

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 C.F.R. Parts 502, 522, 559 and 573

RIN 3141-AA23

Facility License Standards

AGENCY: National Indian Gaming Commission (“NIGC” or “Commission”).

ACTION: Final rule.

SUMMARY: The rule adds new sections and a new part to the Commission’s regulations that require tribes to adopt and enforce standards for facility licenses. These standards will help the Commission ensure that each place, facility or location where class II or class III gaming will occur is located on Indian lands eligible for gaming as required by the Indian Gaming Regulatory Act. The rules will ensure that gaming facilities are constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

DATES: Effective [INSERT 30 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

List of Subjects in 25 CFR Parts 502, 522, 559, and 573

Gambling, Indians-lands, Indians-tribal government, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, amend 25 CFR Chapter III as follows:

25 CFR PART 502 – DEFINITIONS OF THIS CHAPTER

1. The authority citation for part 502 continues to read as follows:

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

2. Add new § 502.22 to read as follows:

§ 502.22 Construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety.

Construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety means a tribe has identified and enforces laws, resolutions, codes, policies, standards or procedures applicable to each gaming place, facility or location that protect the environment and the public health and safety, including standards under a tribal-state compact or Secretarial procedures. Laws, resolutions, codes, policies, standards or procedures in this area shall cover, at a minimum:

- (a) Emergency preparedness, including but not limited to fire suppression, law enforcement, and security;
- (b) Food and potable water;
- (c) Construction and maintenance;
- (d) Hazardous materials;
- (e) Sanitation (both solid waste and wastewater); and
- (f) Other environmental or public health and safety standards adopted by the tribe in light of climate, geography, and other local conditions and applicable to its gaming facilities, places or locations.

3. Add new § 502.23 to read as follows:

§ 502.23 Facility license.

Facility license means a separate license issued by a tribe to each place, facility, or location on Indian lands where the tribe elects to allow class II or III gaming.

25 CFR PART 522 - SUBMISSION OF GAMING ORDINANCE OR RESOLUTION

4. The authority citation for part 522 continues to read as follows:

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

5. Add new paragraph (i) to § 522.2 to read as follows:

§ 522.2 Submission requirements.

(i) A tribe shall provide Indian lands or environmental and public health and safety documentation that the Chairman may in his or her discretion request as needed.

6. Add new part 559 to read as follows:

25 CFR PART 559 – FACILITY LICENSE NOTIFICATIONS, RENEWALS, AND SUBMISSIONS

Sec.

559.1 What is the scope and purpose of this part?

559.2 When must a tribe notify the Chairman that it is considering issuing a new facility license?

559.3 How often must a facility license be renewed?

559.4 When must a tribe submit a copy of a newly issued or renewed facility license to the Chairman?

559.5 What must a tribe submit to the Chairman with the copy of each facility license that has been issued or renewed?

559.6 Does a tribe need to notify the Chairman if a facility license is terminated or not renewed or if a gaming place, facility, or location closes or reopens?

559.7 May the Chairman request Indian lands or environmental and public health and safety documentation regarding any gaming place, facility, or location where gaming will occur?

559.8 May a tribe submit documents required by this part electronically?

Authority: 25 U.S.C. 2701, 2702(3), 2703(4), 2705, 2706, 2710 and 2719.

§ 559.1 What is the scope and purpose of this part?

(a) The purpose of this part is to ensure that each place, facility, or location where class II or III gaming will occur is located on Indian lands eligible for gaming and that the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety pursuant to the Indian Gaming Regulatory Act.

(b) Each gaming place, facility, or location conducting class II or III gaming pursuant to the Indian Gaming Regulatory Act or on which a tribe intends to conduct class II or III gaming pursuant to the Indian Gaming Regulatory Act is subject to the requirements of this part.

§ 559.2 When must a tribe notify the Chairman that it is considering issuing a new facility license?

(a) A tribe shall submit to the Chairman a notice that a facility license is under consideration for issuance at least 120 days before opening any new place,

facility, or location on Indian lands where class II or III gaming will occur.

The notice shall contain the following:

- (1) The name and address of the property;
 - (2) A legal description of the property;
 - (3) The tract number for the property as assigned by the Bureau of Indian Affairs, Land Title and Records Offices, if any;
 - (4) If not maintained by the Bureau of Indian Affairs, Department of the Interior, a copy of the trust or other deed(s) to the property or an explanation as to why such documentation does not exist; and
 - (5) If not maintained by the Bureau of Indian Affairs, Department of the Interior, documentation of the property's ownership.
- (b) A tribe does not need to submit to the Chairman a notice that a facility license is under consideration for issuance for occasional charitable events lasting not more than a week.

§ 559.3 How often must a facility license be renewed?

At least once every three years after the initial issuance of a facility license, a tribe shall renew or reissue a separate facility license to each existing place, facility or location on Indian lands where a tribe elects to allow gaming.

§559.4 When must a tribe submit a copy of a newly issued or renewed facility license to the Chairman?

A tribe must submit to the Chairman a copy of each newly issued or renewed facility license within 30 days of issuance.

§ 559.5 What must a tribe submit to the Chairman with the copy of each facility license that has been issued or renewed?

(a) A tribe shall submit to the Chairman with each facility license an attestation certifying that by issuing the facility license:

(1) The tribe has identified and enforces the environment and public health and safety laws, resolutions, codes, policies, standards or procedures applicable to its gaming operation;

(2) The tribe is in compliance with those laws, resolutions, codes, policies, standards, or procedures, or, if not in compliance with any or all of the same, the tribe will identify those with which it is not in compliance, and will adopt and submit its written plan for the specific action it will take, within a period not to exceed six months, required for compliance. At the successful completion of such written plan, or at the expiration of the period allowed for its completion, the tribe shall report the status thereof to the Commission. In the event that the tribe estimates that action for compliance will exceed six months, the Chairman must concur in such an extension of the time period, otherwise the tribe will be deemed noncompliant. The Chairman will take into consideration the consequences on the environment and the public health and safety, as well as mitigating measures the tribe may provide in the interim, in his or her consideration of requests for such an extension of the time period.

(3) The tribe is ensuring that the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner

which adequately protects the environment and the public health and safety.

(b) A document listing all laws, resolutions, codes, policies, standards or procedures identified by the tribe as applicable to its gaming facilities, other than Federal laws, in the following areas:

- (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;
- (5) Sanitation (both solid waste and wastewater); and
- (6) Other environmental or public health and safety laws, resolutions, codes, policies, standards or procedures adopted by the tribe in light of climate, geography, and other local conditions and applicable to its gaming places, facilities, or locations.

(c) After the first submission of a document under paragraph (b) of this section, upon reissuing a license to an existing gaming place, facility, or location, and in lieu of complying with paragraph (b) of this section, a tribe may certify to the Chairman that it has not substantially modified its laws protecting the environment and public health and safety.

§ 559.6 Does a tribe need to notify the Chairman if a facility license is terminated or not renewed or if a gaming place, facility, or location closes or reopens?

A tribe must notify the Chairman within 30 days if a facility license is terminated or not renewed or if a gaming place, facility, or location closes or reopens.

§ 559.7 May the Chairman request Indian lands or environmental and public health and safety documentation regarding any gaming place, facility, or location where gaming will occur?

A tribe shall provide Indian lands or environmental and public health and safety documentation that the Chairman may in his or her discretion request.

§ 559.8 May a tribe submit documents required by this part electronically?

Yes. Tribes wishing to submit documents electronically should contact the Commission for guidance on acceptable document formats and means of transmission.

25 CFR PART 573 – ENFORCEMENT

7. The authority citation for part 573 continues to read as follows:

Authority: 25 U.S.C. 2705(a)(1), 2706, 2713, 2715.

8. Amend § 573.6 by revising paragraph (a)(4) to read as follows:

§ 573.6 Order of temporary closure.

(a) * * *

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(4) A gaming operation operates for business without a license from a tribe, in violation of part 522 or part 559 of this chapter.

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