

the Commission, except that if the subject of the appeal is a temporary closure order, the order shall be dissolved.

**§ 580.12 Does an appeal of a Chair's decision stay the effect of that decision?**

Except as otherwise provided by NIGC regulations at 25 CFR 522.5 and 522.7, the filing of an appeal does not stay the effect of the Chair's decision. The appellant must comply with the Chair's decision pending the outcome of the appeal.

**PART 581—MOTIONS IN APPEAL PROCEEDINGS BEFORE THE COMMISSION**

Sec.

581.1 What is the scope of this part?

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AUTHORITY: 25 U.S.C. 2706, 2713, 2715.

SOURCE: 77 FR 58945, Sept. 25, 2012, unless otherwise noted.

**§ 581.1 What is the scope of this part?**

(a) This part governs motion practice under:

(1) Part 582 of this subchapter relating to appeals of disapprovals of gaming ordinances, resolutions, or amendments;

(2) Part 583 of this subchapter relating to appeals of the approval or disapproval of management contracts or amendments to a management contract;

(3) Part 584 of this subchapter relating to appeals before a presiding official of notices of violation, orders of temporary closure, proposed civil fine assessments, the Chair's decisions to void or modify management contracts, the Commission's proposals to remove certificates of self-regulation, the Chair's decisions to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the

Commission's minimum internal control standards and/or technical standards, and notices of late fees and late fee assessments; and

(4) Part 585 of this subchapter relating to appeals to the Commission on written submissions of notices of violation, orders of temporary closure, proposed civil fine assessments, the Chair's decisions to void or modify management contracts, the Commission's proposals to remove certificates of self-regulation, the Chair's decisions to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the Commission's minimum internal control standards and/or technical standards, and notices of late fees and late fee assessments.

(b) This part also governs motion practice in hearings under § 535.3 of this subchapter to review the Chair's decision to void or modify a management contract.

[77 FR 58945, Sept. 25, 2012, as amended at 78 FR 21062, Apr. 9, 2013]

**§ 581.2 How does an entity other than a tribe request to participate on a limited basis in an ordinance appeal?**

Requests for limited participation in ordinance appeals are governed by § 582.5 of this subchapter.

**§ 581.3 How do I file a motion to intervene in appeals?**

Motions to intervene in appeals before a presiding official are governed by § 584.5 of this subchapter. Motions to intervene in appeals before the Commission are governed by § 585.5 of this subchapter.

**§ 581.4 How do I file a motion before a presiding official?**

Motion practice before a presiding official on appeals of notices of violation, orders of temporary closure, proposed civil fine assessments, the Chair's decisions to void or modify management contracts, the Commission's proposals to remove certificates of self-regulation, the Chair's decisions to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the

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Commission's minimum internal control standards and/or technical standards, and notices of late fees and late fee assessments is governed by § 584.4 of this subchapter.

[78 FR 21062, Apr. 9, 2013]

### § 581.5 How do I file a motion to supplement the record?

Upon its own motion or the motion of a party, the Commission may allow the submission of additional evidence. A party may file a motion for leave to submit additional evidence at any time prior to issuance of a final decision by the Commission. Such motion shall show with particularity that such additional evidence is material and that there were reasonable grounds for failure to previously submit such evidence. The Commission may adjust its time for issuing a final decision accordingly, unless the subject of the appeal is a temporary closure order.

### § 581.6 How do I file a motion for reconsideration?

(a) Motions for reconsideration may be made only for final decisions on appeal and will only be granted if a party can establish that:

(1) New and material evidence is now available that, despite the party's due diligence, was not available when the record closed;

(2) The final decision was based on an erroneous interpretation of law or there has been an intervening change in the controlling law; or

(3) A manifest injustice, clearly apparent or obvious on its face, will occur if the motion for reconsideration is not granted.

(b) A motion for reconsideration and accompanying brief shall be filed within 30 days of the date of the Commission's final decision and shall be served on all parties, limited participants, and intervenors, if any. A motion for reconsideration shall explain the circumstances requiring reconsideration.

(c) A party may file only one motion and accompanying brief for reconsideration.

(d) Opposition briefs shall be filed within 20 days after the motion is filed.

(e) A reply brief to the brief in opposition shall be filed within 15 days of service of the brief in opposition.

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(f) The Commission shall issue a decision on reconsideration within 30 days of the filing of the reply brief or of the expiration of the time to file a reply brief, whichever is later. The Commission shall issue a brief statement of the reason(s) for its decision.

(g) If the Commission grants the motion, it may reverse or modify the decision, in whole or in part, from which reconsideration is sought or may remand to the Chair for further consideration.

(h) The filing of a motion for reconsideration will not stay the effect of any decision or order and will not affect the finality of any decision or order for purposes of judicial review, unless so ordered by the Commission.

## PART 582—APPEALS OF DISAPPROVALS OF GAMING ORDINANCES, RESOLUTIONS, OR AMENDMENTS

Sec.

582.1 What does this part cover?

582.2 Who may appeal the disapproval of a gaming ordinance?

582.3 How do I appeal the disapproval of a gaming ordinance?

582.4 Are motions permitted?

582.5 How does an entity other than a tribe request to participate on a limited basis?

582.6 When will I receive a copy of the record on which the Chair relied?

582.7 When will the Commission issue its final decision?

AUTHORITY: 25 U.S.C. 2706, 2710, 2713, 2715.

SOURCE: 77 FR 58945, Sept. 25, 2012, unless otherwise noted.

### § 582.1 What does this part cover?

This part applies to appeals from the Chair's decision to disapprove a gaming ordinance, resolution, or amendment thereto under part 522 of this chapter.

### § 582.2 Who may appeal the disapproval of a gaming ordinance?

Only the tribe whose gaming ordinance, resolution, or amendment thereto is disapproved by the Chair may appeal.

### § 582.3 How do I appeal the disapproval of a gaming ordinance?

Within 30 days after the Chair serves his or her disapproval, the appellant