

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

This rule does not require information collection under the Paperwork Reduction Act of 1995, 44 U.S.C. 2501, *et seq.*, and is therefore not subject to review by the Office of Management and Budget.

List of Subjects in 25 CFR Part 537

Gambling, Indians—tribal government, Indians—business and finance.

For the reasons discussed in the Preamble, the Commission amends 25 CFR part 537 as follows:

PART 537—BACKGROUND INVESTIGATIONS FOR PERSONS OR ENTITIES WITH A FINANCIAL INTEREST IN, OR HAVING MANAGEMENT RESPONSIBILITY FOR, A MANAGEMENT CONTRACT

■ 1. The authority citation for part 537 continues to read as follows:

Authority: 25 U.S.C. 81, 2706(b)(10), 2710(d)(9), 2711.

■ 2. Amend § 537.1 by revising paragraph (a)(4) to read as follows:

§ 537.1 Applications for approval.

(a) * * *
(4) Any entity with a financial interest in a management contract (in the case of any tribe, a wholly owned tribal entity, national bank, or institutional investor that is federally regulated or is required to undergo a background investigation and licensure by a state or tribe pursuant to a tribal-state compact, the Chair may exercise discretion and reduce the scope of the information to be furnished and the background investigation to be conducted); and
* * * * *

■ 3. Revise paragraphs (b) introductory text, (c) introductory text, and (d) of § 537.3 to read as follows:

§ 537.3 Fees for background investigations.

* * * * *
(b) The management contractor shall post a deposit with the Commission to cover the cost of the background investigations as follows:
* * * * *

(c) The management contractor shall be billed for the costs of the investigation as it proceeds; the investigation shall be suspended if the

unpaid costs exceed the amount of the deposit available.

* * * * *

(d) Any remaining balance of the deposit will be returned to the management contractor when all bills have been paid and the investigations have been completed or terminated.

■ 4. Section 537.4 is revised to read as follows:

§ 537.4 Determinations.

The Chair shall determine whether the results of a background investigation preclude the Chair from approving a management contract because of the individual disqualifying factors contained in § 533.6(b)(1) of this chapter. The Chair shall promptly notify the tribe and management contractor if any findings preclude the Chair from approving a management contract or a change in financial interest.

Dated: July 31, 2012, Washington, DC.

Tracie L. Stevens,
Chairwoman.

Steffani A. Cochran,
Vice-Chairwoman.

Daniel J. Little,
Associate Commissioner.

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DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 571

RIN 3141-AA49

Issuance of Investigation Completion Letters

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Final rule.

SUMMARY: This action amends our regulations to provide for the issuance of an investigation completion letter if the Agency will not recommend the commencement of an enforcement proceeding against a respondent.
DATES: *Effective Date:* September 10, 2012.

FOR FURTHER INFORMATION CONTACT: John Hay, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: 202–632–7009.

SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100–497, 25 U.S.C. 2701 *et seq.*, was signed into law

on October 17, 1988. The Act establishes the National Indian Gaming Commission (“Commission”) and sets 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 a National Indian Gaming Commission 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.

II. Previous Rulemaking Activity

On November 18, 2010, the National Indian Gaming Commission (NIGC) 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 NIGC should utilize to make revisions. 75 FR 70680 (Nov. 18, 2010). On April 4, 2011, after holding eight consultations and reviewing all comments, NIGC published a Notice of Regulatory Review Schedule setting out a consultation schedule and process for review. 76 FR 18457. The Commission’s regulatory review process established a tribal consultation schedule with a description of the regulation groups to be covered at each consultation. This part 571 was included in the regulatory review.

As part of its review of part 571, the Commission consulted with tribes and tribal leaders or their representatives in every region of the country. Further, on June 28, 2011, the Commission issued a preliminary draft of amendments to Part 571 and requested public comment.

The Notice of Regulatory Review Schedule announced the Commission’s intent to review whether part 571 needed revision to clarify the NIGC’s authority to access records located off-site, including at sites maintained and owned by third-parties. Comments received by the Commission in response to the Notice of Inquiry expressed the view that NIGC already possessed that authority, that it was clear and that it

did not need to be further clarified through regulation. The Commission agreed that further clarification was unnecessary and did not propose changes to that section.

Throughout the review process of this part, the Commission received comments that the regulations should include a process for notifying a tribe that an investigation has been concluded. Tribal representatives explained that in some instances they were never notified of the results of investigations opened by the NIGC years ago. The discussion draft attempted to formalize NIGC's informal process of advising a tribe, through NIGC's authorized representative, after an investigation was terminated. All comments received on the discussion draft were supportive of the concept. However, several comments indicated that such a letter should be mandatory and not discretionary. The Commission believes it is important to provide the Chair with the discretion to make those determinations on a case-by-case basis. The final rule retains that discretion.

After considering the comments received from the public and through tribal consultation, the Commission published a Notice of Proposed Rulemaking on October 12, 2011. The comment period closed on December 12, 2011.

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III. Review of Public Comments

In response to our Notice of Proposed Rulemaking, published October 11, 2011, 76 FR 63237, we received the following comments.

Comment: Numerous comments support the issuance of an investigation closure letter. Many comments stated the importance of providing some indication when an investigation has been completed and that an enforcement action is no longer active.

Response: The Commission agrees that in some circumstances such a letter may be appropriate.

Comment: One commenter suggested that the issuance of investigation closure letters be mandatory instead of voluntary.

Response: The Commission believes that the Chair should retain discretion in conducting investigations and when staff may indicate that a matter is closed. Therefore, the Commission believes these letters should not be mandatory.

IV. Regulatory Matters

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Indian tribes are not considered to be small entities for the 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 within the Department of the Interior, 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 rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of General Counsel 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

This rule does not require information collection under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, and is therefore not subject to review by the Office of Management and Budget.

List of Subjects in 25 CFR Part 571

Gambling, Indian—lands, Indian—tribal government, Reporting and recordkeeping requirements.

Accordingly, for the reasons discussed in the preamble, the Commission amends 25 CFR part 571 as follows:

PART 571—MONITORING AND INVESTIGATIONS

■ 1. The authority citation for part 571 continues to read as follows:

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

■ 2. Add new § 571.4 to subpart A to read as follows:

§ 571.4 Investigation completion letter.

In instances where NIGC has concluded its investigation of a particular matter and will not recommend the commencement of an enforcement proceeding against a respondent at that time, the Commission's authorized representative, in his or her discretion, may advise the party by letter that the investigation has been completed. An investigation completion letter does not constitute a finding that no violation of IGRA, NIGC regulations, or a tribe's approved gaming ordinance occurred. Further, an investigation completion letter does not preclude the reopening of an investigation or the initiation of an enforcement action by the Chair.

Dated: July 31, 2012, Washington, DC.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Associate Commissioner.

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DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 573

Enforcement Actions

AGENCY: National Indian Gaming Commission.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) is amending its enforcement regulation to include a graduated pre-enforcement process through which a tribe may come into voluntary compliance.

DATES: *Effective Date:* September 10, 2012.