

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

PARTS 520–521 [RESERVED]

PART 522—SUBMISSION OF GAMING ORDINANCE OR RESOLUTION

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AUTHORITY: 25 U.S.C. 2706, 2710, 2712

SOURCE: 58 FR 5810, Jan. 22, 1993, unless otherwise noted.

§ 522.1 Scope of this part.

This part applies to any gaming ordinance or resolution adopted by a tribe after February 22, 1993. Part 523 of this chapter applies to all existing gaming ordinances or resolutions.

[58 FR 5810, Jan. 22, 1993, as amended at 58 FR 16494, Mar. 29, 1993]

§ 522.2 Submission requirements.

A tribe shall submit to the Chairman all of the following information with a request for approval of a class II or class III ordinance or resolution:

- (a) One copy on 8½" x 11" paper of an ordinance or resolution certified as authentic by an authorized tribal official and that meets the approval requirements in § 522.4(b) or 522.6 of this part;
- (b) A description of 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 description of procedures to issue tribal licenses to primary management officials and key employees;

(d) Copies of all tribal gaming regulations;

(e) When an ordinance or resolution concerns class III gaming, a copy of the tribal-state compact or procedures as prescribed by the Secretary;

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

(g) Designation of an agent for service under § 519.1 of this chapter; and

(h) Identification of a law enforcement agency that will take fingerprints and a description of procedures for conducting a criminal history check by a law enforcement agency. Such a criminal history check shall include a check of criminal history records information maintained by the Federal Bureau of Investigation.

[58 FR 5810, Jan. 22, 1993, as amended at 58 FR 16494, Mar. 29, 1993]

§ 522.3 Amendment.

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

(b) A tribe shall submit for the Chairman's approval any amendment to the submissions made under §§ 522.2(b) through (h) of this part within 15 days after adoption of such amendment.

§ 522.4 Approval requirements for class II ordinances.

No later than 90 days after the submission to the Chairman under § 522.2 of this part, the Chairman shall approve the class II ordinance or resolution if the Chairman finds that—

(a) A tribe meets the submission requirements contained in § 522.2 of this part; 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 § 522.10 or § 522.11 of this part;

(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

(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.

§ 522.5 Disapproval of a class II ordinance.

No later than 90 days after a tribe submits an ordinance for approval under § 522.2 of this part, the Chairman

may disapprove an ordinance if he or she determines that a tribe failed to comply with the requirements of § 522.2 or § 522.4(b) of this part. The Chairman shall notify a tribe of its right to appeal under part 524 of this chapter. A disapproval shall be effective immediately unless appealed under part 524 of this chapter.

§ 522.6 Approval requirements for class III ordinances.

No later than 90 days after the submission to the Chairman under § 522.2 of this part, the Chairman shall approve the class III ordinance or resolution if—

(a) A tribe follows the submission requirements contained in § 522.2 of this part;

(b) The ordinance or resolution meets the requirements contained in § 522.4(b) (2), (3), (4), (5), (6), and (7) of this part; 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 § 522.10 of this part.

§ 522.7 Disapproval of a class III ordinance.

(a) Notwithstanding compliance with the requirements of § 522.6 of this part and no later than 90 days after a submission under § 522.2 of this part, the Chairman shall disapprove an ordinance or resolution and notify a tribe of its right of appeal under part 524 of this chapter if the Chairman determines that—

(1) A tribal governing body did not adopt the ordinance or resolution in compliance with the governing documents of a 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 financial interest in a management contract, a person having management responsibility for a management contract, or their agents.

(b) A disapproval shall be effective immediately unless appealed under part 524 of this chapter.

§ 522.8 Publication of class III ordinance and approval.

The Chairman shall publish a class III tribal gaming ordinance or resolution in the FEDERAL REGISTER along with the Chairman's approval thereof.

§ 522.9 Substitute approval.

If the Chairman fails to approve or disapprove an ordinance or resolution submitted under § 522.2 of this part within 90 days after the date of submission to the Chairman, a tribal ordinance or resolution shall be considered to have been approved by the Chairman but only to the extent that such ordinance or resolution is consistent with the provisions of the Act and this chapter.

§ 522.10 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 § 522.11 of this part), a tribal ordinance shall require:

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

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

(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 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.

§ 522.11 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 § 522.10(a)–(d) of this part.

§ 522.12 Revocation of class III gaming.

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

(a) A tribe shall submit to the Chairman on 8½" x 11" paper 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.

PART 523—REVIEW AND APPROVAL OF EXISTING ORDINANCES OR RESOLUTIONS

Sec.

523.1 Scope of this part.

523.2 Submission requirements.

523.3 Review of an ordinance or resolution.

523.4 Review of an amendment.

AUTHORITY: 25 U.S.C. 2706, 2710, 2712.

SOURCE: 58 FR 5812, Jan. 22, 1993, unless otherwise noted.