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DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 518

RIN: 3141-AA44

Self-Regulation of Class II Gaming

AGENCY: National Indian Gaming Commission.

ACTION: Final rule; technical and correcting amendments.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) is revising its rules concerning the issuance of certificates for tribal self-regulation of Class II gaming: to correct a section heading in the table of contents; to correct a conflict in the deadlines contained in one of the sections which, if left uncorrected, would at times require the Commission to issue certain preliminary findings on the same day that it receives a tribe's response to the Office of Self Regulation's recommendation and report; and to correct referencing errors in two of its rules.

DATES: The effective date of these regulations is September 1, 2013.

FOR FURTHER INFORMATION CONTACT: John Hay, Senior Attorney, National Indian Gaming Commission, 1441 L Street NW, Suite 9100, Washington, D.C. 20005. Telephone: 202-632-7003.

SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA or the Act), Public Law 100-497, 25 U.S.C. 2701 et seq., was signed into law on October 17, 1988. The Act established the

Commission and set out a comprehensive framework for the regulation of gaming on Indian lands. While the Act requires the Commission to “monitor class II gaming conducted on Indian lands on a continuing basis,” 25 U.S.C. 2706(b)(1), any Indian tribe which operates a Class II gaming facility and meets certain other conditions may petition the Commission for a certificate of self-regulation. 25 U.S.C. 2710(c). The Act authorizes the Commission to “promulgate such regulations and guidelines as it deems appropriate to implement” IGRA. 25 U.S.C. 2706(b)(10).

II. Development of the Rule

On April 4, 2013, the Commission published a final rule amending its regulations for the review and approval of petitions seeking the issuance of a certificate for tribal self-regulation of Class II gaming. 78 FR 20236, April 4, 2013. After publication, the Commission discovered that the deadline contained in 25 CFR § 518.7(c)(5) for tribes to respond to the Office of Self Regulation’s recommendation and report, and the deadline contained in 25 CFR § 518.7(d) for the Commission to issue preliminary findings to said recommendation and report, could potentially fall on the same day, thus preventing the Commission from fully considering the tribal response before it has to issue its preliminary findings. Therefore, the Commission is revising its regulations to provide that its preliminary findings will be issued 45 days after receipt of the recommendation and report, so that the Commission has sufficient time to review and consider adequately a tribe’s response to said recommendation and report. This revision is consistent with how the Commission envisioned tribes obtaining a certificate of self-regulation and ensures that all tribal submissions will be fully considered before the Commission issues a decision.

Additionally, the Commission has discovered that the final rule published on April 4, 2013, contained: an incorrect section heading in the part's table of contents; incorrectly referenced a specific section in one of its rules; and that the reference to IGRA contained in § 518.10(a) should read "25 U.S.C. 2710(b)(2)(C)." Therefore, the Commission is also revising its regulations to correct the table of contents, and to correct the referencing errors in § 518.8(b) and § 518.10(a).

III. Certain Findings

Under the Administrative Procedure Act, a notice of proposed rulemaking is not required when an agency, for good cause, finds that notice and public comments are impracticable, unnecessary, or contrary to the public interest. Here, because this rule is not yet in effect and will not be so until September 1, 2013, and because the revisions herein are technical in nature and intended to correct inadvertent errors, the Commission is publishing a technical amendment.

Regulatory Matters

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities as defined by the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. Indian tribes are not considered to be small entities for purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of \$100 million or more. This rule will not cause a major increase in costs or

prices for consumers, individual industries, federal, state, or local government agencies or geographic regions, and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

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 this proposed 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 Executive Order.

National Environmental Policy Act

The Commission has determined that this 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 the Paperwork

Reduction Act, 44 U.S.C. 3501, et seq., and assigned OMB Control Number 3141-0008.

The OMB control number expires on October 31, 2013.

List of Subjects in 25 CFR Part 518

Gambling, Indian-lands, Indian-tribal government, reporting and recordkeeping requirements.

For the reasons set forth in the Preamble, the Commission is amending 25 CFR part 518 as follows:

PART 518 – SELF-REGULATION OF CLASS II GAMING

1. The authority citation for part 518 continues to read as follows:

Authority: 25 U.S.C. 2706(b)(10); E.O. 13175.

2. Revise the section heading to § 518.14 to read as follows:

§ 518.14 May a tribe request a hearing on the Commission’s proposal to revoke its certificate of self-regulation?

3. Revise § 518.7(d) to read as follows:

§ 518.7 What process will the Commission use to review and certify petitions?

* * * * *

(d) After receiving the Office of Self-Regulation’s recommendation and report, and a tribe’s response to the report, the Commission shall issue preliminary findings as to whether the eligibility and approval criteria are met. The Commission’s preliminary findings will be provided to the tribe within 45 days of receipt of the report.

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§ 518.8 [Amended]

4. In § 518.8(b), remove the reference “§ 518.11” and add in its place “§ 518.9 of this part.”

§ 518.10 [Amended]

5. In § 518.10(a), remove the reference “25 U.S.C. 2710(b)(2)(c)” and add in its place “25 U.S.C. 2710(b)(2)(C).”

Tracie L. Stevens,
Chairwoman.

Daniel J. Little,
Associate Commissioner.

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