

§ 581.5

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 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.

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(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.

(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.

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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 must file with the Commission a notice of appeal. The notice of appeal must reference the decision from which the appeal is taken. Unless the Commission has extended the time for filing an appeal brief pursuant to § 580.4(f) of this subchapter, the appeal brief must be filed within 30 days of service of the record pursuant to § 582.6. The appeal brief shall state succinctly why the appellant believes the Chair's disapproval should be reversed and may include supporting documentation.

§ 582.4 Are motions permitted?

Ordinance appeals are summary proceedings. Only motions for extension of time under § 580.4(f) of this subchapter, motions for limited participation under § 582.5, motions to supplement the record under § 581.5 of this subchapter, and motions for reconsideration under § 581.6 of this subchapter, are permitted.

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

(a) An individual, whether acting on his or her own behalf or as an agent of an entity, or an entity other than the tribe identified in § 582.2, may request to participate in an appeal of an ordinance disapproval on a limited basis by filing a submission with the Commission within 10 days of the filing of the notice of appeal.

(b) The submission may contain supporting documentation, and shall state:

(1) The individual's or entity's property, financial, or other interest at stake in the proceeding; and

(2) The reason(s) why the Chair's decision should be upheld or reversed. The submission shall address the ordinance requirements under §§ 522.4, 522.5, 522.6, and 522.7 of this chapter.

(c) The submission shall be served concurrently on the tribe consistent with § 580.4 of this subchapter. Failure to properly serve the tribe may be a basis for denying limited participation.

(d) Within 10 days after service of the submission, any party to the appeal

may file a brief and supporting material in response to the submission.

(e) Within 10 days of the filing of a response pursuant to paragraph (d) of this section, the Commission will notify the submitter in writing of its decision whether to accept and consider the submission and will state the basis for its decision, which it shall serve on the individual or entity and the tribe.

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

Within 10 days of the filing of a notice of appeal, or as soon thereafter as practicable, the record on which the Chair relied will be transmitted to the tribe.

§ 582.7 When will the Commission issue its final decision?

(a) Within 90 days after it receives the appeal brief or within 90 days of its ruling on a request for limited participation brought under § 582.5 or within 90 days of the conclusion of briefing by all parties, whichever is later, the Commission shall issue its final decision.

(b) The Commission shall notify the tribe and any limited participant of its final decision and the reason(s) supporting it.

PART 583—APPEALS FROM APPROVALS OR DISAPPROVALS OF MANAGEMENT CONTRACTS OR AMENDMENTS TO MANAGEMENT CONTRACTS

Sec.

583.1 What does this part cover?

583.2 Who may appeal the approval or disapproval of a management contract or amendment to a management contract?

583.3 How do I appeal the approval or disapproval of a management contract or amendment to a management contract?

583.4 Are motions permitted?

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

583.6 When will the Commission issue its final decision?

AUTHORITY: 25 U.S.C. 2706, 2711, 2712, 2713, 2715.

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