



DEC - 5 2003

John Miller, Tribal Chairman
Pokagon Band of Potawatomi Indians
P.O. Box 180
Dowagiac, MI 49047

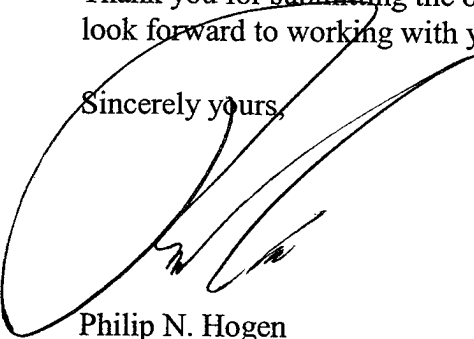
Dear Chairman Miller:

This letter is in response to your request to the National Indian Gaming Commission (NIGC) for the Chairman to review and approve the Pokagon Band of Potawatomi Indians Gaming Regulatory Act (Ordinance). The Tribal Council enacted the original Ordinance by Resolution No. 03-05-10-01 on May 10, 2003. The Tribe withdrew the Ordinance on September 13, 2003, and resubmitted it with amendments enacted by Resolution No. 03-10-11-12 on October 11, 2003.

This letter constitutes such approval of the Ordinance under the Indian Gaming Regulatory Act (IGRA). It is important to note that the gaming ordinance is approved for gaming only on Indian lands, as defined in the IGRA and the NIGC regulations, over which the Tribe has jurisdiction.

Thank you for submitting the ordinance for review and approval. The NIGC staff and I look forward to working with you and the Pokagon Band on future gaming issues.

Sincerely yours,



Philip N. Hogen
Chairman

cc: Michael G. Phelan, Esq.

POKAGON BAND OF POTAWATOMI INDIANS

TRIBAL COUNCIL

P.O. Box 180, 58620 Sink Road, Dowagiac, MI 49047

Telephone 269-782-6323 / FAX 269-782-9625

OCT 28 2003

POKAGON BAND OF POTAWATOMI INDIANS

RESOLUTION NO. 03-10-11-12

- WHEREAS:** The Pokagon Band of Potawatomi Indians of Michigan and Indiana is a Federally recognized Tribe, as reaffirmed under P.L.103-323, enacted September 21, 1994; and
- WHEREAS:** The By-Laws of the Pokagon Band were the governing documents of the Band at the time P.L.103-323 was approved, and continue as the Band's interim governing documents until a constitution is duly adopted by the Pokagon Band; and
- WHEREAS:** In accordance with P.L. 103-323 and the By-Laws of the Pokagon Band, the Tribal Council is the governing body of the Band; and
- WHEREAS:** The Pokagon Band has the inherent sovereign right to engage in gaming activities provided that those activities are not inconsistent with applicable law; and
- WHEREAS:** Article IV, Section 1 of the Pokagon Band By-Laws authorizes the Tribal Council to manage the "property, business, and affairs of the Pokagon Band" exercise "all such powers of the Pokagon Band as by law directed or required by the Pokagon Band to be exercised"; and
- WHEREAS:** The Pokagon Band desires to engage in all Class I, Class II, and Class III gaming as those terms are defined in the Indian Gaming Regulatory Act and the implementing regulations at 25 C.F.R. Part 502; and
- WHEREAS:** The Indian Gaming Regulatory Act requires that all Class II and Class III gaming activities be conducted pursuant to a tribal ordinance, which must be approved by the National Indian Gaming Commission; and
- WHEREAS:** By Tribal Council Resolution No. 03-05-10-01, the Tribal Council enacted laws titled the Pokagon Band of Potawatomi Indians Gaming Regulatory Act to regulate Class II and Class III gaming that is within Pokagon Band jurisdiction and subject to the Band's regulatory authority; and

WHEREAS: The Tribal Council recognizes that certain amendments to the Gaming Regulatory Act are necessary and desirable.

NOW, THEREFORE, BE IT RESOLVED: that the Pokagon Band Tribal Council enacts the amendments to the Pokagon Band of Potawatomi Indians Gaming Regulatory Act set forth below in legislative format showing all proposed deletions and additions to the text of the Act.

Section II, "Definitions", shall be amended as follows:

II. DEFINITIONS

- A. ...
- B. ...
- C. ...
- D. "Class II gaming" shall have the definition that term is given in the Indian Gaming Regulatory Act at 25 U.S.C. § 2703 (7) and in the implementing regulations at 25 C.F.R. § 502.3.
- E. "Class III Gaming" shall have the definition that term is given in the Indian Gaming Regulatory Act at 25 U.S.C. § 2703 (8) and in the implementing regulations at 25 C.F.R. § 502.4, but such definition shall exclude any Class III gaming that is not authorized by the Compact means all forms of gaming authorized by the Compact, which are neither Class I nor Class II gaming, as such terms are defined in 2703 (6) and (7) of IGRA. Only those Class III games authorized by the Compact may be played by the Band.
- F. ...
- G. "Indian Lands" shall have the definition that term is given in the Indian Gaming Regulatory Act at 25 U.S.C. § 2703 (4) and the implementing regulations at 25 C.F.R. § 502.12 but, as to Class III gaming only, such definition shall exclude any Indian lands that are not also included within the definition of 'Eligible Indian Lands' set forth in the Compact means reservation lands acquired under 25 U.S.C. § 1300j (6) within Allegan, Berrien, Van Buren, and Cass Counties, Michigan.

Section IX, "Licenses for Key Employees and Primary Management Officials", shall be amended as follows:


IX. LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

The Committee shall ensure that the background investigations and license determinations concerning policies and procedures set out in this section are implemented with the respect to key employees and primary management officials employed at any Class II or Class III gaming enterprise operated on Indian Lands are implemented according to requirements that are at least as stringent as those in 25 C.F.R. Parts 556 and 558.

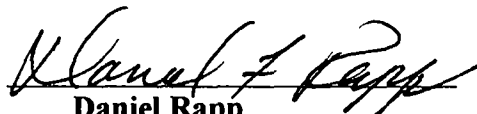
AND BE IT FURTHER RESOLVED: that the Tribal Council directs the Chairman to submit the amended Gaming Regulatory Act to the Chairman of the National Indian Gaming Commission for review and approval.

CERTIFICATION

We do hereby certify that the foregoing Resolution was presented and voted upon with a quorum present at a duly called Meeting of the Tribal Council held on the 11th day of October, 2003 by a vote of 8 in favor, opposed, 0 3 absent, and 0 abstaining.



John Miller
Tribal Council Chairman



Daniel Rapp
Tribal Council Secretary

OCT 28 2003

POKAGON BAND OF POTAWATOMI INDIANS

GAMING REGULATORY ACT

I. PURPOSE

The Tribal Council of the Pokagon Band of Potawatomi Indians, empowered by the By-laws of the Band to enact laws, hereby enacts this Gaming Regulatory Act in order to set the terms for Class II and Class III gaming operations on tribal lands.

II. DEFINITIONS

- A. "Any offense", as used in subsection VII.D.2 (c), shall mean any criminal offense not described in subsection VII.D.2 (b), whether committed in Michigan or any other jurisdiction, that is, or would be, a crime under the provisions of the Michigan Penal Code, Act No. 328 of the Public Acts of 1931, as amended, being MCL 750.1 to 750.568, or the controlled substance provisions of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, being MCL 333.7101 to 333.7545, or any other criminal offense not specified in subparagraph (2) involving theft, dishonesty, fraud or misrepresentation arising under the law of Michigan or another state or jurisdiction, that was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from the employee's criminal record by executive pardon, state court order, or operation of law.
- B. "Band" means the Pokagon Band of Potawatomi Indians of Michigan and Indiana.
- C. "Class I gaming" shall have the definition that term is given in the Indian Gaming Regulatory Act at 25 U.S.C. § 2703 (6).
- D. "Class II gaming" shall have the definition that term is given in the Indian Gaming Regulatory Act at 25 U.S.C. § 2703 (7) and in the implementing regulations at 25 C.F.R. § 502.3.
- E. "Class III gaming" shall have the definition that term is given in the Indian Gaming Regulatory Act at 25 U.S.C. § 2703 (8) and in the implementing regulations at 25 C.F.R. § 502.4, but such definition shall exclude any Class III gaming that is not authorized by the Compact.
- F. "Fraud or misrepresentation", as used in subsection VII.D.2 (b), shall mean a criminal offense committed in Michigan or any other jurisdiction, involving, theft, fraud or misrepresentation, which is a felony or would be a felony if committed in Michigan, and which was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from the employee's criminal record by executive pardon, state court order, or operation of law.
- G. "Indian lands" shall have the definition that term is given in the Indian Gaming Regulatory Act at 25 U.S.C. § 2703 (4) and the implementing regulations at 25 C.F.R. § 502.12 but, as to Class III gaming only, such

definition shall exclude any Indian lands that are not also included within the definition of “Eligible Indian Lands” set forth in the Compact.

- H. “Key employee” means:
1. A person who performs one or more of the following functions:
 - (a) bingo caller;
 - (b) counting room supervisor
 - (c) chief of security;
 - (d) custodian of gaming supplies or cash;
 - (e) floor manager;
 - (f) pit boss;
 - (g) dealer;
 - (h) croupier;
 - (i) approver of credit; or
 - (j) custodian of gambling devices including persons with access to cash and accounting records within such devices;
 2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
 3. If not otherwise included, the four most highly compensated persons in the gaming operation.
- I. “Person” means a business, individual, proprietorship, firm, partnership, joint venture, syndicate, trust, labor organization, company, corporation, association, committee, state, local government, government instrumentality or entity, or any other organization or group of persons acting jointly.
- J. “Pokagon Compact” or “Compact” means the Compact between the Pokagon Band of Potawatomi Indians and the State of Michigan Providing for the Conduct of Tribal Class III Gaming by the Band, which was entered into January 29, 1997.
- K. “Primary management official” means:
1. The person having management responsibility for a management contract;
 2. Any person who has authority:
 - (a) To hire and fire employees; or
 - (b) To set up working policy for the gaming operation; or
 3. The chief financial officer or other person who has financial management responsibility.
- L. “Tribal Chairperson” means the duly elected Chairperson of the Band.

III. GAMING AUTHORIZED

A. Indian Gaming Regulatory Act Requirements

Subject to the limitations stated below in subsection B, the Band may conduct Class I, Class II, and Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. § 2703 (7) and (8) (“IGRA”) and by the regulations implementing IGRA that were promulgated by the National Indian Gaming Commission (“NIGC” or “Commission”), 25 C.F.R. § 502.3 and 502.4 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992).

B. Pokagon Compact Requirements

Pursuant to the Pokagon Compact, the Band may lawfully conduct the following Class III games on Indian lands:

1. Craps and related dice games;
2. Wheel games, including "Big Wheel" and related games;
3. Roulette;
4. Banking card games that are not otherwise treated as Class II gaming in Michigan pursuant to 25 U.S.C. 2703(7)(C), and non banking card games played by any Michigan tribe on or before May 1, 1988;
5. Electronic games of chance featuring coin drop and payout as well as printed tabulations, whereby the software of the device predetermines the presence or lack of a winning combination and payout. Electronic games of chance are defined as a microprocessor controlled electronic device which allows a player to play games of chance, which may be affected by an element of skill, activated by the insertion of a coin or currency, or by the use of a credit, and awards game credits, cash, tokens, or replays, or a written statement of the player's accumulated credits, which written statements are redeemable for cash;
6. Keno;
7. Any other Class III game that lawfully may be operated by a person licensed to operate a casino pursuant to the Initiated Law of 1996, MCL 432.201 et seq.; and
8. Games that lawfully may be conducted pursuant to MCL 750.303a and MCL 750.310a.

The Band shall not conduct any Class III gaming outside of Indian lands.

C. Additional Pokagon Compact Requirements

1. The rules of each Class III card game shall be posted in a prominent place in each card room and must designate:
 - (a) The maximum rake off percentage, time buy in or other fee charged;
 - (b) The number of raises allowed;
 - (c) The monetary limit of each raise;
 - (d) The amount of ante; and
 - (e) Other rules as may be necessary.
2. No person under the age of 18 may participate in any Class III game
3. In the facility of the Band where Class III gaming is conducted the Band shall post in a prominent position a Notice to patrons at least two (2) feet by three (3) feet in dimension with the following language:

NOTICE

THIS FACILITY IS REGULATED BY ONE OR MORE OF THE FOLLOWING: THE NATIONAL INDIAN GAMING COMMISSION, BUREAU OF INDIAN AFFAIRS OF THE U.S. DEPARTMENT OF THE INTERIOR AND THE GOVERNMENT OF THE POKAGON BAND OF POTAWATOMI INDIANS.

THIS FACILITY IS NOT REGULATED BY THE STATE OF MICHIGAN

IV. OWNERSHIP OF GAMING

The Band shall have the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this Act, unless and to the extent that a management agreement has been entered into by the Band that meets the requirements of IGRA and has been approved by the National Indian Gaming Commission.

V. USE OF GAMING REVENUE

- A. Net revenues from Class II and Class III gaming shall be used only for the following purposes: to fund tribal government operations and programs; provide for the general welfare of the Band and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.
- B. If the Band elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710 (b) (3).

VI. TRIBAL GAMING REGULATORY COMMITTEE

- A. Establishment of the Gaming Regulatory Committee. The Tribal Council hereby establishes the Gaming Regulatory Committee (the "Committee") as the designated gaming regulatory authority for the Pokagon Band of Potawatomi Indians. The Committee shall exist indefinitely until disestablished by the Tribal Council.
- B. Composition. The Committee shall be composed of 3 members of the Tribal Council, other than members of the Executive Council and shall be separately appointed by a majority vote of a quorum of the Tribal Council. A Council member being appointed to the Committee shall abstain from the vote on his or her own appointment.
- C. Term of Service. Members of the Gaming Regulatory Authority shall serve for terms of four (4) years, which term shall commence as of the date of appointment to the Committee.

D. Authority. The Gaming Regulatory Committee is authorized to fulfill the Pokagon Band's regulatory responsibilities regarding gaming conducted within the jurisdiction of the Band and subject to regulation by the Band. The Committee is authorized to take all actions and to require such actions as may be reasonably necessary in fulfillment of the Committee's regulatory responsibilities. Among other responsibilities, the Committee is specifically responsible for the following:

1. Key Employee and Primary Management Official background Investigations and Suitability determinations.
 - (a) The Committee shall conduct or cause to be conducted background investigations on all applicants for key employee and primary management positions in gaming operations licensed by the Band.
 - (b) The Committee shall review and approve all investigative work performed regarding the backgrounds of each key employee and primary management official.
 - (c) The Committee shall report the results of all background investigations of key employees and primary management officials to the National Indian Gaming Commission.
 - (d) The Committee shall obtain and process all fingerprints for key employees and primary management officials.
 - (e) The Committee shall make suitability determinations for all key employees and primary management officials before such persons are permitted to commence any employment duties.

2. Facility Licensing.
 - (a) A separate license for each place, facility, or location on Indian lands where Class II or Class III gaming is conducted under this Act is required before gaming operations may be commenced.
 - (b) All facilities where gaming will be conducted shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.
 - (c) The Committee shall conduct such investigations, inspections, and review as may be necessary to determine that a gaming facility meets all applicable regulatory and other requirements under the Indian Gaming Regulatory Act, the Compact, this Act and other applicable law prior to issuing a license to the facility.
 - (d) The license shall be renewed annually.
 - (e) A copy of each facility license, including each annual renewal of a facility license, must be submitted to the National Indian Gaming Commission.
 - (f) Each facility license shall include the name of the Band, the name and address of the facility, the type of gaming allowed (Class II and/or Class III) and the effective date of the license. The license shall bear the signature of the appropriate governmental official for

the Band responsible for issuing the license and the name and phone number of the governmental agency for the Band responsible for the regulation of the gaming operation.

- (g) The facility license shall be prominently displayed in the gaming operation so that it can be easily viewed by patrons.

3. The Committee shall be responsible for ensuring that all gaming operations are in compliance with all applicable Minimum Internal Control Standards at all times.

- E. Meetings. The Committee shall meet as often as is necessary to fulfill its responsibilities in a timely manner.
- F. Organization. The Tribal Council shall appoint a chairperson to the Committee from among the Committee members. The Chairperson shall conduct Committee meetings, direct work assignments among the Committee members and Committee staff, and establish Committee work priorities.
- G. Quorum. Two members of the Committee shall constitute a quorum. Decisions shall be made by majority vote or by consensus.
- H. Removal. A Committee member may be removed by the Council for serious misconduct in office or for any conduct which threatens the honesty or integrity of the Committee.
- I. Vacancy. If any Committee member shall die, resign, be removed, or for any reason be unable to continue to serve on the Committee, the Council shall declare the position vacant and shall appoint another person to serve the balance of the unexpired term.
- J. Conflict of Interest. No person shall be appointed or continue to serve as a member of the Committee if the member has any personal, business, or legal relationship that creates a conflict of interest with such members duties and responsibilities on the Committee. No Committee member may be involved in a matter before the Committee that involves a member of the Committee member's immediate family, which is defined as spouse, children, siblings, and parents. Notwithstanding the quorum requirement stated in paragraph G of this Section, In the event that one or more Committee members must be recused from a matter due to a conflict of interest, the remaining members or member shall have authority to resolve or decide the matter.

VII. ACCOUNTING AND AUDITS

- A. Pokagon Compact Accounting Requirements

All accounting records shall be kept on a double entry system of accounting, maintaining detailed, supporting, subsidiary records. The Band shall maintain the following records for not less than three (3) years:

1. Revenues, expenses, assets, liabilities and equity for the location at which Class III gaming is conducted;
2. Daily cash transactions for each Class III game at the location at which gaming is conducted, including but not limited to transactions relating to each gaming table bank, game drop box and gaming room bank;
3. All markers, IOUs, returned checks, hold checks or other similar credit instruments;
4. Individual and statistical game records (except card games) to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;
5. Contracts, correspondence and other transaction documents relating to all vendors and contractors;
6. Records of all tribal gaming enforcement activities;
7. Audits prepared by or on behalf of the Band; and
8. Personnel information on all Class III gaming employees or agents, including rotation sheets, hours worked, employee profiles and background checks.

B. IGRA Audit Requirements

1. The Band shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.
2. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection B.1 above.

C. Bank Secrecy Act Requirements

The Band shall comply with all applicable provisions of the Bank Secrecy Act, P.L. 91 508, October 26, 1970, 31 U.S.C. §§ 5311 – 5314, and the regulations set forth in 31 C.F.R. Part 103.

VIII. PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Class II and Class III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

IX. LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

The Committee shall ensure that the background investigations and license determinations concerning key employees and primary management officials employed at any Class II or Class III gaming enterprise operated on Indian Lands are implemented according to requirements that are at least as stringent as those in 25 C.F.R. Parts 556 and 558.

A. Application Forms

1. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided:

Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, Local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

2. Existing key employees and primary management officials shall be notified in writing that they shall either:
 - (a) Complete a new application form that contains a Privacy Act notice; or
 - (b) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

- (c) The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant:

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (18 U.S.C. § 1001)

- 3. The Committee shall notify in writing existing key employees and primary management officials that they shall either:
 - (a) Complete a new application form that contains a notice regarding false statements; or
 - (b) Sign a statement that contains the notice regarding false statements.

C. Background Investigations

- 1. The Committee shall request from each primary management official and from each key employee all of the following information:
 - (a) Full name, other names used (oral or written), social security number (s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
 - (b) Currently and for the previous 5 years: business and employment positions held, ownership interest in those businesses, business and residence addresses, and driver's license number;
 - (c) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1) (b) of this section;
 - (d) Current business and residence telephone numbers;
 - (e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
 - (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

- (g) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (j) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1) (h) or (1) (i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- (k) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (l) A current photograph;
- (m) Any other information the Committee deems relevant; and
- (n) Fingerprints consistent with procedures adopted by the Band according to 25 C.F.R. § 522.2 (h).

2. Fingerprinting Procedure.

- (a) Fingerprints. All applicants shall be fingerprinted by the Pokagon Band Tribal Police. If the applicant does not live within a reasonable driving distance from the Tribal Police headquarters, the Committee may, in its discretion, authorize another duly constituted state, federal or tribal law enforcement body to take the fingerprints. Whenever, this authorization is granted, the law enforcement body taking the prints shall certify to the Committee in writing, that the prints were taken according to standard police procedures.
- (b) Criminal History Check. Once the fingerprints are taken, the Tribal Police or such other duly constituted state, federal, or tribal

law enforcement body authorized by the Committee to take fingerprints shall forward those prints along with all other required information and fees directly to the National Indian Gaming Commission to be processed through the Federal Bureau of Investigation, National Criminal Information Center, for a criminal records search.

3. The Committee shall conduct an investigation sufficient to make a determination under subsection D below. In conducting a background investigation, the Committee or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation. The following is a list of minimum investigative procedures that will be performed:
 - (a) Verify by written or oral communication information submitted by applicant.
 - (b) Inquire into the applicant's prior activities, criminal record, if any, and reputation, habits and associations, including conducting a criminal background investigation for every jurisdiction where the applicant has resided for ten years prior to the date of the application.
 - (c) Interview a sufficient number of knowledgeable people such as former employers, personal references, and others to whom referred in order to provide a basis for the Committee to make a finding concerning the applicant's suitability for being licensed as a key employee or primary management official in a gaming operation.
 - (d) Document the disposition of all potential problem areas noted and disqualifying information obtained.

D. Eligibility Determination

1. IGRA Requirements.

For all Class II and Class III gaming, the Committee shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Committee determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

2. Pokagon Compact Requirements.

For all Class III gaming, the Band may not license, hire, or employ as a key employee or primary management official as those terms are defined at 25 CFR §§ 502.14 and 502.19 any person who:

- (a) Is under the age of 18; or
- (b) Has been convicted of or entered a plea of guilty or no contest to a gambling related offense, fraud or misrepresentation; or
- (c) Has been convicted of or entered a plea of guilty or no contest to any offense not specified in subparagraph (2) within the immediately preceding five years; this provision shall not apply if that person has been pardoned by the Governor of the State where the conviction occurred or, if a tribal member, has been determined by the Band to be a person who is not likely again to engage in any offensive or criminal course of conduct and the public good does not require that the applicant be denied a license as a key employee or primary management official; or
- (d) Is determined by the Committee to have participated in organized crime or unlawful gambling or whose prior activities, criminal records, reputation, habits, and/or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or to the carrying on of the business and financial arrangements incidental to the conduct of gaming.

E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

- 1. When a key employee or primary management official begins work at a gaming operation authorized by this Act, the Committee shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection D of this section.
- 2. The Committee shall forward the report referred to in subsection F of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Act by the Chairman of the National Indian Gaming Commission.
- 3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in subsection E of this section, the Committee shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:
 - (a) Steps taken in conducting a background investigation;
 - (b) Results obtained;
 - (c) Conclusions reached; and
 - (d) The bases for those conclusions
2. The Committee shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.
3. If a license is not issued to an applicant, the Committee:
 - (a) Shall notify the National Indian Gaming Commission; and
 - (b) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individual Records System.
4. With respect to key employees and primary management officials, the Committee shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

G. Granting a Gaming License

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Committee that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Committee has provided an application and investigative report to the National Indian Gaming Commission, the Committee may issue a license to such applicant.
2. The Committee shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph G. 1. of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Committee with a statement itemizing

objections to the issuance of a license to a key employee or to a primary management official for whom the Committee has provided an application and investigative report to the National Indian Gaming Commission, the Committee shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Committee shall make the final decision whether to issue a license to such applicant.

H. License Suspension

1. If, after the issuance of a gaming license, the Committee receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection D above, the Committee shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
2. The Committee shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
3. After a revocation hearing, the Committee shall decide to revoke or to reinstate a gaming license. The Committee shall notify the National Indian Gaming Commission of its decision.

X. POKAGON COMPACT REQUIREMENTS REGARDING CLASS III GAMES

- A. No Class III games of chance, gaming equipment or supplies may be purchased, leased or otherwise acquired by the Band unless the Class III equipment or supplies meet the technical equipment standards of either the State of Nevada or the State of New Jersey.
- B. Prior to entering into any lease or purchase agreement, the Band shall obtain sufficient information and identification from the proposed seller or lessor and all persons holding any direct or indirect financial interest in the lessor or the lease/purchase agreement to permit the Band to conduct a background check on those persons. The Band shall not enter into any lease or purchase agreement for Class III gaming equipment or supplies with any person or entity if the lessor, seller, or any manager or person holding direct or indirect financial interest in the lessor/seller or the proposed lease/purchase agreement, is determined to have participated in or have involvement with organized crime or has been convicted of or entered a plea of guilty or no contest to a gambling related offense, fraud or misrepresentation, or has been convicted of or entered a plea of guilty or no contest to any other felony offense within the immediately preceding five years, unless that person has been pardoned.

- C. The seller, lessor, manufacturer, or distributor shall provide, assemble and install all Class III games of chance, gaming equipment, and supplies in a manner approved and licensed by the Band.

XI. MINIMUM INTERNAL CONTROL STANDARDS

- A. Scope and Application. The Minimum Internal Control Standards described in this Section apply to all Class II and Class III gaming. These standards are established to provide a level of control that equals or exceeds the regulatory requirements set forth in 25 CFR Part 542.
- B. Standards. Before any gaming operation licensed pursuant to this Act commences operations, the gaming operation shall develop and implement an internal control system that, at a minimum, complies with the internal control standards set forth in the following sections of Title 25 of the Code of Federal Regulations: § 542.7 (bingo games); § 542.8 (pull tabs); § 542.9 (card games); § 542.10 (keno); § 542.11 (pari-mutuel wagering); § 542.12 (table games); § 542.13 (gaming machines); § 542.14 (cage); § 542.15 (credit); § 542.16 (information technology); § 542.17 (complimentary services or items); § 542.41 (drop and count); § 542.42 (internal audit); and § 542.43 (surveillance). A gaming operation is not required to develop an internal control system for any game that is not and will not be in operation.
- C. Games Not Addressed. A gaming operation licensed pursuant to this Section shall not commence the operation of any game not addressed by the standards set forth in this Section until the Band has established minimum internal control standards for such game and the gaming operation has developed and implemented an internal control system that complies with those standards.
- D. Conflicts with State Standards.
 - 1. If there is a direct conflict between an internal control standard established in the Compact and a standard or requirement set forth in this Section, then the internal control standard established in the Compact shall prevail.
 - 2. If an internal control standard in the Compact provides a level of control that equals or exceeds the level of control under an internal control standard or requirement set forth in this Section, then the Compact standard shall prevail.
 - 3. If an internal control standard or a requirement set forth in this Section provides a level of control that exceeds the level of control under an internal control standard established in the Compact, then the internal control standard or requirement set forth in this Section shall prevail.

4. Nothing in this Section shall be construed to grant to the State of Michigan jurisdiction in Class II or Class III gaming or to extend the State of Michigan's rights regarding Class III gaming authorized by the Compact.

E. Small or Charitable Gaming Operations.

1. Small Gaming Operations. This Section shall not apply to small gaming operations provided that:
 - (a) The Band permits the operation to be exempt from this part;
 - (b) The annual gross gaming revenue of the operation does not exceed \$1 million; and
 - (c) The Band develops and the operation complies with alternate procedures that:
 - (i) Protect the integrity of games offered; and
 - (ii) Safeguard the assets used in connection with the operation.
2. Charitable Gaming Operations. This Section shall not apply to charitable gaming operations provided that:
 - (a) All proceeds are for the benefit of a charitable organization;
 - (b) The Band permits the charitable organization to be exempt from this part;
 - (c) The charitable gaming operation is operated wholly by the charitable organization's employees or volunteers;
 - (d) The annual gross gaming revenue of the charitable gaming operation does not exceed \$100,000; and
 - (e) The Tribal gaming regulatory authority develops and the charitable gaming operation complies with alternate procedures that:
 - (i) Protect the integrity of the games offered; and
 - (ii) Safeguard the assets used in connection with the gaming operation.

Where the annual gross gaming revenues of the charitable gaming operation exceed \$100,000, but are less than \$1 million, paragraph (a) of this section shall also apply.

3. Independent Operators. Nothing in this section shall exempt gaming operations conducted by independent operators for the benefit of a charitable organization.

F. Variances.

1. The Committee may approve a variance for a gaming operation if it has determined that the variance will achieve a level of control sufficient to accomplish the purpose of the standard it is to replace. For each enumerated standard for which the Committee approves a variance, it shall submit to the National Indian Gaming Commission, within thirty (30) days, a detailed report, which shall include the following:

- (a) A detailed description of the variance;
- (b) An explanation of how the variance achieves a level of control sufficient to accomplish the purpose of the standard it is to replace; and
- (c) Evidence that the Committee has approved the variance.

In the event that the Committee chooses to submit a variance request directly to the National Indian Gaming Commission, it may do so without the approval requirement set forth in paragraph F.1(c) of this Section.

- 2. Curing Commission objections.
 - (a) Following an objection by the Commission to the issuance of a variance, the Committee shall have the opportunity to cure any objections noted by the Commission.
 - (b) The Committee may cure the objections raised by the Commission by:
 - (i) Rescinding its initial approval of the variance; or
 - (ii) Amending its initial approval and re-submitting it to the Commission.
- 3. Effective Date of Variance. The gaming operation shall comply with standards that achieve a level of control sufficient to accomplish the purpose of the standard it is to replace until such time as the Commission objects to the Committee's approval of a variance.

- G. Report on Compliance. An independent certified public accountant (CPA) shall be engaged to perform procedures to verify, on a test basis, that the gaming operation is in material compliance with the tribal internal control standards or a tribally approved variance that has received Commission concurrence. The procedures may be performed in conjunction with the annual audit. The CPA shall report its findings to the Band and management. The Band shall submit a copy of the report to the Commission within 120 days of the gaming operation's fiscal year end.

XII. LICENSE LOCATIONS

The Gaming Regulatory Committee shall issue a separate license to each place, facility, or location on Indian lands where Class II or Class III gaming is conducted under this Act. The license shall be renewed annually. A copy of each facility license, including each annual renewal of a facility license, must be submitted to the National Indian Gaming Commission. Each facility license shall include the name of the Band, the name and address of the facility, the type of gaming allowed (Class II and/or Class III) and the effective date of the license. The license shall bear the signature of the appropriate governmental official for the Band responsible for issuing the license and the name and phone number of the governmental agency for the Band

responsible for the regulation of the gaming operation. The facility license shall be prominently displayed in the gaming operation so that it can be easily viewed by patrons.

XIII. REPEAL

To the extent that they are inconsistent with this Act, all prior gaming laws are hereby repealed.