

SUBCHAPTER B—APPROVAL OF CLASS II AND CLASS III ORDINANCES AND RESOLUTIONS

PARTS 520–521 [RESERVED]

PART 522—SUBMISSION OF GAMING ORDINANCE OR RESOLUTION

Sec.

- 522.1 Scope of this part.
- 522.2 Submission requirements.
- 522.3 Amendment.
- 522.4 Amendment approvals and disapprovals.
- 522.5 Approval requirements for class II ordinances.
- 522.6 Disapproval of a class II ordinance.
- 522.7 Approval requirements for class III ordinances.
- 522.8 Disapproval of a class III ordinance.
- 522.9 Publication of class III ordinance and approval.
- 522.10 Approval by operation of law.
- 522.11 Individually owned class II and class III gaming operations other than those operating on September 1, 1986.
- 522.12 Individually owned class II gaming operations operating on September 1, 1986.
- 522.13 Revocation of class III gaming.

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§ 522.1 Scope of this part.

This part applies to any class II or class III gaming ordinance or resolution, or amendment thereto adopted by a tribe.

§ 522.2 Submission requirements.

A tribe shall submit to the Chair via electronic or physical mail all of the following information with a request for approval of a class II or class III ordinance or resolution, or amendment thereto:

(a) One copy of an ordinance or resolution certified as authentic by an authorized tribal official that meets the approval requirements in § 522.5(b) or § 522.7.

(b) A copy of the procedures to conduct or cause to be conducted background investigations on key employees and primary management officials and to ensure that key employees and primary management officials are noti-

fied of their rights under the Privacy Act as specified in § 556.2 of this chapter;

(c) A copy of the procedures to issue tribal licenses to primary management officials and key employees promulgated in accordance with § 558.3 of this chapter;

(d) When an ordinance or resolution concerns class III gaming, a copy of any approved tribal-state compact or class III procedures as prescribed by the Secretary that are in effect at the time the ordinance or amendment is passed;

(e) A copy of the procedures for resolving disputes between the gaming public and the tribe or the management contractor;

(f) A copy of the designation of an agent for service under § 519.1 of this chapter; and

(g) Identification of the entity that will take fingerprints and a copy of the procedures for conducting a criminal history check. Such a criminal history check shall include a check of criminal history records information maintained by the Federal Bureau of Investigation.

(h) A tribe shall provide Indian lands or tribal gaming regulations or environmental and public health and safety documentation that the Chair may request in the Chair's discretion. The tribe shall have 30 days from receipt of a request for additional documentation to respond.

§ 522.3 Amendment.

(a) Within 15 days after adoption, a tribe shall submit for the Chair's approval, via electronic or physical mail, any amendment to an ordinance or resolution.

(b) A tribe shall submit to the Chair all of the following information with a request for approval of an amendment:

(1) One copy of the amendment certified as authentic by an authorized tribal official;

(2) Any submission under § 522.2(b) through (h) that has been modified since it prior conveyance to the Chair

Nat'l Indian Gaming Comm., Interior

§ 522.5

for an ordinance, resolution, or amendment approval; and

(3) A conforming copy of the entire ordinance or resolution.

§ 522.4 Amendment approvals and disapprovals.

(a) No later than 90 days after the submission of any amendment to a class II ordinance or resolution the Chair shall approve the amendment if the Chair finds that:

(1) A tribe meets the amendment submission requirements of § 522.3(b); and

(2) The amendment complies with § 522.5(b).

(b) No later than 90 days after a tribe submits any amendment to a class II ordinance for approval, the Chair may disapprove the amendment if the Chair determines—

(1) A tribe failed to comply with the amendment submission requirements of § 522.3; or

(2) The amendment does not comply with § 522.5(b).

(c) No later than 90 days after the submission of any amendment to a class III ordinance or resolution, the Chair shall approve the amendment if the Chair finds that—

(1) A tribe meets the amendment submission requirements of § 522.3(b); and

(2) The amendment complies with § 522.7(b) and (c).

(d) No later than 90 days after a tribe submits any amendment to a class III ordinance for approval, the Chair may disapprove the amendment if the Chair determines that—

(1) A tribal governing body did not adopt the amendment in compliance with the governing documents of the tribe;

(2) The amendment does not comply with § 522.7(b) and (c); or

(3) A tribal governing body was significantly and unduly influenced in the adoption of the amendment by a person having a direct or indirect financial interest in a management contract, a person having management responsibility for a management contract, or their agents.

(e) The Chair shall notify a tribe of its right to appeal a disapproval under part 582 of this chapter. A disapproval shall be effective immediately unless appealed under part 582 of this chapter.

§ 522.5 Approval requirements for class II ordinances.

No later than 90 days after the submission to the Chair including all materials required under § 522.2, the Chair shall approve the class II ordinance or resolution if the Chair finds that:

(a) A tribe meets the submission requirements contained in § 522.2; and

(b) The class II ordinance or resolution provides that—

(1) The tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation unless it elects to allow individually owned gaming under either § 522.11 or § 522.12;

(2) A tribe shall use net revenues from any tribal gaming or from any individually owned games only for one or more of the following purposes:

(i) To fund tribal government operations or programs;

(ii) To provide for the general welfare of the tribe and its members (if a tribe elects to make per capita distributions, the plan must be approved by the Secretary of the Interior under 25 U.S.C. 2710(b)(3));

(iii) To promote tribal economic development;

(iv) To donate to charitable organizations; or

(v) To help fund operations of local government agencies;

(3) A tribe shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the Commission;

(4) All gaming related contracts that result in purchases of supplies, services, or concessions for more than \$25,000 in any year (except contracts for professional legal or accounting services) shall be specifically included within the scope of the audit conducted under paragraph (b)(3) of this section;

(5) A tribe shall perform background investigations and issue licenses for key employees and primary management officials according to requirements that are at least as stringent as those in parts 556 and 558 of this chapter;

(6) A tribe shall issue a separate license to each place, facility, or location on Indian lands where a tribe elects to allow class II gaming; and

§ 522.6

(7) A tribe shall construct, maintain and operate a gaming facility in a manner that adequately protects the environment and the public health and safety.

(c) A tribe that subsequently amends a gaming ordinance pending before the Chair shall also provide an authentic resolution withdrawing the pending submission and resubmitting the revised submission.

§ 522.6 Disapproval of a class II ordinance.

(a) No later than 90 days after a tribe submits an ordinance for approval under § 522.2, the Chair may disapprove an ordinance if it determines that a tribe failed to comply with the requirements of § 522.2 or § 522.5(b).

(b) The Chair shall notify a tribe of its right to appeal under part 582 of this chapter. A disapproval shall be effective immediately unless appealed under part 582 of this chapter.

§ 522.7 Approval requirements for class III ordinances.

No later than 90 days after the submission to the Chair under § 522.2, the Chair shall approve the class III ordinance or resolution if:

(a) A tribe meets the submission requirements contained in § 522.2;

(b) The ordinance or resolution meets the requirements contained in § 522.5(b)(2) through (7); and

(c) The tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation unless it elects to allow individually owned gaming under § 522.11.

§ 522.8 Disapproval of a class III ordinance.

(a) Notwithstanding compliance with the requirements of § 522.7 and no later than 90 days after a submission under § 522.2, the Chair shall disapprove an ordinance or resolution if the Chair determines that:

(1) A tribal governing body did not adopt the ordinance or resolution in compliance with the governing documents of the tribe; or

(2) A tribal governing body was significantly and unduly influenced in the adoption of the ordinance or resolution by a person having a direct or indirect

25 CFR Ch. III (4–1–25 Edition)

financial interest in a management contract, a person having management responsibility for a management contract, or their agents.

(b) The Chair shall notify a tribe of its right to appeal a disapproval under part 582 of this chapter. A disapproval shall be effective immediately unless appealed under part 582 of this chapter.

§ 522.9 Publication of class III ordinance and approval.

The Chair shall publish notice of approval of class III tribal gaming ordinances or resolutions in the FEDERAL REGISTER, along with the Chair's approval thereof.

§ 522.10 Approval by operation of law.

If the Chair fails to approve or disapprove an ordinance, resolution, or amendment thereto submitted under § 522.2 or § 522.3 within 90 days after the date of submission to the Chair, the tribal ordinance, resolution, or amendment thereto shall be considered to have been approved by the Chair but only to the extent that such ordinance, resolution, or amendment thereto is consistent with the provisions of the Indian Gaming Regulatory Act (IGRA or Act) and this chapter.

§ 522.11 Individually owned class II and class III gaming operations other than those operating on September 1, 1986.

For licensing of individually owned gaming operations other than those operating on September 1, 1986 (addressed under § 522.12), a tribal ordinance shall require:

(a) That the gaming operation be licensed and regulated under an ordinance or resolution approved by the Chair;

(b) That income to the tribe from an individually owned gaming operation be used only for the purposes listed in § 522.4(b)(2);

(c) That not less than 60 percent of the net revenues be income to the tribe;

(d) That the owner pay an assessment to the Commission under § 514.1 of this chapter;

(e) Licensing standards that are at least as restrictive as those established by State law governing similar gaming

Nat'l Indian Gaming Comm., Interior

§ 522.13

within the jurisdiction of the surrounding State; and

(f) Denial of a license for any person or entity that would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the surrounding State. State law standards shall apply with respect to purpose, entity, pot limits, and hours of operation.

§ 522.12 Individually owned class II gaming operations operating on September 1, 1986.

For licensing of individually owned gaming operations operating on September 1, 1986, under § 502.3(e) of this chapter, a tribal ordinance shall contain the same requirements as those in § 522.11(a) through (d).

§ 522.13 Revocation of class III gaming.

A governing body of a tribe, in its sole discretion and without the approval of the Chair, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorizes class III gaming.

(a) A tribe shall submit to the Chair one copy of any revocation ordinance or resolution certified as authentic by an authorized tribal official.

(b) The Chairman shall publish such ordinance or resolution in the FEDERAL REGISTER and the revocation provided by such ordinance or resolution shall take effect on the date of such publication.

(c) Notwithstanding any other provision of this section, any person or entity operating a class III gaming operation on the date of publication in the FEDERAL REGISTER under paragraph (b) of this section may, during a one-year period beginning on the date of publication, continue to operate such operation in conformance with a tribal-state compact.

(d) A revocation shall not affect:

(1) Any civil action that arises during the one-year period following publication of the revocation; or

(2) Any crime that is committed during the one-year period following publication of the revocation.

PARTS 523–529 [RESERVED]