

the approval requirements of § 518.4. Such report shall be filed with the Commission on April 15th of each year following the first year of self-regulation. Failure to file such report shall be grounds for the removal of a certificate under § 518.8.

§ 518.8 Does a tribe that holds a certificate of self-regulation have a continuous duty to advise the Commission of any information?

Yes. A tribe that holds a certificate of self-regulation has a continuous duty, at all times after the receipt of a certificate of self-regulation, to immediately advise the Commission of any circumstances that may negatively impact on the tribe's ability to continue to self-regulate. Failure to do so is grounds for removal of a certificate of self-regulation. Such circumstances may include, but are not limited to: a change in management contractor; financial instability; or any other factors that may undermine a tribe's ability to effectively regulate.

§ 518.9 Are any of the investigative or enforcement powers of the Commission limited by the issuance of a certificate of self-regulation?

No. The Commission retains its investigative and enforcement powers over all class II gaming tribes notwithstanding the issuance of a certificate of self-regulation. The Commission shall retain its powers to investigate and bring enforcement actions for violations of the Indian Gaming Regulatory Act, accompanying regulations, and violations of tribal gaming ordinances.

§ 518.10 Under what circumstances may the Commission remove a certificate of self-regulation?

The Commission may, after an opportunity for a hearing, remove a certificate of self-regulation by a majority vote of its members if it determines that the tribe no longer meets the eligibility criteria of § 518.2, the approval criteria of § 518.4, the requirements of § 518.7 or the requirements of § 518.8. The Commission shall provide the tribe with prompt notice of the Commission's intent to remove a certificate of self-regulation under this part. Such notice shall state the reasons for the Commission's action and shall advise the tribe of its right to a hearing under § 518.9.

§ 518.11 May a tribe request a hearing on the Commission's proposal to remove its certificate?

Yes. A tribe may request a hearing regarding the Commission's proposal to remove a certificate of self-regulation

under § 518.8. Such a request shall be filed with the Commission within thirty (30) days after the tribe received notice of the Commission's action. Failure to request a hearing within the time provided by this section shall constitute a waiver of the right to a hearing.

§ 518.12 May a tribe request reconsideration by the Commission of a denial of a petition or a removal of a certificate of self-regulation?

Yes. A tribe may file a request for reconsideration of a denial of a petition or a removal of a certificate of self-regulation within 30 days of receipt of the denial or removal. Such request shall set forth the basis for the request, specifically identifying those Commission findings which the tribe believes to be erroneous. The Commission shall issue a decision with regard to any request for reconsideration within 30 days of receipt of the request. If the Commission fails to issue a decision within 30 days, the request shall be considered to be disapproved.

[FR Doc. 98-6284 Filed 3-11-98; 8:45 am]

BILLING CODE 7565-01-P

NATIONAL INDIAN GAMING COMMISSION

25 CFR Chapter III

Self-Regulated Class III Gaming Operations

AGENCY: National Indian Gaming Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This notice announces the initiation of the rulemaking process and requests information relevant to implementing regulations governing the classification of class III gaming operations as "self-regulated." The Commission may not assess any fee on the gaming activity of a class III gaming operation operated by a self-regulated tribe.

DATES: Comments in response to this advance notice must be submitted by May 11, 1998.

ADDRESSES: Commenters may submit their comments by mail, facsimile, or delivery to: Class III Self-Regulation Rule Comments, National Indian Gaming Commission, Suite 9100, 1441 L Street N.W., Washington, D.C. 20005. Fax number: 202-632-7066 (not a toll-free number). Public comments may be delivered or inspected from 9 a.m. until noon and from 2 p.m. to 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Maria Getoff at 202-632-7003, or by

facsimile at 202-632-7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

1. Introduction

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 (the Commission). The IGRA was enacted for several purposes, primary among them was to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting economic development, self-sufficiency, and strong tribal governments, as well as to provide for the regulation of gaming by Indian tribes adequate to shield them from organized crime. The IGRA was recently amended, by Public Law No. 105-83, to increase the total amount of fees that the Commission may impose on gaming tribes. 25 U.S.C. 2717(a). This increase was achieved by raising the original fee cap and by authorizing the Commission to collect fees from class III operations, which did not previously pay fees. The recent amendment also provides that self-regulated tribes "such as the Mississippi Band of Choctaw" (Band) shall not be required to pay fees. Section 2717(a)(2)(c) of 25 U.S.C. provides that "[n]othing in subsection (a) of this section shall apply to self-regulated tribes such as the Mississippi Band of Choctaw." (Subsection (a) provides that "the Commission shall establish a schedule of fees to be paid to the Commission annually by each gaming operation that conducts a class II or class III gaming activity that is regulated by this chapter"). The amendment provides no guidance as to what the term "self-regulated" means. It merely refers to the Band, which operates a class III gaming operation. The specific criteria for establishing self-regulation are set forth in the original Act as applicable to class II activity only. That section has not been amended.

The Commission has issued, contemporaneously with this Advance Notice of Proposed Rulemaking, a Notice of Proposed Rulemaking regarding the issuance of certificates of self-regulation for class II operations.

The IGRA expressly authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provision of this [Act]." 25 U.S.C. 2706(b)(10).

2. Advance Notice of Proposed Rulemaking

After consideration of this issue, the NIGC has determined that the appropriate course of action is to

publish an Advance Notice of Proposed Rulemaking to collect further information.

Before the NIGC proceeds in this area, it intends to have the benefit of a full airing of the issues through the public comment process.

3. Request for Comments

Public comment is requested to assist the NIGC in the drafting of regulations to govern the self-regulation certification process for class III gaming operations. Comment is requested on the following issues:

(a) What initial eligibility requirements should be met by a tribe before the Commission will undertake a review of a petition for self-regulation of its class III gaming operation(s)?

(b) What specific criteria should be met before a tribe may be issued a certificate of self-regulation with respect to its class III gaming operation(s)?

(c) What process should the Commission use for the review of

petitions for self-regulation of a class III gaming operation(s)?

(d) Under what circumstances should the Commission remove a certificate of self-regulation?

(e) What should be the process for the removal of a certificate of self-regulation?

The Commission solicits any additional suggestions and/or interpretations regarding the issues raised in this Advance Notice of Proposed Rulemaking.

4. Public Participation

Interested parties are invited to submit comments on any or all of these and other pertinent issues related to issuing class III regulations on self-regulation. Comments must be submitted in triplicate by May 11, 1998 to Class III Self-Regulation Rule Comments, National Indian Gaming Commission, Suite 9100, 1441 L Street N.W., Washington, D.C. 20005. Fax

number: 202-632-7066 (not a toll-free number). All written comments submitted in response to this notice will be available for inspection and copying in the NIGC office from 9 a.m. until noon and from 2 p.m. to 5 p.m. Monday through Friday. All timely written submissions will be considered in determining the nature of any proposal.

Authority and Signature

This Advance Notice of Proposed Rulemaking was prepared under the direction of Philip Hogen, Commissioner, National Indian Gaming Commission, 1441 L St. N.W., Suite 9100, Washington, D.C. 20005.

Signed at Washington, D.C. this 24th day of February, 1998.

Philip Hogen,

Commissioner, National Indian Gaming Commission.

[FR Doc. 98-6288 Filed 3-11-98; 8:45 am]

BILLING CODE 7565-01-P