law to determine the meaning of collateral agreement. A collateral agreement is a prior or contemporaneous oral agreement between parties to a contract which is covered by the Statute of Frauds. That statute prohibits legal actions on certain contracts unless they are in writing. Courts generally separate out collateral agreements from the main contract for the purpose of admitting parol (oral) evidence concerning the collateral agreement. For that purpose, courts have developed a three part test: (1) Whether the agreement is an independent collateral agreement separate and distinct from the main contract; (2) whether the agreement is consistent with the provisions of the contract; and, (3) whether the agreement is such that the parties could not reasonably be expected to embody it in the contract, but would naturally make it as a separate agreement. *Markoff v. Kreiner*, 23 A.2d 19 (1941). Implicit in the test is a fourth criterion: (4) Whether the identity of the parties is the same. When all four parts of the test are met, the Commission would consider an agreement as a collateral agreement and

therefore subject to the statutory requirements concerning management contracts.

Tribal-State Compact

The significance of this definition is that it describes the mechanism for regulating class III gaming.

Person Having a Direct or Indirect Financial Interest in a Management Contract

The significance of this definition is that it defines the class of people for whom the Commission must perform or cause to be performed background investigations before approving a management contract. Additionally, people included in this definition must meet certain statutory criteria under 25 U.S.C. 2711(e)(1).

In interpreting the language of the IGRA to include not only stockholders but people holding interests in trusts and partnerships, the Commission proposes to subject those people to background investigations and the criteria in the statute. In doing so, the Commission intends to protect the integrity of tribal gaming operations and to protect the revenues for the tribes.

Primary Management Official

The significance of this definition is that such persons, along with key employees, must be licensed and be the subject of background investigations under 25 U.S.C. 2710(b)(2)(F). Under 25 U.S.C. 2710(b)(2)(F)(III), tribes must submit results of background investigations for primary officials and for key employees to the Commission. For other officials and employees, IGRA contains no such requirement. However, tribes may choose to conduct additional background investigations without submitting the results to the Commission.

Because a tribe must conduct and submit to the Commission background investigations for primary management officials and key employees, in defining those terms the Commission listed only the positions it views as most critical to protecting the integrity of a gaming operation. For other positions, internal controls in combination with primary management officials and key employees should serve to protect the integrity of a gaming operation. If a tribe chooses to conduct background investigations on other employees, those background investigations may be more or less extensive than those required under the IGRA. The next rule making will set out standards for background investigations and licensing of key employees and primary management officials.

Persons Having Management Responsibility for a Management Contract

The significance of this term is that such person is subject to the same statutory tests and criteria as a person having a direct or indirect financial interest in a management contract. Such person may also fall within the definition of a primary management official, thereby becoming subject to two investigations. Where that is the case, the Commission does not intend there to be two background investigations. Where a tribe has conducted a background investigation, the Commission will update that investigation when the previous investigation is adequate.

Key Employee

The significance of this definition is the same as for a primary management official above. In choosing which positions should be included in this definition, the Commission was mindful of the same concerns listed above under the discussion of primary management official. A key employee may be a custodian of, among other things, cash. As used in the definition of key employee, cash includes checks.

Gaming Operation

The significance of this term is that it provides and defines a single term to denote or stand for the gaming entity referred to in the IGRA which uses such terms as gaming, gaming activity, gaming operation, operator, and gaming enterprises; and referred to elsewhere using such terms as the hall, house, and casino. Additionally, it determines where games are played, who pays the annual fee under 25 CFR 514.1 (56 FR 40702 et seq.), and what operations must be audited.

Secretary

The significance of this definition is that it is the Secretary of the Interior who must approve (1) tribal-state compacts under 25 U.S.C. 2710(d)(3); (2) plans for per capita distribution of revenues under 25 U.S.C. 2710(b)(3); and (3) gaming on lands acquired after enactment of the IGRA under 25 U.S.C. § 2719.

Commission

The significance of this definition is that it refers to the National Indian Gaming Commission as established under the IGRA. The Commission has the powers granted to it by Congress in the IGRA, and, as enumerated, in part, in 25 U.S.C. 2706.

Regulatory Procedures

Executive Order No. 12291 and the Regulatory Flexibility Act

The Commission has tentatively determined this document is not a major rule under E.O. 12291 and certifies this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rule will not have any significant effects on the economy or result in major increases in costs or prices for consumers, individual industries, Federal, State or local governments, agencies, or geographical regions. The rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the export/import market. The most significant effect of the proposed rule is to determine jurisdiction for certain types of gaming. The proposed rule contemplates that technology which some tribes currently believe is properly classified as class II gaming and hence under the jurisdiction of a tribe with oversight by the Commission would be deemed class III gaming. Classification as class III gaming would require tribes to negotiate compacts with states concerning the regulation of that gaming. Because of the uncertainty involved in the outcome of those negotiations, the Commission cannot estimate effects on the economy. Further, because states and tribes may negotiate compacts which limit certain technology, tribes may receive less revenue from gaming than at present. Due to these uncertainties the Commission cannot estimate the amount of revenue which may be lost and invites comments on this subject.

Pursuant to the Regulatory Flexibility Act, the Commission has tentatively determined that this rule will not have a significant impact on small business entities. However, because the Commission is new and lacks certain information that should be considered before making a final determination, the Commission invites interested persons to submit written comments regarding the impact of the proposed rule. The Comments should be directed to the location identified in the ADDRESSES section of this preamble.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

National Environmental Policy Act

The Commission has determined that this proposed rulemaking 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: October 29, 1991.

Anthony J. Hope,
Chairman, National Indian Gaming
Commission.

List of Subjects in 25 CFR Part 502

Gaming, Indian lands.

Title 25 of the Code of Federal Regulations is amended as follows. Part 502 is added to read as follows:

PART 502—DEFINITIONS

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

§ 502.1 Definitions.

(a) *Chairman* means the Chairman of the National Indian Gaming Commission.

(b) *Indian lands* means (1) land within the limits of an Indian reservation; or,

(2) Land over which an Indian tribe exercises governmental power and that is either:

(i) Held in trust by the United States for the benefit of any Indian tribe or individual; or,

(ii) Held by an Indian tribe or individual subject to restriction by the United States against alienation.

(c) *Indian tribe* means any Indian tribe, band, nation, or other organized group or community of Indians that the Secretary recognizes as:

(1) Eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and,

(2) Having powers of self-government.

(d) *House banking game* means any game of chance that is played with the house as a participant in the game, where the house takes on all players, collects from all losers, and pays all winners.

(e) *Class I gaming* means: (1) Social games played solely for prizes of minimal value; or,

(2) traditional forms of Indian gaming when played by individuals at tribal ceremonies or celebrations.

(f) *Class II gaming* means: (1) Bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when played;

(i) Play for prizes with cards bearing numbers or other designations; and,

(ii) Cover numbers or designations when objects, similarly numbered or

designated, are drawn or electronically determined; and,

(iii) Win the game by being the first person to cover a designated pattern on such cards;

(2) If played in the same location as bingo or lotto (whether or not electronic, computer, or other technologic aids are used); pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;

(3) Non-banking card games that: (i) State law explicitly authorizes, or, does not explicitly prohibit and are played in the state; and,

(ii) Players play in conformity with state laws and regulations concerning hours, or periods of operation, or limitations on wagers or pot sizes;

(4) Card games played in the states of Michigan, North Dakota, South Dakota, or Washington where:

(i) An Indian tribe actually operates the same card games as played on May 1, 1988, as determined by the Chairman; and,

(ii) The pot and wager limits remain the same as on May 1, 1988, as determined by the Chairman.

(5) Individually owned class II gaming operations:

(i) That were operating on September 1, 1986; and,

(ii) That meet the requirements of 25 U.S.C. 2710(b)(4)(B); and,

(iii) Where the nature and scope of the game remains as it was on October 17, 1988; and,

(iv) Where the ownership interest or interests are the same as on October 17, 1988.

(g) *Class III gaming* means all forms of gaming that are not class I gaming or class II gaming, including:

(1) Any house banking game:

(i) Card games such as baccarat, chemin de fer, and blackjack (21); or,

(ii) Casino games such as roulette, craps, and keno; or,

(iii) Any other house banking game (except pull-tabs, punch boards, tip jars, instant bingo and those games allowed in paragraph (f)(4) of this section); or,

(2) Any slot machines as defined in 15 U.S.C. 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance; or,

(3) Any parimutuel wagering on horse racing, dog racing or jai alai.

(h) *Electronic, computer or other technological aid* means a device such as a computer, telephone, cable, television, satellite or bingo blower and which when used:

(1) Is not a game of chance but merely assists a player or the playing of a game; and

(2) Is readily distinguishable from the playing of a game of chance on an electronic facsimile; and,

(3) Is operated according to applicable Federal communications law.

(i) *Electronic or electromechanical facsimile* means any gambling device as defined in 15 U.S.C. 1171(a) (2) or (3) (except any gambling devices described in paragraph (h) of this section) and any games or devices such as video bingo.

(j) *Net revenues* means gross revenues of an Indian gaming operation less—

(1) Amounts paid out as, or paid for, prizes; and,

(2) Total operating expenses, excluding management fees.

(k) *Management contract* means any contract, subcontract, or collateral agreement between an Indian tribe and a contractor that provides for the management of a gaming operation.

(l) *Tribal-State compact* means an agreement between a tribe and a state about the regulation of class II gaming.

(m) *Person having a direct or indirect financial interest in a management contract* means:

(1) When a person is a party to a management contract, any person having a direct financial interest in such management contract; or,

(2) When a trust is a party to a management contract, any beneficiary or trustee who holds legal or beneficial title to at least 10% of the trust assets alone or in combination with another trustee or beneficiary who is a spouse, parent, child or sibling; or,

(3) When a partnership is a party to a management contract, any partner who shares at least 10% of the profits alone or in combination with another partner who is a spouse, parent, child or sibling; or,

(4) When a corporation is a party to a management contract, any person who is a director or who holds at least 10% of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child or sibling.

(n) *Primary management official* means:

(1) The management contractor; or,

(2) Any person who has authority:

(i) To hire and fire employees; or,

(ii) To set up working policy for the gaming operation; or,

(3) The chief financial officer or other person who has financial management responsibility.

(o) *Person having management responsibility for a management contract* means the person designated by the management contract as having management responsibility for the gaming operation.

(p) *Key employee* means an employee who performs one or more of the following functions:

- (1) Bingo caller; or,
- (2) Counting room supervisor; or,
- (3) Chief of security; or,
- (4) Custodians of gaming supplies or cash; or
- (5) Floor manager (pit boss).

(q) *Gaming operation* means each economic entity that is licensed by a tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by a tribe directly; by a management contractor; or, under certain conditions, by a person or other entity.

(r) *Secretary* means the Secretary of the Interior.

(s) *Commission* means the National Indian Gaming Commission.

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BILLING CODE 7565-01-M

25 CFR Part 502

Definitions Under the Indian Gaming Regulatory Act; Public Hearings

AGENCY: National Indian Gaming Commission.

ACTION: Notice of public hearings.

SUMMARY: This document announces five public hearings to receive public comments on the National Indian Gaming Commission's proposed regulations to implement definitions under the Indian Gaming Regulatory Act

of 1988. These proposed regulations are published in today's **Federal Register**.

DATES: The dates and times of the hearings are listed under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The locations of the hearings are listed under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Linda G. Hutchinson, 1850 M St., suite 250, Washington, DC 20036. Telephone 202-632-7003. Fax 202-632-7066. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Commission will hold hearings on the following dates and times at the locations listed below on proposed regulations to implement definitions under the Indian Gaming Regulatory Act of 1988.

December 2, 1991—St. Paul, Minnesota, 9am-12pm, Bishop Henry Whipple Federal Building, Fort Snelling, Room 570.

December 4, 1991—Phoenix, Arizona, 9am-12pm, Best Western Airport Inn, 2425 S.24th St.

December 9, 1991—Seattle, Washington, 9am-12pm, Best Western-Airport Executel, 20717 Pacific Highway S.

December 10, 1991—Oklahoma City, Oklahoma, 1pm-4pm; Alfred P. Murrah Federal Building, 200 NW Fifth St., room 911.

December 13, 1991—Washington, DC, 9am-1pm, US Department of the Interior, 1849 C St. NW., Main Building Auditorium.

Persons who wish to present oral comments on the proposed regulations at a hearing are to notify the Commission in writing at least five (5) days in advance of the hearing. Such

requests should be submitted to the person listed above in the section title **FOR FURTHER INFORMATION CONTACT**. The request to present oral comments is to include the following information: name; address; telephone number; affiliation; and the group the person represents, if appropriate.

Each person will be allowed five (5) minutes exclusive of the time consumed by questions from the hearing panel and answers to these questions. The Commission reserves the right to determine the speaking order.

Persons who have not pre-registered to speak may register at the hearing location beginning 30 minutes before the start of the hearing. Persons signing-up at the hearing location will be heard as time permits. If time does not permit all registered persons the opportunity to make an oral presentation, the Commission reserves the right to select among those persons who registered to insure that all points of views can be heard.

A written copy of comments is to be submitted at the hearing for the official record.

Each hearing will be recorded by a court reporter. A transcript of the hearing and any materials accepted by the hearing panel will be included in the public docket.

Written comments will be given the same weight and consideration as oral comments presented at the hearings. The comment period closes December 31, 1991.

Dated: October 22, 1991.

Anthony J. Hope,
Chairman.

[FR Doc. 91-26435 Filed 10-31-91; 8:45 am]

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