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(c) The amount of a bill and you have not paid the bill and the final decision on the appeal requires you to pay the bill, we will consider your bill to be a delinquent account subject to interest, penalties, and administrative charges, as required by the Federal Claims Collection Act of 1966, as amended, 31 U.S.C. 3717.

(d) An electric power rate, we will implement the rate and it will remain in effect subject to the final decision on the appeal.

Dated: May 8, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–14062 Filed 6–6–96; 8:45 am]

BILLING CODE 4310–02–P

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25 CFR Part 290

RIN: 1076–AD14

Tribal Revenue Allocation Plans

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to establish regulations to implement Section 11(b)(3)(B) of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701. This proposed rule establishes procedures for the submission, review and, approval of tribal revenue allocation plans for the distribution of net gaming revenues from tribal gaming activities.

DATES: Comments must be received on or before August 6, 1996.

ADDRESSES: Mail comments to George Skibine, Director, Indian Gaming Management Staff Office, Bureau of Indian Affairs, 1849 C Street, NW., MS 2070–MIB, Washington, DC 20240. Comments may be hand delivered to the same address from 9:00 a.m. to 4:00 p.m. Monday through Friday or sent by facsimile to 202–273–3153.

FOR FURTHER INFORMATION CONTACT: Nancy Pierskalla, Management Analyst, Indian Gaming Management Staff Office, at 202–219–4068.

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. Pursuant to Section 11 (b)(3)(B), 25 U.S.C. 2710, of the IGRA, the Secretary of the Interior (Secretary) is charged with the review and approval of tribal revenue allocation plans relating to the distribution of net gaming revenues from a tribal gaming activity. These regulations establish a method for the submission, review and approval of tribal revenue allocation plans.

The IGRA provides that net gaming revenues from Class II and Class III gaming may be distributed in the form of per capita payments to members of the Indian tribe provided the Indian tribe has prepared a Tribal Revenue Allocation Plan which is approved by the Secretary. On December 19, 1992 the Assistant Secretary—Indian Affairs (AS–IA) issued Guidelines to govern the review and approval of Tribal Revenue Allocation Plans. As outlined in the IGRA, the Guidelines require that the Indian tribe must dedicate a significant source of net gaming revenue for economic and governmental purposes, that the interests of minors and other legally incompetent persons entitled to receive per capita payments must be protected and preserved, and that per capita payments are subject to federal income taxes. The Assistant Secretary does not mandate the distribution of net gaming revenues to individual tribal members. However, it is essential that Indian tribes choosing to make per capita payments comply with the requirements of the IGRA.

Public Participation Statement

Publication of the proposed rule by the Department of the Interior (Department) provides the public an opportunity to participate in the rulemaking process. Interested persons may submit written comments regarding the proposed rule to the location identified in the **ADDRESSES** section of this document.

Executive Order 12778

The Department has certified to the Office of Management and Budget (OMB) that these proposed regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

Executive Order 12866

This proposed rule is not a significant regulatory action under Executive Order 12866 and has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12630

The Department has determined that this proposed rule does not have "significant takings" implications. The proposed rule does not pertain to "taking" of private property interests, nor does it impact private property.

Executive Order 12612

The Department has determined that this proposed rule does not have significant federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights and responsibilities of states.

NEPA Statement

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

Paperwork Reduction Act of 1995

Sections 290.11, 290.18 and 290.27 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of the Interior has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: Indian tribes may distribute net gaming revenues in the form of per capita payments provided the tribe has an approved Tribal Revenue Allocation Plan that has been submitted and reviewed in accordance with these regulations. The information to be collected includes: assurances to meet certain statutory requirements; a breakdown of the specific uses to which net gaming revenues will be allocated, eligibility requirements for participation, tax liability notification and the assurance of the protection and preservation of the per capita shares minors and legal incompetents. The information is needed to assure that net gaming revenues are used (1) to fund tribal government operations and programs, (2) to provide for the general welfare of the Indian tribe and its members, (3) to promote tribal economic development, (4) to donate to charitable organizations, and (5) to fund operations of local government agencies.

All information is to be collected upon the submission by an Indian tribe of a tribal revenue allocation plan or any amendments thereto for approval. Annual reporting and recordkeeping burden for this collection of information is estimated to average 75–100 hours for each response for 225 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Thus, the total annual reporting and recordkeeping burden for this collection is estimated to be 22,500 hours.

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Organizations and individuals desiring to submit comments on the information collection requirement should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10202, New Executive Office Building, Washington, D.C. 20503; Attention: Desk Officer for the U.S. Department of the Interior.

The Department considers comments by the public on this proposed collection of information in—

Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;

Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Enhancing the quality, usefulness, and clarity of the information to be collected; and

Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to the OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Bureau of Indian Affairs on the proposed regulations.

Unfunded Mandates Act of 1995

This rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

Drafting Information

The primary author of this document is Nancy Pierskalla, Management Analyst, Bureau of Indian Affairs, Department of the Interior.

List of Subjects in 25 CFR Part 290

Indians—business and finance, Indians—gaming.

For the reasons given in the preamble, Part 290 of Title 25, Chapter I of the Code of Federal Regulations is proposed to be added as set forth below.

PART 290—TRIBAL REVENUE ALLOCATION PLANS

Sec.

290.1 Purpose.
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290.19 Where should the Indian tribe submit the tribal revenue allocation plan?
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290.21 How long will the review by the Appropriate Bureau Official take?
290.22 What action will the Appropriate Bureau Official take if the plan cannot be approved?
290.23 May an Indian tribe appeal the Appropriate Bureau Official's decision?
290.24 What happens if an Indian tribe makes per capita payments without an approved tribal revenue allocation plan?
290.25 How does the Indian tribe assure compliance with its tribal revenue allocation plan?
290.26 How does the Indian tribe resolve disputes arising from per capita distributions?
290.27 Do changes/amendments to a tribal revenue allocation plan require approval?
290.28 What is the liability of the United States under this part?

Authority: 5 U.S.C. 301, 25 U.S.C. 2 , 9 and 2710.

§ 290.1 Purpose.

This part contains procedures for submitting, reviewing and approving tribal revenue allocation plans for distributing net gaming revenues from tribal gaming activities. It applies to review of tribal revenue allocation plans adopted under the IGRA.

§ 290.2 Definitions.

Appropriate Bureau Official means the Bureau Official with delegated authority to approve tribal revenue allocation plans.

IGRA means the Indian Gaming Regulatory Act of 1988 (Public Law 100–497) 102 Stat. 2467 dated October 17, 1988 (Codified at 25 U.S.C. 2701–21 (1988)) and any amendments.

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.

Legal incompetent is an individual beneficiary eligible to participate in a per capita payment and who has been declared to be under a legal disability, other than being a minor, by a court of competent jurisdiction, including tribal justice systems.

Member of an Indian tribe means

(1) An individual who meets the membership requirements of the tribe as set forth in its governing document or

(2) Absent such a document, has been recognized as a member by the tribal governing body, and has consistently maintained tribal relations with the tribe or is listed on the tribal rolls of that tribe as a member, if such rolls are kept.

Minor is an individual beneficiary who is eligible to participate in a per capita payment and who has not reached the age of eighteen (18) years.

Per capita means any payment made to all members of the tribe, or, to identified groups of members, pursuant to the per capita provisions of a tribal revenue allocation plan.

Resolution means the formal document in which the tribal governing body expresses its legislative will in accordance with its governing document. In the absence of an governing document, a written expression adopted by the tribal governing body will be acceptable.

Secretary means the Secretary of the Interior or his authorized representative.

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Superintendent means the official or other designated representative of the Bureau of Indian Affairs in charge of the field office which has immediate administrative responsibility for the affairs of the tribe, band, or group for which a tribal revenue allocation plan is prepared.

Tribal Governing Body means the governing body of an Indian tribe recognized by the Secretary.

Tribal Revenue Allocation Plan means the document submitted by an Indian tribe that provides for distributing net gaming revenues.

You and your means the Indian tribe.

§ 290.3 What will the Secretary approve?

The Secretary will review and approve tribal revenue allocation plans for compliance with IGRA.

§ 290.4 What is a tribal revenue allocation plan?

It is the document you must submit that describes how you will allocate net gaming revenues.

§ 290.5 Who must submit a tribal revenue allocation plan?

Any Indian tribe that intends to make a per capita payment from net gaming revenues.

§ 290.6 Must an Indian tribe have a tribal revenue allocation plan if it is not making per capita payments?

No, if you do not make per capita payments, you do not need to submit a tribal revenue allocation plan.

§ 290.7 Do Indian tribes have to make per capita payments from net gaming revenues to tribal members?

No. You do not have to make per capita payments.

§ 290.8 How may an Indian tribe use net gaming revenues if it does not have an approved tribal revenue allocation plan?

Without an approved tribal revenue allocation plan, you may only use net gaming revenues to fund tribal government operations or programs; to provide for the general welfare of your tribe and its members; to promote tribal economic development; to donate to charitable organizations; or to help fund operations of local government agencies.

§ 290.9 Is an Indian tribe in violation of IGRA if it makes per capita payments to members without an approved tribal revenue allocation plan?

Yes, you are in violation of IGRA. If you refuse to comply, the Department of Justice may enforce the per capita requirements of IGRA.

§ 290.10 May an Indian tribe distribute per capita payments from net revenues derived from either Class II and Class III without a tribal revenue allocation plan?

No, IGRA requires that you have an approved tribal revenue allocation plan.

§ 290.11 What information must the tribal revenue allocation plan contain?

(a) You must prepare a tribal revenue allocation plan that includes a percentage breakdown of the uses for which you will allocate net gaming revenues. The percentage breakdown must total one-hundred percent (100%).

(b) The tribal revenue allocation plan must meet the following criteria:

(1) It must ensure that not more than fifty percent (50%) of the net gaming revenues be used for per capita payments to members.

(2) It must reserve a significant portion of net gaming revenues from the tribal gaming activity for the following purposes:

(i) To fund tribal government operations or programs;

(ii) To provide for the general welfare of the tribe or its members;

(iii) To promote tribal economic development;

(iv) To donate to charitable organizations; or

(v) To help fund operations of local government.

(3) It must contain sufficient information, for review by the Secretary as required by IGRA, in particular regarding funding for tribal governmental operations or programs and for promoting tribal economic development.

(4) It must protect and preserve the interests of minors and other legally incompetent persons entitled to receive per capita payments. It must also ensure that per capita payments due to a minor or incompetent are given to the parents or legal guardian of these minors or incompetents in amounts necessary for the health, education or welfare of the minor or incompetent.

(5) It must describe how you will notify members of the tax liability of the per capita payments and how you will withhold taxes for all recipients in accordance with Internal Revenue Service regulations contained in 26 CFR part 31.

(6) It must authorize the distribution of per capita payments to members according to specific eligibility requirements and establish a process for dispute resolution.

§ 290.12 Under what conditions may an Indian tribe distribute per capita payments?

You may make per capita payments only after the Secretary approves your tribal revenue allocation plan.

§ 290.13 How must an Indian tribe divide or allocate per capita funds?

You must divide all per capita funds equally among the members of your tribe, or to the identified groups of members eligible to participate.

§ 290.14 Who can share in a per capita payment?

(a) You must establish your own criteria for determining whether all members or identified groups of members are eligible for per capita payments.

(b) If the tribal revenue allocation plan calls for distributing per capita payments to an identified group of members rather than to all members, you must justify limiting this payment to the identified group of members. You must make sure that:

(1) The distinction between members eligible to receive payments and members ineligible to receive payments is reasonable and not arbitrary;

(2) The distinction does not discriminate or otherwise violate the Indian Civil Rights Act;

(3) The justification complies with your governing document.

§ 290.15 How does an Indian tribe disburse the per capita shares of minors and legal incompetents?

You must prescribe the conditions for disbursing funds under the tribal revenue allocation plan to the parents or legal guardian of a minor or legal incompetent.

§ 290.16 Must the Indian tribe establish trust accounts with financial institutions for minors and legal incompetents?

No, but you must ensure that the shares allocated to minors and legal incompetents are protected and preserved and that the funds are given to parents or legal guardian in sufficient amounts necessary for the health, education, or welfare of the minor or legal incompetent.

§ 290.17 Can the per capita payments of minors and legal incompetents be deposited into Bureau of Indian Affairs Individual Indian Monies (IIM) Accounts?

No. You may not use IIM accounts. The Secretary will not accept voluntary deposits to IIM accounts.

§ 290.18 What documents must the Indian tribe include with the tribal revenue allocation plan?

You must include:

(a) A written request for approval of the tribal revenue allocation plan; and

(b) A tribal resolution or other document, including the date and place of adoption and the result of any vote taken, that certifies you have adopted

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the tribal revenue allocation plan according to your governing document.

§ 290.19 Where should the Indian tribe submit the tribal revenue allocation plan?

You must submit your tribal revenue allocation plan to your respective Superintendent. The Superintendent will review the tribal revenue allocation plan to make sure it has been properly adopted and contains all information needed. The Superintendent will then transmit the tribal revenue allocation plan promptly to the Appropriate Bureau Official.

§ 290.20 What action must the Appropriate Bureau Official take?

The Appropriate Bureau Official must approve any tribal revenue allocation plan that is sufficiently detailed to allow the Appropriate Bureau Official to determine that it complies with § 290.11 and the IGRA.

§ 290.21 How long will the review by the Appropriate Bureau Official take?

(a) Within 90 days after the Appropriate Bureau Official receives the tribal revenue allocation plan, or such shorter time as may be provided in the tribes' governing documents approved by the Secretary, the Appropriate Bureau Official must review and approve the tribal revenue allocation plan if it conforms with this part and the IGRA.

(b) If the tribal revenue allocation plan does not conform to the requirements of IGRA or this part, the Appropriate Bureau Official will send you a written notice within the time periods set forth in paragraph (a) of this section. The notice will explain why the tribal revenue allocation plan does not comply with this part or the IGRA and tell you how to bring it into compliance.

§ 290.22 What action will the Appropriate Bureau Official take if the tribal revenue allocation plan cannot be approved?

The Appropriate Bureau Official will not approve any tribal revenue allocation plan for distribution of net gaming revenues from a tribal gaming activity if:

(a) The tribal revenue allocation plan is inadequate, particularly with respect to the requirements described in § 290.11 and IGRA, and you fail to bring it into compliance; or

(b) The tribal revenue allocation plan is not adopted in compliance with your governing documents; or

(c) The tribal revenue allocation plan does not include a reasonable justification for limiting per capita payments to certain groups of members; or

(d) The tribal revenue allocation plan violates the Indian Civil Rights Act of 1968, any other provision of Federal law, or the United States' trust obligations.

§ 290.23 May an Indian tribe appeal the Appropriate Bureau Official's decision?

Yes, the Appropriate Bureau Official's decision may be appealed in accordance with the regulations at 25 CFR part 2.

§ 290.24 What happens if an Indian tribe makes per capita payments without an approved tribal revenue allocation plan?

The Department of Justice may enforce the per capita approval requirements of IGRA for any tribe refusing to comply with the law.

§ 290.25 How does the Indian tribe assure compliance with its tribal revenue allocation plan?

You must establish a process in the tribal revenue allocation plan for reviewing expenditures of net gaming revenues and explain how you will correct deficiencies.

§ 290.26 How does the Indian tribe resolve disputes arising from per capita distributions?

You must establish a process to resolve disputes arising from per capita distributions.

§ 290.27 Do changes/amendments to a tribal revenue allocation plan require approval?

Yes, the Appropriate Bureau Official must approve any changes/amendments to a tribal revenue allocation plan to ensure that the changes/modifications conform to § 290.11 and the IGRA.

§ 290.28 What is the liability of the United States under this part?

The United States is not liable for the manner in which a tribe distributes funds from net gaming revenues.

Dated: May 22, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–14061 Filed 6–6–96; 8:45 am]

BILLING CODE 4310–02–P

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period and Notice of Public Hearing on Proposed Endangered Status for the Least Chub (Iotichthys Phlegethontis) and Proposed Designation of Its Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that a public hearing will be held on the proposed determination of endangered status with critical habitat for the least chub (*Iotichthys phlegethontis*). To accommodate the public hearing, the comment period on the proposal is reopened. The least chub is a small fish in the minnow family endemic to the Bonneville Basin in Utah. All interested parties are invited to submit comments on this proposal.

DATES: The public hearing will be held from 3 p.m. to 5 p.m. and 6 p.m. to 8 p.m., with registration beginning at 2:30 p.m., on Thursday, June 27, 1996. Comments will be accepted until July 15, 1996.

ADDRESSES: The public hearing will be held at the Wendover High School, 110 Wildcat Blvd., Wendover, Utah. Written comments and materials should be sent to the Field Supervisor, Fish and Wildlife Service, 145 East 1300 South, Suite 404, Salt Lake City, Utah, 84115. Comments and materials received will be available for inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Robert D. Williams, Assistant Field Supervisor, telephone 801/524–5001 (see **ADDRESSES** Section).

SUPPLEMENTARY INFORMATION:

Background

The least chub (*Iotichthys phlegethontis*) is a small monotypic minnow endemic to the Bonneville Basin of Utah where it was once common and widely distributed. Populations of least chub have declined and continue to be threatened by habitat loss and degradation, and the introduction of nonactive species which compete with and predate least chub. The species is now restricted to several spring systems in the Snake Valley of western Utah, with one additional population recently discovered in eastern Juab County near Mona, Utah. Listing the least chub as endangered would afford the species protection under the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

On September 29, 1995, the Service published a proposed rule (60 FR 50518) to list the least chub as an endangered species with critical habitat. Section 4(b)(5)(E) of the Act requires that a public hearing be held if requested within 45 days of publication

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