

# National Indian Gaming Commission

## Table Summarizing Regulatory Changes – August 2013

| <i>Part 25 CFR</i> | <i>TITLE</i>                               | <i>ACTION TAKEN</i>       |   |
|--------------------|--|---------------------------|---|
| 501                | Purpose and Scope                          | None                      |   |
| 502                | Definitions of this Chapter                | Adds Subpart (§502.24)    | Adds definition of “enforcement action” as any action sought by the Chair under 25 U.S.C. § 2713 for a violation of IGRA, the NIGC regulations or tribal regulations, ordinances or resolutions.  |
|                    |  | Removes Subpart (§502.22) | Removes definition entitled “Construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and public health and safety.”  |
| 503                | Paperwork Reduction Act                    | None                      |   |
| 513                | Debt Collection                            | None                      |   |
| 514                | Fees                                       | Revises Part              | Amends part to require the submission of fees and fee worksheets on a quarterly basis rather than bi-annually; to require gaming operations to calculate fees based on an operation’s fiscal rather than calendar year; to include certain language to better reflect industry usage; to establish a schedule for assessing fees and fee worksheets submitted up to 90 days late; and to establish a payment process for fingerprinting fees. |
| 515                | Privacy Act Procedures                     | None                      |   |
| 516                | Testimony of current and former NIGC staff | None                      |   |
| 517                | Freedom of Information Act Procedures      | None                      |   |

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| 518 | Self-Regulation of Class II Gaming   | Revises Part | Clarifies and streamlines the process for the review and approval of petitions seeking the issuance of a certificate for tribal self-regulation of Class II gaming.   |
| 519 | Service  | None         |   |
| 522 | Submission of Gaming Ordinance or Resolution   | None         |   |
| 523 | Review and Approval of Existing Ordinances   | Repeals Part | Repeals obsolete part relating to tribal gaming ordinances enacted prior to 1993 that were not yet submitted to the NIGC Chair.   |
| 524 | Appeals  | Removes Part | Removes part and replaces with new appeals parts (see §§ 580, 581, 582, 583, 584 and 585).  |
| 531 | Content of Management Contracts  | None         |   |
| 533 | Approval of Management Contracts   | None         |   |
| 535 | Post-Approval Procedures   | None         |   |
| 537 | Background Investigations for Persons or Entities with a Financial Interest in, or Having Management Responsibility for, a Management Contract | Revises Part | Adds requirement allowing Chair to exercise discretion as to permit a reduced scope of background investigations for certain entities; provides for suspension of investigations for unpaid costs and return of deposit balances once investigations are completed or terminated; and provides that the Chair will determine whether the results of a background investigation preclude the Chair from approving a management contract. |
| 539 | Appeals  | Removes Part | Removes part and replaces with new appeals parts (see §§ 580, 581, 582, 583, 584 and 585).  |
| 542 | Minimum Internal Control Standards   | None         |   |
| 543 | Minimum Internal Control Standards   | Revises Part | Revisions to this part were extensive and cannot  |

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|     | for Class II Gaming   |              | be adequately summarized here.   |
| 547 | Minimum Technical Standards for Class II Gaming Systems and Equipment | Revises Part | Revisions to this part were extensive and cannot be adequately summarized here.  |
| 556 | Background Investigations – Key Employees                             | Revises Part | Revisions to reflect the Pilot Program between the NIGC and tribes. To this end, they require tribes submit a notice of results of the background investigations of primary management officials and key employees to the NIGC. The NIGC must be notified of the results of the background investigation before a license is issued and within 60 days of an individual beginning employment. The notice of results must include the applicant’s name, date of birth, social security number, date on which they started work, a summary of the information in the investigative report, and a copy of the eligibility determination. The summary in the NOR must include: previously denied licenses, any revoked licenses, any known criminal charge brought within ten years of the application, and every felony conviction or ongoing prosecution. Applications, investigative reports, and eligibility notifications must be retained for three years from the date of termination of employment. The Privacy Act notice and the notice regarding false statements on all license application forms must be updated by the end of August, 2013. Existing primary |

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|     |  |              | management officials and key employees are required to either complete a new application form containing these notices or sign a statement that contains the Privacy Act notice and consent to the routine uses described in the notice. Any new amendments to tribal gaming ordinances (submitted after February 25, 2013), must comply with the amended regulations.  |
| 558 | Gaming Licenses                                | Revises Part | Revisions address the issuance of licenses to key employees and primary management officials. NIGC must be notified when a license is issued, within 30 days of its issuance. This notification must be made subsequent to the notification regarding the background investigation results. Additionally, tribes must notify the NIGC if a license is not issued. Tribes are also required to notify the NIGC, after license revocation hearings, of decisions to either revoke or reinstate a gaming license. Such notification must occur within 45 days of receiving the initial notification from the NIGC that an applicant may be ineligible for licensure. Any new amendments to tribal gaming ordinances (submitted after February 25, 2013), must comply with the amended regulations. |
| 559 | Facility License Notifications and Submissions | Revises Part | Amends part to provide for an expedited NIGC review to confirm a tribe's submission of facility license information; to require tribes to provide the NIGC a copy of the license within 30 days of issuance and renewal; to require   |

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|     |                               | Removes Subpart (§502.22)                        | <p>tribes to notify the NIGC within 30 days if a facility license is terminated, expires, or the facility closes or reopens; to limit the submission of information relating to the construction, maintenance and operation of a gaming facility to an attestation; and to allow seasonal or temporary closures of less than 180 days without the need for a notice.</p> <p>Removes definition about construction and maintenance of gaming facilities.</p>                                   |
| 571 | Monitoring and Investigations | Adds Subpart (§571.4)                            | Allows the NIGC staff to send investigation completion letters when they will not recommend enforcement action, but does not preclude the NIGC from reopening an investigation or initiating a future enforcement action.   |
| 573 | Compliance and Enforcement    | <p>Revises Part</p> <p>Adds Subpart (§573.2)</p> | <p>Amends the existing enforcement process to include a graduated pre-enforcement process during which a tribe may come into voluntary compliance. Details when the Chair may issue a notice of violation or temporary closure order, and defines when an enforcement action becomes a final agency action.</p> <p>Allows the NIGC staff issue a letter of concern to tribes or other entities detailing compliance issues prior to recommending the initiation of an enforcement action.</p> |
| 575 | Civil Fines                   | None   |   |

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| 580 | Rules of General Application in Appeal Proceedings Before the Commission                                | New Part | Includes definitions, sets forth the burden of proof and standard of review, requires a statement of findings and conclusions for all final Commission decisions, provides for resolution of an appeal if the Commission does not issue a majority decision, and clarifies the effect of an appeal on challenged decisions. |
| 581 | Motions in Appeal Proceedings Before the Commission   | New Part | Allows an entity, other than a tribe, to participate in ordinance appeals. Sets out a process for filing motions to intervene, to supplement the record and/or for reconsideration with the Commission, and for filing motions with the presiding official.   |
| 582 | Appeals of Disapprovals of Gaming Ordinances, Resolutions, or Amendments                                | New Part | Applies only to NIGC disapprovals of gaming ordinances, resolutions or amendments. Establishes criteria for who may appeal and sets out the appeals process, applicable time frames, permissible motions and the process for limited participation by other entities in an appeal.  |
| 583 | Appeals from Approvals or Disapprovals of Management Contracts or Amendments to Management Contracts    | New Part | Applies only to approvals and disapprovals of management contracts and amendments. Establishes criteria for who may appeal and sets out the appeals process, applicable time frames and permissible motions.  |
| 584 | Appeals Before a Presiding Official of Notices of Violation, Proposed Civil Fine Assessments, Orders of | New Part | Applies to appeals where a party has requested a hearing before a presiding official prior to the Commission making a final decision.   |

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|     | Temporary Closure, the Chair's Decisions to Void or Modify Management Contracts, the Commission's Proposals to Remove a Certificate of Self-Regulation, and Notices of Late Fees and Late Fee Assessments  |          | Establishes criteria for who may appeal and sets out the appeals process, applicable time frames, permissible motions, and the process for participation and intervention by other entities.   |
| 585 | Appeals to the Commission on Written Submissions of Notices of Violation, Proposed Civil Fine Assessments, Orders of Temporary Closure, the Chair's Decisions to Void or Modify Management Contracts, the Commission's Proposals to Remove a Certificate of Self-Regulation, and Notices of Late Fees and Late Fee Assessments | New Part | Applies to appeals before the Commission on written submissions. Establishes criteria for who may appeal and sets out the appeals process, applicable time frames, permissible motions and the process for participation and intervention by other entities. |