



DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 523

RIN: 3141-AA45

Review and Approval of Existing Ordinances or Resolutions; Repeal

AGENCY: National Indian Gaming Commission.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission is repealing obsolete regulations relating to tribal gaming ordinances enacted prior to 1993 that have not yet been submitted to the NIGC Chair. The repealed regulations apply only to gaming ordinances enacted by Tribes prior to January 22, 1993, and not yet submitted to the Chairwoman. Based upon comments received, the Commission believes that all gaming ordinances enacted prior to January 22, 1993, have been submitted to the Chair for review. Therefore, this regulation is no longer necessary, and the Commission removes it in its entirety.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jennifer Ward, Staff Attorney, Office of General Counsel, at (202) 632-7003; fax (202) 632-7066.

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100-497, 25 U.S.C. 2701 et seq., authorizes the NIGC to promulgate such regulations and guidelines as it deems appropriate to implement certain provisions of the Act. 25 U.S.C. 2706(b)(10). On November 12, 2010, the Commission issued a Notice of Inquiry (NOI) requesting 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. The NOI was published in the Federal Register on November 18, 2010. 75 FR 70680. The Commission's regulatory review process established a tribal consultation schedule of 33 meetings over 11 months with a description of the regulation groups to be covered at each consultation. On October 12, 2011, the Commission published a Notice of Proposed Rulemaking (NPRM) indicating its intent to repeal part 523 and requested comment through December 12, 2011. 76 FR 63236.

I. Removal of Part 523 – Review and Approval of Existing Ordinances or Resolutions

Part 523 applies only to gaming ordinances or resolutions enacted by Tribes prior to January 22, 1993, and not yet submitted to the Chairwoman. All comments received in response to the NOI, during tribal consultation meetings, or in response to the NPRM indicated that any ordinances or resolutions enacted prior to January 22, 1993 already have been submitted to the Chair for review. Accordingly, comments support the repeal of this part. A review of the Commission documents also did not find any ordinances or resolutions meeting the criteria of this part that require review. Because this regulation appears to be no longer necessary, the Commission removes this part.

II. Specific Comments

Four tribes responded to the NPRM. Of these four, none had effective ordinances that were enacted prior to 1993. Two tribes were supportive of the rule, one had no objection, and the fourth declined comment other than to say the repeal would not affect it..

III. Regulatory Matters

Regulatory Flexibility Act

The proposed rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The final rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of \$100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions, nor will the proposed rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, 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 the final rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission 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 Order.

National Environmental Policy Act

The Commission has determined that the 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 impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule merely repeals a previous rule, and does not establish, or modify any information reporting or recordkeeping requirements, and therefore is not subject to the requirements of the Paperwork Reduction Act.

Text of the Final Rule

For the reasons stated in the preamble, and under the authority 25 U.S.C. 2701, the National Indian Gaming Commission removes and reserves 25 CFR part 523.

PART 523 [REMOVED AND RESERVED]

Authority: 25 U.S.C. 2701, 2706(b)(10).

DATED: January 27, 2012, Washington, DC.

Tracie L. Stevens,
Chairwoman

Steffani A. Cochran,
Vice-Chairwoman

Daniel J. Little,
Associate Commissioner

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