

## § 292.22

### § 292.22 How does the Secretary request the Governor's concurrence?

If the Secretary makes a favorable Secretarial Determination, the Secretary will send to the Governor of the State:

(a) A written notification of the Secretarial Determination and Findings of Fact supporting the determination;

(b) A copy of the entire application record; and

(c) A request for the Governor's concurrence in the Secretarial Determination.

### § 292.23 What happens if the Governor does not affirmatively concur with the Secretarial Determination?

(a) If the Governor provides a written non-concurrence with the Secretarial Determination:

(1) The applicant tribe may use the newly acquired lands only for non-gaming purposes; and

(2) If a notice of intent to take the land into trust has been issued, then the Secretary will withdraw that notice pending a revised application for a non-gaming purpose.

(b) If the Governor does not affirmatively concur in the Secretarial Determination within one year of the date of the request, the Secretary may, at the request of the applicant tribe or the Governor, grant an extension of up to 180 days.

(c) If no extension is granted or if the Governor does not respond during the extension period, the Secretarial Determination will no longer be valid.

### § 292.24 Can the public review the Secretarial Determination?

Subject to restrictions on disclosure required by the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and the Trade Secrets Act (18 U.S.C. 1905), the Secretarial Determination and the supporting documents will be available for review at the local BIA agency or Regional Office having administrative jurisdiction over the land.

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### INFORMATION COLLECTION

### § 292.25 Do information collections in this part have Office of Management and Budget approval?

The information collection requirements in §§ 292.16, 292.17, and 292.18 have been approved by the Office of Management and Budget (OMB). The information collection control number is 1076-0158. A Federal agency may not collect or sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control.

## Subpart D—Effect of Regulations

### § 292.26 What effect do these regulations have on pending applications, final agency decisions, and opinions already issued?

These regulations apply to all requests pursuant to 25 U.S.C. 2719, except:

(a) These regulations do not alter final agency decisions made pursuant to 25 U.S.C. 2719 before the date of enactment of these regulations.

(b) These regulations apply to final agency action taken after the effective date of these regulations except that these regulations shall not apply to applicable agency actions when, before the effective date of these regulations, the Department or the National Indian Gaming Commission (NIGC) issued a written opinion regarding the applicability of 25 U.S.C. 2719 for land to be used for a particular gaming establishment, provided that the Department or the NIGC retains full discretion to qualify, withdraw or modify such opinions.

## PART 293—CLASS III TRIBAL STATE GAMING COMPACT PROCESS

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AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9, 2710.

SOURCE: 73 FR 74009, Dec. 5, 2008, unless otherwise noted.

### § 293.1 What is the purpose of this part?

This part contains procedures that:

- (a) Indian tribes and States must use when submitting Tribal-State compacts and compact amendments to the Department of the Interior; and
- (b) The Secretary will use for reviewing such Tribal-State compacts or compact amendments.

### § 293.2 How are key terms defined in this part?

(a) For purposes of this part, all terms have the same meaning as set forth in the definitional section of the Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2703 and any amendments thereto.

(b) As used in this part:

(1) *Amendment* means an amendment to a class III Tribal-State gaming compact.

(2) *Compact* or *Tribal-State Gaming Compact* means an intergovernmental agreement executed between Tribal and State governments under the Indian Gaming Regulatory Act that establishes between the parties the terms and conditions for the operation and regulation of the tribe's Class III gaming activities.

(3) *Extensions* means changes to the timeframe of the compacts or amendments.

### § 293.3 What authority does the Secretary have to approve or disapprove compacts and amendments?

The Secretary has the authority to approve compacts or amendments "entered into" by an Indian tribe and a State, as evidenced by the appropriate signature of both parties. See § 293.14 for the Secretary's authority to disapprove compacts or amendments.

### § 293.4 Are compacts and amendments subject to review and approval?

(a) Compacts are subject to review and approval by the Secretary.

(b) All amendments, regardless of whether they are substantive amendments or technical amendments, are subject to review and approval by the Secretary.

### § 293.5 Are extensions to compacts subject to review and approval?

No. Approval of an extension is not required if the extension of the compact does not include any amendment to the terms of the compact. However, the tribe must submit the extension executed by both the tribe and the State along with the documents required under paragraphs (b) and (c) of § 293.8.

### § 293.6 Who can submit a compact or amendment?

Either party (Indian tribe or State) to a compact or amendment can submit the compact or amendment to the Secretary for review and approval.

### § 293.7 When should the Indian Tribe or State submit a compact or amendment for review and approval?

The Indian tribe or State should submit the compact or amendment after it has been legally entered into by both parties.

### § 293.8 What documents must be submitted with a compact or amendment?

Documentation submitted with a compact or amendment must include:

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(a) At least one original compact or amendment executed by both the tribe and the State;

(b) A tribal resolution or other document, including the date and place of adoption and the result of any vote taken, that certifies that the tribe has approved the compact or amendment in accordance with applicable tribal law;

(c) Certification from the Governor or other representative of the State that he or she is authorized under State law to enter into the compact or amendment;

(d) Any other documentation requested by the Secretary that is necessary to determine whether to approve or disapprove the compact or amendment.

### **§ 293.9 Where should a compact or amendment be submitted for review and approval?**

Submit compacts and amendments to the Director, Office of Indian Gaming, U.S. Department of the Interior, 1849 C Street NW, Mail Stop 3543, Main Interior Building, Washington, DC 20240. If this address changes, a notice with the new address will be published in the FEDERAL REGISTER within 5 business days.

[85 FR 37748, June 24, 2020]

### **§ 293.10 How long will the Secretary take to review a compact or amendment?**

(a) The Secretary must approve or disapprove a compact or amendment within 45 calendar days after receiving the compact or amendment.

(b) The Secretary will notify the Indian tribe and the State in writing of the decision to approve or disapprove a compact or amendment.

### **§ 293.11 When will the 45-day timeline begin?**

The 45-day timeline will begin when a compact or amendment is received and date stamped in the Office of Indian Gaming at the address listed in § 293.9.

### **§ 293.12 What happens if the Secretary does not act on the compact or amendment within the 45-day review period?**

If the Secretary neither affirmatively approves nor disapproves a com-

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compact or amendment within the 45-day review period, the compact or amendment is considered to have been approved, but only to the extent it complies with the provisions of the Indian Gaming Regulatory Act.

### **§ 293.13 Who can withdraw a compact or amendment after it has been received by the Secretary?**

To withdraw a compact or amendment after it has been received by the Secretary, the Indian tribe and State must submit a written request to the Director, Office of Indian Gaming at the address listed in § 293.9.

### **§ 293.14 When may the Secretary disapprove a compact or amendment?**

The Secretary may disapprove a compact or amendment only if it violates:

(a) Any provision of the Indian Gaming Regulatory Act;

(b) Any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands; or

(c) The trust obligations of the United States to Indians.

### **§ 293.15 When does an approved or considered-to-have-been-approved compact or amendment take effect?**

(a) An approved or considered-to-have-been-approved compact or amendment takes effect on the date that notice of its approval is published in the FEDERAL REGISTER.

(b) The notice of approval must be published in the FEDERAL REGISTER within 90 days from the date the compact or amendment is received by the Office of Indian Gaming.

### **§ 293.16 How does the Paperwork Reduction Act affect this part?**

The information collection requirements contained in this part have been approved by the OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), and assigned control number 1076–0172. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

## **PARTS 294–299 [RESERVED]**