

received by NED. The Department of State shall forward any appeal received by it to NED within 2 working days from the actual day of receipt by the Department of State.

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PART 527—[REDESIGNATED AS PART 67]

37. Part 527 is transferred to Chapter I and redesignated as Part 67 in new subchapter G.

38. The authority citation for redesignated part 67 is revised to read as follows:

Authority: 22 U.S.C. 4411 et seq.; Title II, Sec. 210, Pub. L. 99-93, 99 Stat. 431 (22 U.S.C. 4415); Pub. L. 105-277, 112 Stat. 2681 et seq.

38a. Redesignated § 67.2 is amended by revising the first and last sentence of paragraph (a) and the second sentence of paragraph (c) to read as follows:

§ 67.2 Board of Directors.

(a) NED is governed by a bipartisan board of Directors of not fewer than thirteen and not more than twenty-five members reflecting the diversity of American society. * * * A current list of members of the Board of Directors and a schedule of upcoming meetings is available from NED's office at 1101 15th Street, NW; Suite 700, Washington, DC 20005-5000.

* * * * *

(c) * * * All grants made by the corporation shall be by a two-thirds vote of those voting at a meeting at which a quorum is present. Notwithstanding the foregoing, the Board may from time to time adopt, upon a two-thirds vote of those voting at a meeting at which a quorum is present, procedures to address emergency funding requests between meetings of the Board. * * *

39. Redesignated § 67.4 is amended by revising the second sentence of paragraph (i) to read as follows:

§ 67.4 Description of functions and procedures.

* * * * *

(i) * * * Letters of inquiry and formal proposals should be submitted to: Director of Program, National Endowment for Democracy 1101 15th Street, NW, Suite 700, Washington, DC 20005-5000.

PART 530—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE UNITED STATES INFORMATION AGENCY

40. In Part 530:

a. All references to "USIA" or "United States Information Agency" are revised to read "the Broadcasting Board of Governors"; and

b. All references to "Agency" are revised to read "Board".

TITLE 48—[AMENDED]

II. Title 48 of the Code of Federal Regulations is amended as follows:

CHAPTER 19—BROADCASTING BOARD OF GOVERNORS

1. In Chapter 19:

a. The chapter heading is revised as set forth above.

b. All references to "USIA" or "United States Information Agency" are revised to read "the Broadcasting Board of Governors"; and

c. All references to "Agency" are revised to read "Board".

Dated: October 1, 1999.

John Lindburg,

Acting Executive Director, Broadcasting Board of Governors.

Dated: October 1, 1999.

Patrick F. Kennedy,

Assistant Secretary for Administration, Department of State.

[FR Doc. 99-26081 Filed 10-6-99; 8:45 am]

BILLING CODE 4710-10-U

NATIONAL INDIAN GAMING COMMISSION

25 CFR Part 516

RIN 3141-AA20

Administrative Practice and Procedure; Testimony; Information; Response to Subpoena

AGENCY: National Indian Gaming Commission.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission issues a final rule describing the duties of its personnel and former personnel with respect to litigation involving the National Indian Gaming Commission or the official responsibilities of National Indian Gaming Commission employees.

EFFECTIVE DATE: November 8, 1999.

FOR FURTHER INFORMATION CONTACT: Richard B. Schiff, National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20036; telephone: 202-632-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Because the National Indian Gaming Commission is regularly associated with a variety of matters which have the potential for resulting in litigation, the

National Indian Gaming Commission has a requirement for regulations describing the duties of its personnel with respect to such litigation. On July 1, 1999, the Commission proposed such regulations. **Federal Register:** July 15, 1999 (Volume 64, Number 135) page 38164-38165. The Commission requested comments on those proposed regulations. Below is the Commission's analysis of the comments received during the comment period and the text of the final regulations.

General Comments

A commenter pointed out that, although the **SUPPLEMENTARY INFORMATION** published with the Proposed Rule had noted that the regulations were intended to be the Commission's "Touhy regulations," and cited *United States Ex. Rel. Touhy v. Ragen*, 340 U.S. 462 (1951), the statutory basis for Touhy regulations, 5 U.S.C. 301, was omitted. The Final Rule corrects this oversight.

Concern was expressed by a commenter that application of these rules to litigation in which the National Indian Gaming Commission is a party would be inconsistent with the Federal Rules of Civil Procedure. The Commission considers it self-evident that it may not relieve itself of its obligations as a litigant by promulgating a housekeeping regulation, and that there will be circumstances under which the Federal Rules of Civil Procedure rather than these regulations will guide the actions of Commission personnel. Nonetheless, the Commission, like any public or private party to litigation, may protect itself against unauthorized disclosures of information, and, even when the Commission is a party to the proceeding, it has authority to prescribe regulations for the conduct of its employees relating to disclosure of information to the opposing party.

Comment was received which referenced 25 U.S.C. 2716(a) and the Trade Secrets Act, 18 U.S.C. 1905, and expressed the view that the regulation should address concerns of gaming tribes respecting protection of confidential information submitted to the National Indian Gaming Commission by such tribes. The comment suggested that the Final Rule should: (a) Restrict disclosure of such information in court, and (b) Require notification to tribes in the event third parties request such information.

The Commission is issuing these regulations to guide the conduct of Commission personnel and former personnel with respect to requests or demands for information that are

litigation-related or otherwise arise out of judicial, administrative or other legal proceedings. The regulations do not, and under 5 U.S.C. 301, could not, provide a substantive basis for limiting the availability of Commission records. In the context, however, of the decision of the Chairman or General Counsel to allow a person to whom the regulation applies to comply with a subpoena or other demand, the Commission agrees that the interests of the submitter in confidential material must be considered. See the discussion below of Section 516.2.

516.1 What does this part cover?

One commenter noted that the phrase "litigation-related," standing alone, made applicability of the proposed rule uncertain with respect to requests or demands such as those which might originate, for example, in state grand juries or licensing boards. The Commission agrees and has modified the language of this part to provide clarification.

516.2 When may a person to whom this part applies give testimony, make a statement or submit to interview?

A commenter noted that the term "public interest," the basis on which the Chairman or General Counsel determines whether to grant a request for a statement or testimony under this section, or for documents under section 516.3, is not defined.

The Commission considers the term "public interest" to be sufficiently precise in this context. Depending upon the circumstances of the request, an official making the "public interest" determination might look at any number of factors, including such matters as: whether allowing the statement or testimony would serve the goals of the regulation; whether allowing the statement or testimony is necessary to prevent a miscarriage of justice; and whether the Commission or the United States has any important interests which may be affected by the outcome of the legal proceeding. With respect to confidential commercial or proprietary information, the determination of the Chairman or General Counsel will also include consideration of the views of the submitter, consistent with the policy embodied in Executive Order 12600, June 23, 1987, and 25 CFR 517.5. Recognizing that, except when the Commission is a party to the litigation, the decision to deny a request for testimony or documents under this part may be subjected to judicial review under the Administrative Procedure Act, 5 U.S.C. 702, a clear articulation of

the basis for such a determination will be made routinely.

516.3 When may a person to whom this part applies produce records?

A comment identified a discrepancy between this section and section 516.2 in that the two sections, as proposed, did not provide a parallel process for the determination to respond to a subpoena ad testificandum, on the one hand, and the determination to respond to a subpoena duces tecum, on the other. The Final Rule modifies this section to eliminate the discrepancy.

516.4 How are records certified or authenticated?

Comment was received suggesting that certification as to the authenticity of copies be made mandatory by substituting the word "shall" for the word "may."

While accommodation of such requests will be the norm, the Commission prefers non-mandatory language, thereby allowing a flexible response in the event of receipt of a certification request which is unreasonable or unnecessarily burdensome.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Commission has determined that this rule will not have a significant economic impact on a substantial number of small entities. Because this rule is procedural in nature, it will not impose substantive requirements that could be deemed impacts within the scope of the Act.

National Environmental Policy Act

The Commission has determined that this 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.

List of Subjects in 25 CFR Part 516

Administrative practice and procedure, Gambling, Indians—Lands, Reporting and record keeping requirements.

For the reasons stated in the preamble, the Commission amends 25 CFR chapter III by adding a new Part 516 to read as follows:

PART 516—TESTIMONY OF COMMISSIONERS AND EMPLOYEES AND FORMER COMMISSIONERS AND FORMER EMPLOYEES RESPECTING OFFICIAL DUTIES; RESPONSE TO SUBPOENA

Sec.

516.1 What is the purpose of this part and to whom does it apply?

516.2 When may a person to whom this part applies give testimony, make a statement or submit to interview?

516.3 When may a person to whom this part applies produce records?

516.4 How are records certified or authenticated?

Authority: 5 U.S.C. 301; 25 U.S.C. 2706; 25 U.S.C. 2716(a); 18 U.S.C. 1905.

§ 516.1 What is the purpose of this part and to whom does it apply?

(a) The purpose of this part is to promulgate regulations regarding the release of official National Indian Gaming Commission information and provision of testimony by National Indian Gaming Commission personnel with respect to litigation or potential litigation and to prescribe conduct on the part of National Indian Gaming Commission personnel in response to a litigation-related request or demand.

(b) This part applies to requests or demands that are litigation-related or otherwise arise out of judicial, administrative or other legal proceedings (including subpoena, order or other demand) for interview, testimony (including by deposition) or other statement, or for production of documents relating to the business of the National Indian Gaming Commission, whether or not the National Indian Gaming Commission or the United States is a party to the litigation. It does not, however, apply to document requests covered by 25 CFR parts 515 and 517.

(c) To the extent the request or demand seeks official information or documents, the provisions of this part are applicable to Commissioners, employees, and former Commissioners and former employees, of the National Indian Gaming Commission.

§ 516.2 When may a person to whom this part applies give testimony, make a statement or submit to interview?

(a) No person to whom this part applies, except as authorized by the Chairman or the General Counsel pursuant to this regulation, shall provide testimony, make a statement or submit to interview.

(b) Whenever a subpoena commanding the giving of any testimony has been lawfully served upon a person to whom this part

applies, such individual shall, unless otherwise authorized by the Chairman or the General Counsel, appear in response thereto and respectfully decline to testify on the grounds that it is prohibited by this regulation.

(c) A person who desires testimony or other statement from any person to whom this part applies may make written request therefor, verified by oath, directed to the Chairman setting forth his or her interest in the matter to be disclosed and designating the use to which such statement or testimony will be put in the event of compliance with such request: provided, that a written request therefor by an official of any federal, state or tribal entity, acting in his or her official capacity need not be verified by oath. If it is determined by the Chairman or the General Counsel that such statement or testimony will be in the public interest, the request may be granted. Where a request for a statement or testimony is granted, one or more persons to whom this part applies may be authorized or designated to appear and testify or give a statement with respect thereto.

§ 516.3 When may a person to whom this part applies produce records?

(a) Any request for records of the National Indian Gaming Commission shall be handled pursuant to the procedures established in 25 CFR parts 515 and 517 and shall comply with the rules governing public disclosure as provided in 25 CFR parts 515 and 517.

(b) Whenever a subpoena duces tecum commanding the production of any record has been lawfully served upon a person to whom this part applies, such person shall forward the subpoena to the General Counsel. If commanded to appear in response to any such subpoena, a person to whom this part applies shall respectfully decline to produce the record on the ground that production is prohibited by this part and state that the production of the record(s) of the National Indian Gaming Commission is a matter to be determined by the Chairman or the General Counsel.

§ 516.4 How are records certified or authenticated?

(a) Upon request, the person having custody and responsibility for maintenance of records which are to be released under this part or 25 CFR parts 515 or 517 may certify the authenticity of copies of records that are requested to be provided in such format.

(b) A request for certified copies of records or for authentication of copies of records shall be sent to the National Indian Gaming Commission, 1441 L

Street NW., Suite 9100, Washington, DC 20005, Attention: Freedom of Information Act Officer.

Authority and Signature

This proposed rule was prepared under the direction of the Commissioners, National Indian Gaming Commission, 1441 L St. NW, Suite 9100, Washington DC 20005.

Signed at Washington, DC this 28th day of September, 1999.

Montie R. Deer,

Chairman, National Indian Gaming Commission.

[FR Doc. 99-25747 Filed 10-6-99; 8:45 am]

BILLING CODE 7565-01-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150-AF81

Respiratory Protection and Controls to Restrict Internal Exposures

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations regarding the use of respiratory protection and other controls to restrict intake of radioactive material. The amendments make these regulations more consistent with the philosophy of controlling the sum of internal and external radiation exposure, reflect current guidance on respiratory protection from the American National Standards Institute (ANSI), are consistent with recently effective revisions to Occupational Safety and Health Administration (OSHA's) respiratory protection rule, and make NRC requirements for radiological protection less prescriptive while reducing unnecessary regulatory burden without reducing worker protection. The amendments provide greater assurance that worker dose will be maintained as low as is reasonably achievable (ALARA) and that recent technological advances in respiratory protection equipment and procedures are reflected in NRC regulations and clearly approved for use by licensees.

EFFECTIVE DATE: February 4, 2000.

FOR FURTHER INFORMATION CONTACT:

Alan K. Roecklein, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-3883; email AKR@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC published a major revision of 10 CFR Part 20, "Standards for Protection Against Radiation," on May 21, 1991 (56 FR 23360). Although the NRC was aware that certain provisions of Subpart H and Appendix A to Part 20 were out of date and did not reflect new technology in respiratory devices and procedures, the NRC made minimal changes in the May 21, 1991 final rule. The NRC was aware that an ANSI standard was being prepared that was expected to provide state-of-the-art guidance on acceptable respiratory protection devices and procedures. Therefore, the NRC decided to address further revisions to Subpart H and Appendix A to Part 20 when the ANSI guidance was complete.

In response to public comments on the proposed 10 CFR Part 20, the NRC made several changes to Subpart H in the May 21, 1991, final rule to make it consistent with the new philosophy and science underlying the new Part 20. The new Subpart H required that the practice of ALARA apply to the sum of internal and external dose; addressed correction of both high and low initial intake estimates if subsequent, more accurate measurements gave different results; and clarified that a respiratory protection program consistent with Subpart H is required whenever respirators are used to limit intakes of radioactive material.

After 10 CFR Part 20 was revised, the American National Standards Institute approved publication of ANSI Z88.2-1992, "American National Standard for Respiratory Protection". This document provides an authoritative consensus on major elements of an acceptable respiratory protection program, including guidance on respirator selection, training, fit testing, and assigned protection factors (APF). The NRC is amending Subpart H of Part 20 to make the regulations less prescriptive without reducing worker protection. This rule is consistent with the 1992 ANSI guidance and is consistent with new regulations on respiratory protection published by the Occupational Safety and Health Administration (OSHA).

II. Analysis of Public Comments and Staff Response

The proposed rule was published for public comment in the **Federal Register** July 17, 1998 (63 FR 38511). By mid-November seventeen letters had been received from the public providing comments on the rule. One letter was received from an Agreement State and