

(a) Any person having management responsibility for a management contract;

(b) Any person who has authority:

(1) To hire and fire employees of the gaming operation; or

(2) To establish policy for the gaming operation; or

(3) To supervise a key employee of the gaming operation.

(c) The chief financial officer or a position with duties similar to a chief financial officer.

(d) The general manager or a position with duties similar to a general manager.

(e) Any other employed management official of the gaming enterprise designated by the Tribe as a primary management official in its gaming ordinance.

■ 4. Add §§ 502.25 and 502.26 to read as follows:

#### § 502.25 Gaming Enterprise.

*Gaming Enterprise* means the entities through which a Tribe conducts, regulates, and secures gaming on Indian lands within such Tribe's jurisdiction pursuant to the Indian Gaming Regulatory Act.

#### § 502.26 Tribal Gaming Regulatory Authority (TGRA).

*Tribal Gaming Regulatory Authority (TGRA)* means the governmental entity authorized by Tribal law to regulate gaming conducted pursuant to the Indian Gaming Regulatory Act.

### PART 556—BACKGROUND INVESTIGATIONS FOR PRIMARY MANAGEMENT OFFICIALS AND KEY EMPLOYEES

■ 5. The authority citation for part 556 is revised to read as follows:

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

■ 6. Amend § 556.4 by revising the first sentence of the introductory text to read as follows:

#### § 556.4 Background investigations.

A Tribe shall perform a background investigation for each primary management official and for each key employee of the gaming enterprise.

\* \* \*

\* \* \* \* \*

■ 7. Amend § 556.6 by revising the first sentence of paragraph (a) to read as follows:

#### § 556.6 Report to the Commission.

(a) When a Tribe licenses a primary management official or a key employee, the Tribe shall maintain the information listed under § 556.4(a)(1) through (14).

\* \* \*

\* \* \* \* \*

■ 8. Revise § 556.8 to read as follows:

#### § 556.8 Compliance with this part.

All Tribal gaming ordinances and ordinance amendments approved by the Chair prior to [EFFECTIVE DATE OF FINAL RULE] do not need to be amended to comply with this part. All future ordinance submissions, however, must comply.

### PART 558—GAMING LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

■ 9. The authority citation for part 558 continues to read as follows:

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

■ 10. Revise § 558.3 to read as follows:

#### § 558.3 Notification to NIGC of license decisions and retention obligations.

(a) After a Tribe has provided a notice of results of the background check to the Commission, a Tribe may license a primary management official or key employee.

(b) Within 30 days after the issuance of the license, a Tribe shall notify the Commission of its issuance.

(c) A key employee or primary management official who does not have a license after ninety (90) days shall not be permitted to perform the duties, functions, and/or responsibilities of a key employee or primary management official until so licensed.

(d) If a Tribe does not license an applicant—

(1) The Tribe shall notify the Commission; and

(2) Shall forward copies of its eligibility determination and notice of results, under § 556.6(b)(2) of this chapter, to the Commission for inclusion in the Indian Gaming Individuals Record System.

(e) If a Tribe revokes a key employee or primary management official's license—

(1) The Tribe shall notify the Commission; and

(2) Shall forward copies of its license revocation decision and a summary of the evidence it relied upon to the Commission for inclusion in the Indian Gaming Individuals Record System.

(f) A Tribe shall retain the following for inspection by the Chair or their designee for no less than three years from the date of termination of employment:

(1) The information listed under § 556.4(a)(1) through (14) of this chapter;

(2) Investigative reports, as defined in § 556.6(b) of this chapter;

(3) Eligibility determinations, as defined in § 556.5 of this chapter;

(4) Privacy Act notice, as defined in § 556.2 of this chapter; and

(5) False Statement notice, as defined in § 556.3 of this chapter.

■ 11. Revise § 558.4 to read as follows:

#### § 558.4 Notice of information impacting eligibility and licensee's right to a hearing.

(a) If, after the issuance of a gaming license pursuant to § 558.3, the Commission receives reliable information indicating that a key employee or a primary management official is not eligible for a license under § 556.5 of this chapter, the Commission shall notify the issuing Tribe of the information.

(b) Upon receipt of such notification under paragraph (a) of this section, a Tribe shall immediately suspend the license and shall provide the licensee with written notice of suspension and proposed revocation.

(c) A Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(d) The right to a revocation hearing shall vest upon receipt of a license or at such earlier time as is determined by Tribal law, regulation, and/or policy.

(e) After a revocation hearing, a Tribe shall decide to revoke or to reinstate a gaming license. A Tribe shall notify the Commission of its decision within 45 days of receiving notification from the Commission pursuant to paragraph (a) of this section.

■ 12. Revise § 558.6 to read as follows:

#### § 558.6 Compliance with this part.

All Tribal gaming ordinances and ordinance amendments that have been approved by the Chair prior to [EFFECTIVE DATE OF FINAL RULE] do not need to be amended to comply with this section. All future ordinance submissions, however, must comply.

Dated: August 2, 2022.

**E. Sequoyah Simermeyer,**

*Chairman.*

**Jeannie Hovland,**

*Vice Chair.*

[FR Doc. 2022–16977 Filed 8–9–22; 8:45 am]

BILLING CODE 7565–01–M

## DEPARTMENT OF THE INTERIOR

### National Indian Gaming Commission

#### 25 CFR Part 585

#### RIN 3141-AA75

#### Appeals to the Commission

**AGENCY:** National Indian Gaming Commission, Department of the Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The National Indian Gaming Commission proposes to amend its regulations to add a settlement process for appeals proceedings on written submissions to the Commission.

**DATES:** Written comments on this proposed rule must be received on or before September 9, 2022.

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

▪ *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

▪ *Email comments to:* [information@nigc.gov](mailto:information@nigc.gov).

▪ *Mail comments to:* National Indian Gaming Commission, 1849 C Street NW, MS 1621, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Michael Hoenig at (202) 420-9241 (this number is not toll free).

**SUPPLEMENTARY INFORMATION:**

**I. Background and Development of the Rule**

*A. 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 established the National Indian Gaming Commission (“NIGC” or “Commission”) and set out a comprehensive framework for the regulation of gaming on Indian lands. IGRA, in several instances, requires that the Commission provide an opportunity for a hearing before it on: proposed fines, temporary closure orders, and removals of a certificate of self-regulation. Also through regulatory action, the Commission has afforded appeals before it for: notice of violations, modified and voided management contracts, and notices of late fees and late fee assessments. As to all these areas, part 585 of NIGC regulations offers appeals to the Commission on written submissions.

The Commission comprehensively updated the appeals regulations in 2012, consolidating them in one subchapter. (77 FR 58941-01). This proposed rule augments the appeals regulations by inserting a comprehensive settlement procedure for appeals under part 585, rectifying its absence in the current regulations.

*B. Development of the Rule*

On June 9, 2021, the National Indian Gaming Commission sent a Notice of Consultation announcing that the Agency intended to consult on a number of topics, including proposed changes to the appeals regulations in

part 585. Prior to consultation, the Commission sent another Notice of Consultation, dated September 13, 2021, and released a proposed discussion draft of the regulations for review. The proposed amendments to these regulations were intended to solicit Tribes’ views on: (1) the Commission inviting, directing or granting leave to the Chair to file or respond to motions and (2) supplying a settlement procedure for appeals to the Commission on written submissions. The Commission held three virtual consultation sessions in September and October of 2021 to receive Tribal input on the possible changes. The Commission reviewed all comments received as part of the consultation process.

Commenters at the consultation phase requested the addition of language to the settlement procedures specifying that “the NIGC will consider any and all such requests to enter into settlement negotiations in good faith.” The Commission declines to add this language. It is unclear whether this comment is directed to the full Commission, who will decide whether to grant a stay of proceedings for the purposes of settlement negotiations between the Chair and the other party, or whether this comment is directed at the Chair. In any event, in the context of agency adjudications, the U.S. Supreme Court found that agency members are presumed to act in good faith, with honesty and integrity. *See Withrow v. Larkin*, 421 U.S. 35, 47 (1975). Therefore, the addition is unnecessary.

Additionally, based on comments received, the Commission omitted the proposed change permitting the Chair to respond to motions. Instead, the Commission proposes to limit the motions that may be filed in proceedings before the Commission to those listed in the regulation and prohibit the Chair from responding.

**II. Regulatory Matters**

*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 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 as required by 44 U.S.C. 3501, *et seq.*, and assigned OMB Control Number 3141-0003.

*Tribal Consultation*

The National Indian Gaming Commission is committed to fulfilling its Tribal consultation obligations—whether directed by statute or administrative action such as Executive Order (E.O.) 13175 (Consultation and Coordination with Indian Tribal Governments)—by adhering to the consultation framework described in its Consultation Policy published July 15, 2013. The NIGC’s consultation policy specifies that it will consult with Tribes on Commission Action with Tribal Implications, which is defined as: Any Commission regulation, rulemaking, policy, guidance, legislative proposal, or operational activity that may have a substantial direct effect on an Indian Tribe on matters including, but not limited to the ability of an Indian Tribe to regulate its Indian gaming; an Indian Tribe’s formal relationship with the Commission; or the consideration of the Commission’s trust responsibilities to Indian Tribes.

Pursuant to this policy, on June 9 and September 13, 2021, the National Indian Gaming Commission sent Notices of Consultation announcing that the Agency intended to consult on a number of topics, including proposed changes to the appeals regulations. The Commission held three virtual consultation sessions in September and October of 2021 to receive Tribal input on the possible changes.

**List of Subjects in 25 CFR Part 585**

Administrative practice and procedure, Appeals gambling, Indian-lands, Reporting and recordkeeping requirements.

Therefore, for reasons stated in the preamble, 25 CFR part 585 is amended as follows:

**PART 585—APPEALS TO THE COMMISSION ON WRITTEN SUBMISSIONS OF NOTICES OF VIOLATION, PROPOSED CIVIL FINE ASSESSMENTS, ORDERS OF TEMPORARY CLOSURE, THE CHAIR'S DECISIONS TO VOID OR MODIFY MANAGEMENT CONTRACTS, THE COMMISSION'S PROPOSALS TO REMOVE A CERTIFICATE OF SELF-REGULATION, AND NOTICES OF LATE FEES AND LATE FEE ASSESSMENTS**

■ 1. The authority citation for part 585 continues to read as follows:

**Authority:** 25 U.S.C. 2706, 2710, 2711, 2713, 2715, 2717.

■ 2. Revise § 585.4 to read as follows:

**§ 585.4 Are motions permitted?**

(a) Only motions for extension of time under § 580.4(f) of this subchapter, motions to supplement the record under § 581.5 of this subchapter, motions to intervene under § 585.5, and motions for reconsideration under § 581.6 of this subchapter, are permitted.

(b) The Chair shall not, either individually or through counsel, respond to motions.

■ 3. Add § 585.8 to read as follows:

**§ 585.8 What is the process for pursuing settlement in an appeal to the Commission?**

(a) *General.* At any time after the commencement of a proceeding, but before the date scheduled for the Commission to issue a final decision under § 585.7, the parties may jointly move to stay the proceeding for a reasonable time to permit negotiation of a settlement or an agreement disposing of the whole or any part of the proceeding.

(b) *Content.* Any agreement disposing of the whole or any part of a proceeding shall also provide:

(1) A waiver of any further proceedings before the Commission regarding the specific matter(s) settled under the agreement; and

(2) That the agreement shall constitute dismissal of the appeal of the specific matter(s) settled, a final order of the Commission, and final agency action.

(c) *Submission.* Before the expiration of the time granted for negotiations, the parties or their authorized representatives may:

(1) Notify the Commission that the parties have reached a full or partial settlement and have agreed to dismissal of all or part of the action, subject to compliance with the terms of the settlement agreement; or

(2) Inform the Commission that an agreement cannot be reached.

(d) *Disposition.* If the parties enter into a full or partial settlement agreement, it shall constitute: full or partial dismissal of the appeal, as applicable; a final order of the Commission; and final agency action.

Dated: August 2, 2022.

**E. Sequoyah Simermeyer,**  
*Chairman.*

**Jeannie Hovland,**  
*Vice Chair.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**RIN 0648–BI18**

**Fisheries of the Northeastern United States; Amendment 20 to the Atlantic Surfclam and Ocean Quahog Fishery Management Plan**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of proposed fishery management plan amendment; request for comments.

**SUMMARY:** NMFS announces that the Mid-Atlantic Fishery Management Council has submitted Amendment 20 to the Atlantic Surfclam and Ocean Quahog Fishery Management Plan for review and approval by the Secretary of Commerce. We are requesting comments from the public on the amendment. Amendment 20, also known as the Excessive Shares Amendment, would establish limits to the amount of surfclam or ocean quahog individual transferable quota share or annual allocation in the form of cage tags that an individual or their family members could hold.

**DATES:** Comments must be received on or before October 11, 2022.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2020–0112, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2020–0112 in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: “Comments on Surfclam/Ocean Quahog Excessive Shares Amendment.”

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Copies of Amendment 20, including the draft Environmental Assessment (EA), are available on request from the Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901. These documents are also accessible via the internet at <https://www.mafmc.org>.

**FOR FURTHER INFORMATION CONTACT:** Douglas Potts, Fishery Policy Analyst, 978–281–9341.

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments on Amendment 20, also known as the Excessive Shares Amendment, and its incorporated documents through the end of the comment period stated in this notice of availability. We will soon publish a proposed rule that would implement the amendment’s management measures in the **Federal Register** for public comment, allowing for NMFS’s evaluation of the proposed rule under the procedures of the Magnuson-Stevens Fishery Conservation and Management Act. Public comments on the proposed rule must be received by the end of the comment period provided in this notice of availability to be considered in the approval/disapproval decision on the amendment. All comments received by October 11, 2022, whether specifically directed to the amendment or the proposed rule will be considered in the approval/disapproval decision on the amendment. To be considered, comments must be received by close of business on the last day of the comment period. Comments received after that date will not be considered in the decision to approve or disapprove Amendment 20, including those