



Monday
April 26, 1999

Part LXII

**National Indian
Gaming Commission**

Semiannual Regulatory Agenda

NATIONAL INDIAN GAMING COMMISSION (NIGC)

NATIONAL INDIAN GAMING COMMISSION

25 CFR Ch. III

Semiannual Regulatory Agenda

AGENCY: National Indian Gaming Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Indian Gaming Commission today is publishing an agenda of its open and anticipated rulemaking actions. The agenda is a general announcement to the public intended to provide notice of rulemaking actions in which the public may wish to participate. In the near future, the Commission intends to issue Notices of Proposed Rulemaking or Advance Notices of Proposed Rulemaking for the classification, review, and approval of games and devices used in tribal gaming; rules concerning practice before the Commission; rules concerning hearings and appeals procedures; rules concerning enforcement; rules concerning definitions; rules revising

the scope and review of management contracts; rules concerning net gaming revenue; rules revising tribal background investigation submission requirements and timing; rules concerning administrative fees; rules concerning public health and safety compliance; rules concerning compulsory process and testimony of employees; rules revising Freedom of Information Act Procedures; rules concerning gaming facility licensing standards; and rules concerning technical amendments to the Minimum Internal Control Standards. The Commission invites questions and public comment on individual agenda items.

FOR FURTHER INFORMATION CONTACT: Penny J. Coleman, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005, (202) 632-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 605, executive agencies are required to publish semiannual regulatory agendas

in the **Federal Register** in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no regulatory impact analysis is required. The Commission also has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The proposed rules are not covered under section 202 of the Unfunded Mandates Reform Act (Pub. L. 104-4), as they are not Federal mandates that may result in an expenditure of \$100 million or more in any 1 year by State, local, or tribal governments, in the aggregate, or the private sector. Further, these proposed rules are not considered major under 5 U.S.C. 801 enacted by Public Law 104-121 and, therefore, are not subject to section 801's 60-day deferral requirement.

Montie R. Deer,
Chairman of the National Indian Gaming Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4356	Environment and Public Health and Safety	3141-AA17

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4357	Game Classification	3141-AA12
4358	Compulsory Process and Testimony of Employees	3141-AA20
4359	Gaming Facility Licensing Standards	3141-AA23

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4360	Practice Before the Commission	3141-AA07
4361	Hearings and Appeals Procedure	3141-AA08
4362	Enforcement	3141-AA09
4363	Definitions	3141-AA10
4364	Management Contracts	3141-AA13
4365	Net Gaming Revenue	3141-AA14
4366	Tribal Background Investigation Submission Requirements and Timing	3141-AA15
4367	Administrative Fees	3141-AA16
4368	Freedom of Information Act Procedures (Amendments)	3141-AA21

NIGC

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4369	Technical Amendments to the Minimum Internal Control Standards	3141-AA24

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4370	Minimum Internal Control Standards for Tribal Gaming Operations	3141-AA11
4371	Self-Regulation Certification for Class III Gaming Operations	3141-AA22

NATIONAL INDIAN GAMING COMMISSION (NIGC)

Prerule Stage

4356. ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Priority: Substantive, Nonsignificant
Legal Authority: 25 USC 2710(b)(2)(E)
CFR Citation: 25 CFR 573

Legal Deadline: None

Abstract: It is necessary for the NIGC to promulgate regulations which ensure that tribal gaming facilities are

constructed and maintained in a manner which protects the environment and the public health and safety.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Todd J. Araujo, Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005
 Phone: 202 632-7003
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RIN: 3141-AA17

NATIONAL INDIAN GAMING COMMISSION (NIGC)

Proposed Rule Stage

4357. GAME CLASSIFICATION

Priority: Other Significant
Legal Authority: 25 USC 2703; 25 USC 2706

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rule will establish processes for the classification, review, and approval of games and devices used in tribal gaming.

Statement of Need: Over the course of the past couple of years, the NIGC has received numerous requests for advisory opinions on the classification of a particular game or device. The Commission has through an informal process issued several advisory opinions. However, given the growing number of requests and the need for some degree of predictability and certainty in the industry regarding the classification of games or devices, the Commission believes it is necessary to develop a formal process.

Consequently, the Commission will use the rulemaking process to promulgate regulations in this area.

Summary of the Legal Basis: The Indian Gaming Regulatory Act specifically defines both Class II and Class III gaming (25 USC section 2703). The Act also expressly authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act (25 USC section 2706 (b)(10))." The Commission relies on these sections of the statute to authorize the development by regulation of a process of formal classification of particular games and devices.

Alternatives: At this time, the only identified alternative is to continue with the informal process of issuing advisory opinions regarding particular games.

Anticipated Costs and Benefits: The potential benefits to this regulatory

action are to bring more clarity and predictability to the industry regarding classification. Those engaged in Indian gaming need to have some degree of certainty regarding the legal consequences of playing a particular game. For those tribes without tribal-State compacts, the need is even greater to know with as much certainty as possible the classification of a particular game or device. The anticipated costs of implementing a classification system are unknown at this time.

Risks: The only identifiable risk at this time is the ability to pay for a formal classification process. The Commission is trying to expand its budget by lifting the statutory fee cap. These actions may be connected because without an increase in funding, it is highly unlikely that the Commission could afford to develop a formal classification system.

NIGC

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Regulatory Flexibility Analysis Required: Undetermined**Government Levels Affected:** State, Tribal**Agency Contact:** Penny Coleman, Deputy General Counsel, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005

Phone: 202 632-7003

Fax: 202 632-7066

RIN: 3141-AA12

4358. COMPULSORY PROCESS AND TESTIMONY OF EMPLOYEES**Priority:** Substantive, Nonsignificant**Legal Authority:** 25 USC 2706; 5 USC 552; 5 USC 552a**CFR Citation:** Not yet determined**Legal Deadline:** None**Abstract:** The purpose of these rules is to establish a procedure for the testimony of employees of the National Indian Gaming Commission in any judicial or administrative proceeding.**Timetable:**

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None**Agency Contact:** Richard B. Schiff, Senior Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005

Phone: 202 632-7003

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RIN: 3141-AA20

4359. GAMING FACILITY LICENSING STANDARDS**Priority:** Substantive, Nonsignificant**Legal Authority:** 25 USC 2706(b)(10); 25 USC 2710(b); 25 USC 2710(d)**CFR Citation:** 25 CFR 522.4(b)(6); 25 CFR 522.6(b)**Legal Deadline:** None**Abstract:** This rule establishes minimum standards which tribes will adopt when they license gaming facilities within their reservations pursuant to 25 USC 2710(b) and their tribal gaming ordinances.**Timetable:**

Action	Date	FR Cite
NPRM	07/00/99	
NPRM Comment	09/00/99	
Period End		

Regulatory Flexibility Analysis Required: Undetermined**Government Levels Affected:** Tribal**Agency Contact:** Mai Dinh, Staff Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005

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RIN: 3141-AA23

NATIONAL INDIAN GAMING COMMISSION (NIGC)

Long-Term Actions

4360. PRACTICE BEFORE THE COMMISSION**Priority:** Substantive, Nonsignificant**CFR Citation:** Not yet determined**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Tribal**Agency Contact:** Penny J. Coleman

Phone: 202 632-7003

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RIN: 3141-AA07

4361. HEARINGS AND APPEALS PROCEDURE**Priority:** Other Significant**CFR Citation:** 25 CFR 522; 25 CFR 523; 25 CFR 524; 25 CFR 533; 25 CFR 535; 25 CFR 539; 25 CFR 573; 25 CFR 575; 25 CFR 577**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Tribal**Agency Contact:** Richard B. Schiff

Phone: 202 632-7003

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RIN: 3141-AA08

4362. ENFORCEMENT**Priority:** Other Significant**CFR Citation:** 25 CFR 573**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Tribal**Agency Contact:** Penny J. Coleman

Phone: 202 632-7003

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RIN: 3141-AA09

4363. DEFINITIONS**Priority:** Substantive, Nonsignificant**CFR Citation:** 25 CFR 502**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Tribal**Agency Contact:** Penny J. Coleman

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RIN: 3141-AA10

4364. MANAGEMENT CONTRACTS**Priority:** Other Significant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**CFR Citation:** 25 CFR 531; 25 CFR 533; 25 CFR 536

NIGC

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Tribal**Agency Contact:** Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066**RIN:** 3141-AA13**4365. NET GAMING REVENUE****Priority:** Substantive, Nonsignificant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**CFR Citation:** 25 CFR 571; 25 CFR 573**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Tribal**Agency Contact:** Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066**RIN:** 3141-AA14**4366. TRIBAL BACKGROUND INVESTIGATION SUBMISSION REQUIREMENTS AND TIMING****Priority:** Other Significant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**CFR Citation:** 25 CFR 556; 25 CFR 558**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Tribal**Agency Contact:** Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066**RIN:** 3141-AA15**4367. ADMINISTRATIVE FEES****Priority:** Substantive, Nonsignificant**CFR Citation:** 25 CFR 514**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Tribal**Agency Contact:** Penny J. Coleman
Phone: 202 632-7003

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RIN: 3141-AA16**4368. FREEDOM OF INFORMATION ACT PROCEDURES (AMENDMENTS)****Priority:** Substantive, Nonsignificant**CFR Citation:** 25 CFR 517.3; 25 CFR 517.6; 25 CFR 517.8**Timetable:** Next Action Undetermined**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** None**Agency Contact:** Jeanne McLaughlin
Phone: 202 632-7003
Fax: 202 632-7066**RIN:** 3141-AA21**4369. TECHNICAL AMENDMENTS TO THE MINIMUM INTERNAL CONTROL STANDARDS****Priority:** Substantive, Nonsignificant**CFR Citation:** 25 CFR 542**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Tribal**Agency Contact:** Mai Dinh
Phone: 202 632-7003
Fax: 202 632-7066**RIN:** 3141-AA24

NATIONAL INDIAN GAMING COMMISSION (NIGC)

Completed Actions

4370. MINIMUM INTERNAL CONTROL STANDARDS FOR TRIBAL GAMING OPERATIONS**Priority:** Other Significant**Legal Authority:** 25 USC 2702; 25 USC 2706(b)(10)**CFR Citation:** 25 CFR 542; 25 CFR 573**Legal Deadline:** None**Abstract:** This rule establishes minimum internal control standards for tribal gaming operations, including standards for auditing, debt collection, accounting, and security.**Timetable:**

Action	Date	FR Cite
ANPRM	03/05/98	63 FR 10798
ANPRM Comment	04/05/98	Period End
Final Action	01/05/99	64 FR 589
Final Action Effective	02/04/99	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Tribal**Agency Contact:** Mai Dinh, Staff Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005
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RIN: 3141-AA11**4371. SELF-REGULATION CERTIFICATION FOR CLASS III GAMING OPERATIONS****Priority:** Other Significant**Legal Authority:** 25 USC 2706(b)(10); 25 USC 2717**CFR Citation:** 25 CFR 518**Legal Deadline:** None**Abstract:** These regulations will implement the issuance of certificates of self-regulation for class III gaming operations.

NIGC

Completed Actions

Timetable:

Action	Date	FR Cite
ANPRM	03/12/98	63 FR 12323
ANPRM Comment Period End	05/11/98	
Withdrawn - See PL 105-277	10/21/98	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** Tribal

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RIN: 3141-AA22

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