

(2) For statements and/or fee payments thirty-one (31) to sixty (60) calendar days late, the Chair may propose a late fee of up to, but not more than 15% of the fee amount for that quarter, as calculated in § 514.6(e);

(3) For statements and/or fee payments sixty-one (61) to ninety (90) calendar days late, the Chair may propose a late fee of up to, but not more than 20% of the fee amount for that quarter, as calculated in § 514.6(e).

§ 514.10 When does a late payment or quarterly statement submission become a failure to pay?

(a) Statements and/or fee payments over ninety (90) calendar days late constitute a failure to pay the annual fee, as set forth in IGRA, 25 U.S.C. 2717(a)(3), and NIGC regulations, 25 CFR 573.6(a)(2). In accordance with 25 U.S.C. 2717(a)(3), failure to pay fees shall be grounds for revocation of the approval of the Chair of any license, ordinance or resolution required under IGRA for the operation of gaming.

(b) In accordance with § 573.6(a)(2) of this chapter, if a tribe, management contractor, or individually owned gaming operation fails to pay the annual fee, the Chair may issue a notice of violation and, simultaneously with or subsequently to the notice of violation, a temporary closure order.

§ 514.11 Can a tribe or gaming operation appeal a proposed late fee?

(a) Proposed late fees assessed by the Chair may be appealed under part 577 of this chapter.

(b) At any time prior to the filing of a notice of appeal under part 577 of this chapter, the Chair and the respondent may agree to settle the notice of late submission, including the amount of the proposed late fee. In the event a settlement is reached, a settlement agreement shall be prepared and executed by the Chair and the respondent. If a settlement agreement is executed, the respondent shall be deemed to have waived all rights to further review of the notice or late fee in question, except as otherwise provided expressly in the settlement agreement. In the absence of a settlement of the issues under this paragraph, the respondent may contest the proposed late fee before the Commission in accordance with part 577 of this chapter.

§ 514.12 When does a notice of late submission and/or a proposed late fee become a final order of the Commission and final agency action?

If the respondent fails to appeal under part 577 of this chapter, the notice and the proposed late fee shall become a

final order of the Commission and final agency action.

§ 514.13 How are late submission fees paid, and can interest be assessed?

(a) Late fees assessed under this part shall be paid by the person or entity assessed and shall not be treated as an operating expense of the operation.

(b) The Commission shall transfer the late fee paid under this subchapter to the U.S. Treasury.

(c) Interest shall be assessed at rates established from time to time by the Secretary of the Treasury on amounts remaining unpaid after their due date.

§ 514.14 What happens if a tribe overpays its fees or if the Commission does not expend the full amount of fees collected in a fiscal year?

(a) The total amount of all fees imposed during any fiscal year shall not exceed the statutory maximum imposed by Congress. The Commission shall credit pro-rata any fees collected in excess of this amount against amounts otherwise due according to § 514.4.

(b) To the extent that revenue derived from fees imposed under the schedule established under this paragraph are not expended or committed at the close of any fiscal year, such funds shall remain available until expended to defray the costs of operations of the Commission.

§ 514.15 May tribes submit fingerprint cards to the NIGC for processing?

Tribes may submit fingerprint cards to the Commission for processing by the Federal Bureau of Investigation (FBI) and the Commission may charge a fee to process fingerprint cards on behalf of the tribes.

§ 514.16 How does the Commission adopt the fingerprint processing fee?

(a) The Commission shall review annually the costs involved in processing fingerprint cards and, by a vote of not less than two of its members, shall adopt preliminary rates for each calendar year no later than March 1st of that year, and, if considered necessary, shall modify those rates no later than June 1st of that year.

(b) The fingerprint fee charge shall be based on fees charged by the Federal Bureau of Investigation and costs incurred by the Commission. Commission costs include Commission personnel, supplies, equipment costs, and postage to submit the results to the requesting tribe.

§ 514.17 How are fingerprint processing fees collected by the Commission?

(a) Fees for processing fingerprint cards will be billed monthly to each Tribe for cards processed during the

prior month. Tribes shall pay the amount billed within forty-five (45) days of the date of the bill.

(b) The Chair may suspend fingerprint card processing for a tribe that has a bill remaining unpaid for more than forty-five (45) days.

(c) Fingerprint fees shall be sent to the following address: Comptroller, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Checks should be made payable to the National Indian Gaming Commission (do not remit cash).

Dated: January 27, 2012, Washington, DC.

Tracie L. Stevens,
Chairwoman.

Steffani A. Cochran,
Vice-Chairwoman.

Daniel J. Little,
Associate Commissioner.

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DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 523

RIN 3141-AA45

Review and Approval of Existing Ordinances or Resolutions; Repeal

AGENCY: National Indian Gaming Commission.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission is repealing obsolete regulations relating to tribal gaming ordinances enacted prior to 1993 that have not yet been submitted to the NIGC Chair. The repealed regulations apply only to gaming ordinances enacted by Tribes prior to January 22, 1993, and not yet submitted to the Chairwoman. Based upon comments received, the Commission believes that all gaming ordinances enacted prior to January 22, 1993, have been submitted to the Chair for review. Therefore, this regulation is no longer necessary, and the Commission removes it in its entirety.

DATES: This rule is effective on March 5, 2012.

FOR FURTHER INFORMATION CONTACT: Jennifer Ward, Staff Attorney, Office of General Counsel, at (202) 632-7003; fax (202) 632-7066.

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100-497, 25 U.S.C. 2701 *et seq.*, authorizes the NIGC to promulgate such regulations and

guidelines as it deems appropriate to implement certain provisions of the Act. 25 U.S.C. 2706(b)(10). On November 12, 2010, the Commission issued a Notice of Inquiry (NOI) requesting comment on which of its regulations were most in need of revision, in what order the Commission should review its regulations, and the process NIGC should utilize to make revisions. The NOI was published in the **Federal Register** on November 18, 2010. 75 FR 70680. The Commission's regulatory review process established a tribal consultation schedule of 33 meetings over 11 months with a description of the regulation groups to be covered at each consultation. On October 12, 2011, the Commission published a Notice of Proposed Rulemaking (NPRM) indicating its intent to repeal part 523 and requested comment through December 12, 2011. 76 FR 63236.

I. Removal of Part 523—Review and Approval of Existing Ordinances or Resolutions

Part 523 applies only to gaming ordinances or resolutions enacted by Tribes prior to January 22, 1993, and not yet submitted to the Chairwoman. All comments received in response to the NOI, during tribal consultation meetings, or in response to the NPRM indicated that any ordinances or resolutions enacted prior to January 22, 1993 already have been submitted to the Chair for review. Accordingly, comments support the repeal of this part. A review of the Commission documents also did not find any ordinances or resolutions meeting the criteria of this part that require review. Because this regulation appears to be no longer necessary, the Commission removes this part.

II. Specific Comments

Four tribes responded to the NPRM. Of these four, none had effective ordinances that were enacted prior to 1993. Two tribes were supportive of the rule, one had no objection, and the fourth declined comment other than to say the repeal would not affect it..

III. Regulatory Matters

Regulatory Flexibility Act

The proposed rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The final rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of \$100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions, nor will the proposed rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that the final rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the 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, 42 U.S.C. 4321, *et seq.*

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule merely repeals a previous rule, and does not establish, or modify any information reporting or recordkeeping requirements, and therefore is not subject to the requirements of the Paperwork Reduction Act.

Text of the Final Rule

For the reasons stated in the preamble, and under the authority 25 U.S.C. 2701, the National Indian

Gaming Commission removes and reserves 25 CFR part 523.

PART 523—[REMOVED AND RESERVED]

Authority: 25 U.S.C. 2701, 2706(b)(10).

Dated: January 27, 2012, in Washington, DC.

Tracie L. Stevens,
Chairwoman.

Steffani A. Cochran,
Vice-Chairwoman.

Daniel J. Little,
Associate Commissioner.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2012-0018]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the S.R. 74 Bridge, across the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, NC. This deviation is necessary to accommodate the Quintiles Wrightsville Beach Full and Half Marathon. This deviation allows the bridge to remain in the closed position during the race.

DATES: This deviation is effective from 5 a.m. through 8 a.m. on Sunday, March 18, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG-2012-0018 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0018 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or