SUPPORTING STATEMENT FOR RECORDKEEPING AND REPORTING REQUIREMENTS 25 CFR Part 559

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

This is a reinstatement of a previously approved collection in connection with a new rulemaking.

The Indian Gaming Regulatory Act (IGRA or the Act), Public Law 100-497, 25 U.S.C. 2701, *et seq.*, establishes that Indian gaming may be conducted only on “Indian lands.” 25 U.S.C. §§ 2703(4), 2710(a)(1), 2710(b)(1), 2710(d)(1). The term “Indian lands” include all lands within a reservation as well as all lands held by the United States on behalf of a tribe or individual in trust or subject to a restriction against alienation. 25 U.S.C. §§ 2703(4). The Act further contains a general prohibition against the tribes gaming on trust lands acquired into trust after October 17, 1988. To be gaming eligible, such trust lands must meet one of the exceptions set forth in 25 U.S.C. § 2719.

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. The purposes of IGRA include providing a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; ensuring that the Indian tribe is the primary beneficiary of the gaming operation; and declaring that the establishment of independent federal regulatory authority for gaming on Indian lands, the establishment of federal standards for gaming on Indian lands, and the establishment of the NIGC are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue. 25 U.S.C. § 2702.

To carry out its statutory mandates, the NIGC must know the status of lands where tribal gaming is proposed or occurring to assess whether the NIGC has jurisdiction over a particular parcel and gaming facility.

In addition, a September 2005 report by the Office of Inspector General (OIG), United States Department of the Interior (DOI), recommended that the NIGC establish a process by which tribes whose lands have been taken into trust since 1988 certify the statuses of their trust lands, and that the NIGC establish and maintain a database containing Indian lands eligibility information and/or determinations for all Indian gaming operations. The NIGC established an Indian lands database and regularly populates the database with information submitted by the tribes on new gaming facilities.

On November 18, 2010, the Commission issued a Notice of Inquiry and Notice of Consultation advising the public that the NIGC was conducting a comprehensive review of its regulations and requesting public comment on: which of its regulations were most in need of revision; in what order the Commission should review its regulations; and the process that the Commission should utilize to make revisions. 75 FR 70680, Nov. 18, 2012. On April 4, 2011, after holding eight consultations and reviewing all comments, the Commission published a Notice of Regulatory Review Schedule (NRRS) setting forth a consultation schedule and process for review. 76 FR 18457, April 4, 2011. Part 559 of title 25 of the Code of Federal Regulations was included in the first regulatory group reviewed pursuant to the NRRS.

The Commission conducted multiple tribal consultations as part of its review of part 559. Tribal consultations were held in every region of the country and attended by tribal leaders or their representatives. In addition to tribal consultations, on June 11, 2011, the Commission requested public comment on a preliminary draft of amendments to part 559. Thereafter, the Commission published a Notice of Proposed Rulemaking. 77 FR 4731, Jan. 31, 2012. After considering all public comments, the Commission published the final rule on September 24, 2012. 77 FR 58769, Sept. 24, 2012.

This collection of information is based on the new, final amendments to part 559, which reduce, relative to the requirements of the former part 559, the amount of information that a tribe must submit to the NIGC.

New part 559 still requires that a tribe submit a notice to the NIGC at least 120 days before a new gaming facility will be opened (which alerts the NIGC that a facility license is under consideration), but it now allows a tribe to request an expedited 60-day review. The notice must contain: (i) the name and address of the property; (ii) the legal description of the property; (iii) a copy of any deeds or other trust documents to the property (if not maintained by the Bureau of Indian Affairs (BIA), Department of the Interior) or a short explanation as to why no deed exists; and (iv) documentation on the property's ownership (if not already maintained by the BIA). If the trust documentation is maintained by the BIA, the NIGC requests the tract number to the parcel(s) as assigned by the BIA's Land Title and Records Office (LTRO) when the property is recorded.

The notice provides necessary data without which the NIGC is unable to easily identify the property or to assess its jurisdiction. First, the name and address of the property are needed by the NIGC in order to identify the site. Second, without a legal description, the NIGC is constrained in its attempts to research the Indian lands status of a site to assess whether the NIGC has jurisdiction over the site. Although many deeds and ownership documentation are maintained at BIA LTROs, without information from a tribe regarding the address, legal description, and LTRO tract number where the gaming is to be conducted, the NIGC cannot reliably or efficiently know which deeds to request from BIA. Past experience indicates that the BIA is often unable to assist the NIGC without a legal description and LTRO tract number of the land. The legal description and LTRO tract number also allow the NIGC to work with the BIA to determine, for example, whether land is within or contiguous to 1988 reservation boundaries, within an Oklahoma former reservation, or within the last reservation boundaries not in Oklahoma. 25 U.S.C. §§ 2703(4), 2719. Third, tribes often operate their own real estate offices

and maintain their trust deeds themselves. If no deed was ever issued for the property, the tribe is often in the best position to provide a short explanation as to why no deed exists. If land is owned in fee, the tribe should have obtained a copy of the deed in the course of developing the new gaming facility project. Such ownership documentation shows whether the land is owned by the tribe or a tribal member.

New part 559 removes the regulatory requirement that each gaming facility license be renewed at least once every three years, and instead allows the tribes to determine the length of their own license renewal periods, if any. This reduces the burden of the information collection relative to former part 559. As part of its rulemaking, the Commission received comments regarding the removal of this regulatory requirement. One commenter was very supportive of the removal of the three-year facility license renewal requirement. However, a tribe must still submit a copy of each renewed facility license (as well as any original issuances of facility licenses) to the NIGC within 30 days of issuance in order for the NIGC to be up-to-date on the Indian gaming facilities currently operating on Indian lands.

In addition, before opening a gaming facility, IGRA requires a tribe to adopt an ordinance governing gaming activities on its Indian lands. 25 U.S.C. § 2710. IGRA specifies a number of mandatory provisions to be contained in each tribal gaming ordinance and subjects such ordinances to the NIGC Chair's review and approval. Approval by the Chair is predicated on the inclusion of each of the specified mandatory provisions in the tribal gaming ordinance. (25 U.S.C. § 2710(b)(2)). Among these is a specific requirement that the ordinance contain a provision ensuring that "the construction and maintenance of the gaming operation, and the operation of that gaming is conducted in a manner that adequately protects the environment and the public health and safety." 25 U.S.C. § 2710(b)(2)(E). Since 1993, when the NIGC became operational, the Chair has required each tribal gaming ordinance submitted for approval to include the express environmental and public health and safety (EPHS) statement set forth in 25 U.S.C. § 2710(b)(2)(E).

New part 559 removes the previous requirement that tribes submit a document listing all laws, resolutions, codes, policies, standards, or procedures identified by the tribe as applicable to its gaming facilities in the areas of: (1) emergency preparedness, including but not limited to fire suppression, law enforcement and security; (2) food and potable water; (3) construction and maintenance; (4) hazardous materials; and (5) sanitation (both solid waste and wastewater). This reduces the burden of the information collection relative to former part 559. As part of its rulemaking, the Commission received comments regarding the removal of this regulatory requirement. Several commenters stated that they are pleased and strongly support this rule change, which removes duplicative and burdensome EPHS reporting requirements (previously found in 25 CFR 502.22).

New part 559 now merely requires a simple attestation by the tribe certifying that it has determined that the construction, maintenance, and operation of the gaming facility is conducted in a manner that adequately protects the environment and the public health and safety. The certification submission will allow the NIGC to rely on a tribe's assertion that it is in compliance with applicable EPHS laws. New part 559 also gives the Chair the discretion to request EPHS documentation if necessary, a discretion that will not be utilized without an identified substantial

concern.

New part 559 still requires tribes to provide written notice to the Commission within 30 days if a facility license is terminated or expires or if a gaming place, facility, or location closes or reopens. However, tribes need no longer provide written notice to the Commission of seasonal closures or temporary closures with a duration of less than 180 days. This reduces the burden of the information collection relative to former part 559. As part of its rulemaking, the Commission received comments regarding the removal of this regulatory requirement. Some commenters stated that they are pleased with the notice exemption for temporary or seasonal closures not exceeding 180 days, as it will help reduce administrative burdens for tribal governments.

2. **Indicate how, by whom, and for what purposes the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The written notices that facility licenses are under consideration for issuance, as well as Indian lands information, will continue to be utilized by the NIGC to ensure that its database records are complete as to the statuses of lands where tribal gaming is proposed or is occurring. In addition, tribal submissions of copies of each newly issued or renewed facility license, or information regarding facility closings or license expirations, allow the NIGC to maintain an accurate record of the Indian gaming facilities that are currently operating within Indian lands in the United States. All of this data will continue to be utilized: for internal reporting and recordkeeping purposes; to assess the NIGC's jurisdiction; and to respond to inquiries from other government agencies and Congress regarding where Indian gaming is proposed or occurring.

The EPHS certification will be used by the NIGC to ensure that the tribe has determined that the construction, maintenance, and operation of the gaming facility is conducted in a manner that adequately protects the environment and the public health and safety, as required by IGRA.

3. **Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection, techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collections. Also describe any consideration of using information technology to reduce burden.**

The information collection does not require the use of automated, electronic, mechanical, or other technological techniques; however, new part 559 does allow for electronic submission of responses.

4. **Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.**

The BIA LTROs maintain deeds and track ownership of many acres of lands held in trust for the tribes by the United States. The NIGC plans to utilize the BIA to obtain Indian lands documentation whenever possible. However, the BIA tracks its trust lands by legal description

and tract number. Without information from a tribe regarding the legal address where gaming is to be conducted, along with the tract number assigned by the BIA LTRO, the NIGC cannot reliably or efficiently know which deeds to request and the BIA often cannot match the gaming operation's mailing address with a legal site description.

In addition, as a result of agreements between tribes and the BIA, tribes often operate their own real estate offices and maintain their trust deeds themselves. In that case, the proper entity to ask for the trust deed and documentation of ownership is the tribe itself. If no deed or other trust document was ever issued for the property, the tribe is often in the best position to explain why no deed was ever issued.

Moreover, in light of IGRA's mandate regarding adequate protection of the environment and the public health and safety as they relate to Indian gaming operations, it is important that tribes submit the EPHS certification to assure the NIGC that the tribe has determined that the construction, maintenance, and operation of the gaming facility is conducted in a manner that adequately protects the environment and the public health and safety. Usually, the tribe is in the best position to make this determination.

5. If the collection of information impacts small business or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize the burden.

The collection of information does not impact any small business entities. The only respondents affected by the information collection are Indian tribes operating tribal gaming facilities. Indian tribes are not small entities as defined by OMB instructions.

6. Describe the consequence to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The issuance and termination of facility licenses, and notices thereof, are necessary for the NIGC to accurately track Indian gaming operations. The NIGC also requires that Indian lands information be collected on new tribal gaming facilities on a one-time basis. If this information is not received by the NIGC, the NIGC will be hindered or delayed in its ability to carry out core agency functions, including its ability to assess NIGC jurisdiction over the facility.

The NIGC is also requiring that the EPHS certification be submitted with the issuance of each new gaming facility license to assure the NIGC that the tribe has determined that the construction, maintenance, and operation of the gaming facility is conducted in a manner that adequately protects the environment and the public health and safety, which is an IGRA requirement.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any documents;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Not applicable.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR § 1320.8(d), soliciting comments on the information collection prior to submission to OMB.

Summarize public comment received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years -- even if the collection of information activity is the same as prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

This is a reinstatement of a previously approved collection in connection with a new rulemaking. As part of its rulemaking, the Commission also received general comments specifically aimed at the burden of the information collection.

As set forth in the response to item 2, new part 559 maintains the requirement that a tribe submit a written notice to the NIGC at least 120 days before a new gaming facility will be

opened. The notice must contain: (i) the name and address of the property; (ii) the legal description of the property; (iii) a copy of any deeds or other trust documents to the property if not maintained by the BIA or a short explanation as to why no deed exists; and (iv) documentation on the property's ownership if not already maintained by the BIA. No comments were received requesting to reduce the burden of this information collection—instead, the comments received were directed to shortening the 120-day notice period.

New part 559 also removes the regulatory requirement that each gaming facility license be renewed at least once every three years, and instead allows the tribes to determine the length of their own license renewal periods, if any. This reduces the burden of the information collection relative to former part 559. As part of its rulemaking, the Commission received comments regarding the removal of this regulatory requirement. One commenter was very supportive of the removal of the three-year facility license renewal requirement.

New part 559 also removes the current requirement that tribes submit a document listing all EPHS laws, resolutions, codes, policies, standards, or procedures identified by the tribe as applicable to its gaming facilities. This reduces the burden of the information collection relative to former part 559. As part of its rulemaking, the Commission received comments regarding the removal of this regulatory requirement. Several commenters stated that they are pleased and strongly support this rule change, which removes duplicative and burdensome EPHS reporting requirements in favor of an attestation by the tribe.

New part 559 now provides that tribes need not provide written notice to the Commission of seasonal closures or temporary closures with a duration of less than 180 days. This reduces the burden of the information collection relative to former part 559. As part of its rulemaking, the Commission received comments regarding the removal of this regulatory requirement. Some commenters stated that they are pleased with the notice exemption for temporary or seasonal closures not exceeding 180 days, as it will help reduce administrative burdens for tribal governments.

A few commenters suggested that the rule should have been further amended to exempt tribal gaming regulatory authorities that issue temporary facility licenses from the Commission's notification requirements, which would also have reduced the burden of the information collection. The Commission declined to further amend the rule as suggested by the commenters because notifications to the Commission of new gaming facility openings, whether permanent or temporary, are necessary so that the Commission has accurate, up-to-date records of Indian gaming facilities operating on Indian lands in order for the Commission to be able to perform its statutory responsibilities.

9. Explain any decision to provide any payment or gift to respondents, other than renumeration of contractors or grantees.

The NIGC will not provide any payment or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The information requested, including the EPHS certifications, consists primarily of public documents. To the extent that any information provided is requested by a member of the public, the NIGC will make a decision on whether to release the information based on compliance with 25 U.S.C. § 2716(a) and the Freedom of Information Act, 5 U.S.C. § 552.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Not applicable. No sensitive questions are asked.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens on Item 13 of OMB Form 83-I.**
- **Provide estimates of annualized costs to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

This is a reinstatement of a previously approved collection in connection with a new rulemaking as of September 24, 2012.

This information collection is specific to tribal governments that operate gaming facilities or are considering opening new gaming facilities in accordance with IGRA. The maximum number of potential respondents is approximately 566, the number of federally recognized Indian tribes. (*Notice*, *Indian Entities Recognized and Eligible To Receive Services From the Bureau of Indian Affairs*, 77 FR 47868, Aug. 10, 2012). However, there are only approximately 256 tribes that own, operate, or license approximately 422 gaming facilities in 28 states, and the majority of tribes will not be issuing, renewing, or terminating facility licenses every year.

The NIGC has determined that the hourly cost burden to tribes for the information collection is approximately $17.50 per hour. The NIGC arrived at this number based on past informal information requests to tribes to provide a legal description, a copy of the trust deed, a map of the property, documentation from the BIA on its decision to take the land into trust, and an analysis as to why each tribal gaming site qualified as IGRA-eligible Indian lands. At that time, tribes reported that the collection took approximately 4.0 hours at a cost of approximately $70 ($70 ÷ 4 = $17.50), if the information had already been compiled. Tribes conducting gaming on pre-IGRA trust lands estimated 20 hours of response time to collect the information at a cost of approximately $350 ($350 ÷ 20 = $17.50). The NIGC believes that the $17.50 estimated hourly cost is conservative because the informal information request exceeded the approved information collection under the former part 559.

The notification (of a proposal to open a new gaming facility) and the Indian lands information collection in part 559 apply only to new gaming operations. This portion of the information collection will not be recurring and tribes will only be required to comply with the information collection if they plan on opening a new tribal gaming facility. It is rare that a single tribe will open more than one facility once every few years. From 2008 to 2011, the NIGC received an average of 22 notifications per year proposing to open new gaming operations.

New part 559 still requires tribes opening new gaming facilities to submit: (i) the mailing addresses and legal descriptions for the proposed gaming site; (ii) a copy of the trust deed(s) and documentation on site ownership if not maintained by the BIA; and (iii) the LTRO tract number if the trust or deed information is maintained by the BIA. If a tribe maintains its property deeds through a contract with the BIA, it may already have access to the legal description and the LTRO tract number. There could be a minimal burden on some tribes to learn the legal description of the property from the county recorder's office, through working with the BIA, or from the tribe's own realty office. There would also be a minimal burden on a tribe to locate a copy of a deed or to write a brief explanation as to why no deed was ever issued for the property. Likewise, there would be a burden on tribes to provide documentation of ownership if not already maintained by the BIA. Such documentation can be obtained from the county recorder's office or from the tribe's own realty office if it maintains such information. In general, the NIGC believes that tribes planning to open gaming facilities on fee lands would need to obtain this information as part of the normal course of business; therefore, the Indian lands portion of the information collection will add only limited additional expense to tribes. The NIGC estimates that the average hourly burden for forwarding this information to the NIGC is approximately ten (10) hours, or an approximate cost of $175 per response (10 x $17.50).

Whenever a tribe issues a new facility license, whether it is being originally issued or it is a renewal of a previously issued license, the tribe will be required to submit to the NIGC a copy of each facility license that it issues. In addition, a tribe will be required to submit to the NIGC an EPHS certification that the tribe has determined that the construction, maintenance, and operation of the gaming facility is conducted in a manner that adequately protects the environment and the public health and safety. The NIGC believes that there will be minimal burden for a tribe to provide a copy of an issued license because the tribe will already have created this document through a license notification to the gaming facility, and need only

forward a copy to the NIGC. Also, tribes should already be enforcing EPHS laws and regulations applicable to their gaming operations, thus the time and cost associated with a certification submittal should be minimal. The estimated hourly burden of providing a copy of the facility license and an EPHS certification to the NIGC is approximately two (2) hours, or an approximate cost of $35 (2 x $17.50). From 2010 to 2012, the NIGC has received an average of 111 copies per year of new facility licenses and EPHS certifications.

In addition, new part 559 also requires an information collection if a facility license is terminated or not renewed, or if a gaming facility closes. The NIGC believes that there will be minimal burden for a tribe to provide a notification of a terminated facility license because the tribe will already have created this documentation through governmental meeting minutes or through a notification to the gaming facility, and need only forward that information to the NIGC. The estimated hourly burden of forwarding this information to the NIGC is one (1) hour, or an approximate cost of $17.50. On average, the NIGC receives ten (10) notifications of facility license terminations per year.

INFORMATION COLLECTION SUMMARY FOR NEW PART 559						
CFR CITE	**TOTAL RESPONSES**	**FREQUENCY**	**HOURS PER RESPONSE**	**TOTAL HOURS**	**HOURLY RATE**	**TOTAL COSTS**
559.2	22	1/year	10	220	$17.50	$3,850.00
559.3, 559.4	111	1/year	2	222	$17.50	$3885.00
559.5	10	1/year	1	10	$17.50	$170.50

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component {annualized over its expected useful life}; and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include description of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day, pre-OMB submission public comment process and use existing economics or regulatory impact analysis**

associated with the rulemaking containing the information collection, as appropriate.

- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

There should be no capital or start-up costs for the Indian lands portion of the information collection, other than as discussed in response to item 12.

There should be no capital or start-up costs for tribal submissions of copies of newly issued facility licenses other than as discussed in response to item 12.

There should be no capital or initial start-up costs for the EPHS certification submission other than as discussed in response to item 12. Any costs associated with the customary and usual business practice of complying with EPHS laws and fixing health and safety code violations are not a direct result of a certification requirement, but rather already required by tribal laws, including the tribal gaming ordinance, which requires a tribe to construct, maintain, and operate its gaming facilities in a manner that protects the environment and the public health and safety.

New part 559 also requires an information collection if a facility license is terminated or not renewed or if a gaming facility closes or reopens. There are no expected capital or start-up costs for this portion of the information collection other than as discussed in response to item 12.

14. Provide estimate of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

The estimated total annualized cost of the proposed information collection to the federal government is $7,617.50.

The estimated total cost to the federal government for receiving and processing copies of newly issued facility licenses, notices of facility license terminations, or EPHS certifications is 0.5 hour(s) per response at a cost of $35.00 per hour. The estimate is based on a review and input into the office tracking system by a database specialist.

Total cost to the federal government for receiving and processing notifications of gaming facility openings and Indian lands information is estimated to be $50.00 per hour for an agency attorney to undertake an internal review of the land status to assess NIGC jurisdiction. The agency attorney averages five (5) hours per proposed facility opening notification to review the information. Based on the trends of the past four years, it is expected that an average of 22 new

Indian gaming facilities open each year. There will be nominal operation expenses because the NIGC already maintains an Indian lands database. Therefore, 22 collections at five (5) hours per collection would cost approximately $5,500.00 for receiving and processing notifications of gaming facility openings and Indian lands information.

ESTIMATED ANNUAL BURDEN FOR AGENCY						
CFR CITE	**TOTAL RESPONSES**	**FREQUENCY**	**HOURS OF REVIEW PER RESPONSE**	**TOTAL HOURS**	**AGENCY HOURLY RATE**	**TOTAL AGENCY COSTS**
559.2	22	1/year	5.0	110	$50.00	$5,500.00
559.3, 559.4	111	1/year	0.5	55.5	$35.00	$1,942.50
559.5	10	1/year	.5	5	$35.00	$175.00

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of OMB Form 83-I.

This is a reinstatement of a previously approved collection in connection with a new rulemaking as of September 24, 2012. This rule modified several collections leading to a reduction in burden hour estimates..

559.2: When the NIGC first began this information collection, it estimated that the hourly burden to submit a written notice and Indian lands information to the Commission to be up to 10.0 burden hours at a cost of $175.00 (10 x $17.50). New part 559 maintains the same information collection and does not change the burden hours.

559.3, 559.4: When the NIGC first began this information collection, it estimated that the hourly burden to submit a copy of a newly issued or renewed facility license to the Commission, as well as an EPHS certification and certain EPHS information, to be between 5.0 – 10.0 hours, or approximately $87.50 (5 x 17.50) to $175.0 (10 x $17.50). New part 559 eliminates the requirement that each gaming facility license be renewed at least once every three years, which results in the tribes determining their own license renewal periods, if any. While a tribe must still submit a copy of each renewed facility license (as well as those that are originally issued) to the NIGC within 30 days of issuance, a tribe may decide on longer renewal periods or it may decide that a facility need not renew a license as long as it remains opens. This may reduce the number of respondents. In addition, new part 559 also eliminates the requirement that tribes submit a document listing all EPHS laws, resolutions, codes, policies, standards, or procedures identified by the tribe as applicable to its gaming facilities. New part 559 now merely requires a simple attestation by the tribe certifying that it has determined that the construction, maintenance, and operation of the gaming facility is conducted in a manner that adequately protects the environment and the public health and safety. Thus, the burden hours for this information collection have been reduced from 5.0 – 10.0 to approximately 2.0 hours, or an approximate cost of $35 (2 x $17.50).

559.5: When the NIGC first began this information collection, it estimated that the hourly burden to submit a notification of a license termination to be 0.5 hours for approximately $8.75 (0.5 x $17.50). While the burden hours will remain the same, the number of respondents may be reduced because tribes need no longer provide written notice to the Commission of seasonal closures or temporary closures with a duration of less than 180 days, and thus reduce the burden of the information collection relative to former part 559.

16. For collections of information whose results will be published, outline plans for tabulations and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

This is an ongoing information collection with no ending date and no plans for publication. The NIGC does not plan to use any complex analytical techniques. Information will be processed as it arrives.

17. If seeking approval to not display the expiration date for OMB approval of information collection, explain the reasons that display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB Form 83-I.

Not applicable. The NIGC certifies compliance with 5 CFR § 1320.9.

B. Collection of Information Employing Statistical Methods.

This section is not applicable. Statistical methods are not employed.