

NATIONAL INDIAN GAMING COMMISSION (NIGC)

Statement of Regulatory Priorities

The Indian Gaming Regulatory Act (IGRA or the Act), 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The Act established the National Indian Gaming Commission (NIGC). The stated purpose of the NIGC is to regulate the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments. It is the NIGC’s intention to provide regulation of Indian gaming to adequately shield it from organized crime and other corrupting influences, to ensure that each Indian tribe is the primary beneficiary of its gaming operation(s), and to assure that gaming is conducted fairly and honestly by both the operator and players.

The regulatory priorities for the next fiscal year reflect the NIGC’s commitment to uphold the principles of IGRA. As the Indian gaming industry continues to grow and evolve, the NIGC must be continually attentive to reviewing and revising its existing regulations to ensure that they do not become outdated and lose their usefulness. To that end, the NIGC is currently revising its existing regulations concerning background investigations and licenses to ensure the continued integrity of the Indian gaming industry, and that background investigations for key employees and primary management officials are performed as thoroughly and efficiently as possible, and are updated on a regular, ongoing basis. In addition, the NIGC is currently revising its existing regulations on minimum internal control standards to ensure that they remain up to date, and continue to adequately protect against the risks inherent in gambling, especially as gaming technology continues to evolve.

As new developments and trends of concern to effective gaming regulation are most often first perceived and addressed on the gaming floors and in the backs of the gaming houses themselves, it is often that the all-day, everyday tribal gaming regulators present at the tribal gaming facilities are the first to identify weaknesses in the gaming regulatory structure. To detect these concerns as early as possible, the NIGC has been innovative in using active outreach efforts to inform its policy development and its rulemaking efforts. For example, the NIGC has had great success in using regional meetings, both formal and informal, with tribal

governments to gather views on current and proposed NIGC initiatives. The NIGC anticipates that these ongoing consultations with regulated tribes will continue to play an important role in the development of the NIGC’s rulemaking efforts.

NIGC

PROPOSED RULE STAGE

176. TRIBAL BACKGROUND INVESTIGATION SUBMISSION REQUIREMENTS AND TIMING

Priority:

Other Significant

Legal Authority:

25 USC 2706(b)(3); 25 USC 2706(b)(10); 25 USC 2710(b)(2)(F)(ii); 25 USC 2710(c)(1)–(2); 25 USC 2710(d)(A)

CFR Citation:

25 CFR 556; 25 CFR 558

Legal Deadline:

None

Abstract:

It is necessary for the National Indian Gaming Commission (NIGC) to: modify certain regulations concerning background investigations and licensing to streamline the process for submitting information; ensure that the process complies with the Indian Gaming Regulatory Act (IGRA); and distinguish the requirements for temporary and permanent licenses.

Statement of Need:

Modifications to specific background investigation and licensing regulations are needed to ensure compliance with the Indian Gaming Regulatory Act (IGRA), which mandates that certain notifications be submitted to the Commission. Modifications are also needed to reduce the quantity of documents submitted to the Commission under these regulations and to distinguish the requirements for temporary and permanent licenses.

Summary of Legal Basis:

It is the goal of NIGC to provide regulation of Indian gaming to shield it from organized crime and other corrupting influences as well as to assure that gaming is conducted fairly and honestly. (25 U.S.C. 2702). The Commission is charged with the responsibility of monitoring gaming

conducted on Indian lands. (25 U.S.C. 2706(b)(1)). IGRA expressly authorizes the Commission to “promulgate such regulations and guidelines as it deems appropriate to implement the provisions of the (Act).” (25 U.S.C. 2706(b)(10)). Sections 2710(b)(2)(F) and 2710(d)(A) require Tribes to have an adequate system for background investigations of primary management officials and key employees and inform the Commission of the results of those investigations. Under section 2710(c), the Commission may also object to licenses or require a tribe to suspend a license. The Commission relies on these sections of the statute to authorize the modification of the background and licensing regulations to ensure compliance with IGRA, reduce the quantity of documents submitted to the Commission, and distinguish the requirements for temporary and permanent licenses.

Alternatives:

If the Commission does not modify these regulations to reduce the quantity of documents submitted under them, tribes will continue to be required to submit these documents to the Commission. Further, to ensure compliance with IGRA, the modifications mandating notifications to the Commission regarding the results of background checks and the issuance of temporary and permanent gaming licenses must be made.

Anticipated Cost and Benefits:

These modifications to the background investigation and licensing regulations will reduce the cost of regulation to the Federal Government by reducing the amount of documents received from tribes that must be processed and retained. Further, these modifications will reduce the quantity of documents that tribes are required to submit to the NIGC, which will result in a cost savings to the tribes. There are minimal anticipated cost increases to tribal governments due to additional notifications to the NIGC.

Risks:

There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	06/00/10	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Tribal

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RIN: 3141-AA15**NIGC****177. CLASS II AND CLASS III
MINIMUM INTERNAL CONTROL
STANDARDS****Priority:**

Other Significant

Legal Authority:

25 USC 2706(b)(10); 25 USC
2706(b)(1)-(4); 25 USC
2710(d)(3)(C)(vi); 25 USC
2710(d)(7)(B)(vii)

CFR Citation:

25 CFR 542; 25 CFR 543

Legal Deadline:

None

Abstract:

The National Indian Gaming Commission is revising the existing minimum internal control standards (MICS) to reflect the changing technologies in the industry. The Commission will routinely revise the MICS in response to these changes. It is also continuing with its plan to clarify the regulatory structure by segregating Class II MICS from Class III.

Statement of Need:

The rapid evolution of gaming technology and regulatory structures in

Indian gaming brings new risks and requires a distinction between the control standards for Class II and Class III gaming. Periodic review and revision of existing standards are necessary to ensure that they remain relevant and continue to adequately protect tribal gaming assets and the interests of stakeholders and the gaming public.

Summary of Legal Basis:

It is the goal of NIGC to provide regulation of Indian gaming to shield it from organized crime and other corrupting influences as well as assuring that gaming is conducted fairly and honestly. (25 U.S.C. 2702). The Commission is charged with the responsibility of monitoring gaming conducted on Indian lands. (25 U.S.C. 2706(b)(1)). This responsibility includes inspecting and examining the premises located on Indian lands on which Class II gaming is conducted; and auditing all papers, books, and records respecting gross revenues of Class II gaming conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this chapter. (25 U.S.C. 2706(b)(2),(4)). With regard to Class III gaming, section 2710(d)(3)(C)(vi) allows Tribal-State compacts to include negotiated provisions governing the standards for operation of gaming activity, and where states and tribes cannot reach agreement, section 2710(d)(7)(B)(vii) allows the Secretary of the Interior to establish procedures in place of a compact whereby a particular tribe may conduct Class III gaming. In each of the procedures approved to date, the Secretary has delegated the responsibility for gaming standards and oversight to the NIGC. The Commission relies on these sections of the statute to authorize the promulgation of MICS to ensure integrity in tribal gaming.

Alternatives:

If the Commission does not periodically update the MICS, the regulations that govern tribal gaming will not address changing technology and gaming methods.

Anticipated Cost and Benefits:

Updated MICS will aid tribal governments in the regulation of their gaming activities.

Risks:

There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
First NPRM	12/01/04	69 FR 69847
Second NPRM	03/10/05	70 FR 11893
Final Action on First Rule	05/04/05	70 FR 23011
Final Action on Second Rule	08/12/05	70 FR 47097
Third NPRM	11/15/05	70 FR 69293
Final Action on Third Rule (1)	05/11/06	71 FR 27385
Fourth NPRM	12/00/09	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Tribal

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