

2. "Frozen Desserts: Removal of Standards of Identity for Ice Milk and Goat's Milk Ice Milk; Amendment of Standards of Identity for Ice Cream and Frozen Custard and Goat's Milk Ice Cream" (59 FR 47072, September 14, 1994).

Dated: February 14, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

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DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 543

RIN 3141-AA27

Minimum Internal Control Standards

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule.

SUMMARY: The National Indian Gaming Commission (NIGC) proposes to amend its minimum internal control standards for Class II gaming under the Indian Gaming Regulatory Act to add standards for the drop and count and surveillance of kiosks.

DATES: Submit comments on or before April 22, 2013.

ADDRESSES: You may submit comments by any one of the following methods, however, please note that comments sent by electronic mail are strongly encouraged.

- *Email comments to:* reg.review@nigc.gov.

- *Mail comments to:* National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005.

- *Hand deliver comments to:* 1441 L Street NW., Suite 9100, Washington, DC 20005.

- *Fax comments to:* National Indian Gaming Commission at 202-632-0045.

FOR FURTHER INFORMATION CONTACT: National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: 202-632-7009; email: reg.review@nigc.gov.

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions

presented are particularly helpful in developing reasoned regulatory decisions on the proposal.

II. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100-497, 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The Act establishes the National Indian Gaming Commission ("NIGC" or "Commission") and sets out a comprehensive framework for the regulation of gaming on Indian lands. On January 5, 1999, the NIGC published a final rule in the *Federal Register* called *Minimum Internal Control Standards*. 64 FR 590. The rule added a new part to the Commission's regulations establishing Minimum Internal Control Standards (MICS) to reduce the risk of loss because of customer or employee access to cash and cash equivalents within a casino. The rule contains standards and procedures that govern cash handling, documentation, game integrity, auditing, surveillance, and variances, as well as other areas.

The Commission recognized from their inception that the MICS would require periodic review and updates to keep pace with technology, and has amended them numerous times, most recently on September 21, 2012. 77 FR 58708.

III. Development of the Proposed Rule

On September 21, 2012, the Commission concluded nearly two years of consultation with the publication of comprehensive amendments, additions, and updates to Part 543, the minimum internal control standards (MICS) for Class II gaming operations. The regulations require tribes to establish controls and implement procedures at least as stringent as those described in this part to maintain the integrity of the gaming operation and minimize the risk of theft.

One of the 2012 additions was the inclusion of kiosks, devices capable of redeeming vouchers or and/or wagering credits or initiating transfers from a patron deposit account. The regulation provided general standards for kiosks, but upon further review, additional standards are needed for the drop and count and surveillance of kiosks to adequately protect against risk of loss.

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 proposed 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 proposed 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 proposed 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 proposed 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

The information collection requirements contained in this rule were previously approved by the Office of Management and Budget as required by 44 U.S.C. 3501, *et seq.*, and assigned OMB Control Number 3141-0009. The OMB control number expires on October 31, 2015.

Text of the Proposed Rules**List of Subjects in 25 CFR Part 543**

Gambling, Indian—Indian lands, Indian—tribal government.

For the reasons discussed in the Preamble, the Commission proposes the text of its regulations at 25 CFR part 543 to be amended as follows:

PART 543—MINIMUM INTERNAL CONTROL STANDARDS FOR CLASS II GAMING

■ 1. The authority citation for part 543 continues to read as follows:

Authority: 25 U.S.C. §§ 2702(2), 2706(b)(1–4), 2706(b)(10).

■ 2. Amend § 543.2 by adding a definition for *currency cassette* in alphabetical order to read as follows:

§ 543.2 What are the definitions for this part?

* * * * *

Currency cassette. A locked compartment that contains a specified denomination of currency. Currency cassettes are inserted into kiosks, allowing them to dispense currency.

* * * * *

■ 3. Amend § 543.17 by revising paragraphs (h) and (i) and adding paragraphs (j) and (k) to read as follows:

§ 543.17 What are the minimum internal control standards for drop and count?

* * * * *

(h) Kiosk drop, count, and fill standards. Controls must be established and procedures implemented to ensure security of the kiosk drop and count processes. Such controls must include the following:

(1) Surveillance must be notified when the drop process is to begin so that surveillance may monitor the activities.

(2) At least three agents must be involved in the drop process and at least one agent should be independent of kiosk accountability.

(3) Currency cassettes and financial instrument storage components must be dropped and secured in a manner that restricts access to only authorized agents.

(4) Any time the financial instrument storage components or currency cassettes are accessed, and prior to any transactions being processed through the kiosk, an agent independent of the count must run a kiosk report.

(i) The report must reflect the following:

(A) Date and time;

(B) Unique asset identification number of the kiosk;

(C) Unique identification number for each financial instrument storage component in the kiosk;

(D) Total amount of currency dispensed;

(E) Total number of bills dispensed by denomination;

(F) Total dollar amount of vouchers accepted;

(G) Total number of vouchers accepted.

(ii) The report may not be viewed by any member of the count team and must be immediately forwarded to accounting or placed in a secure storage area where it is not accessible by the count team.

(5) Redeemed vouchers and pulltabs (if applicable) collected from the drop must be secured and delivered to the appropriate department (cage or accounting) for reconciliation.

(6) After completing a fill and prior to the first transaction, the team must test the machine to verify that currency cassettes contain the correct denominations and have been properly installed.

(i) Kiosk count standards.

(1) Access to stored full kiosk financial instrument storage components and currency cassettes must be restricted to:

(i) Authorized members of the drop and count teams; and

(ii) In an emergency, authorized persons for the resolution of a problem.

(2) The kiosk count must be performed in a count room or other equivalently secure area with comparable controls.

(3) Access to the count room during the count must be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(4) If counts from various revenue centers and kiosks occur simultaneously in the count room, procedures must be in effect that prevent the commingling of funds from the kiosks with any revenue centers.

(5) The count team must not have access to the reconciliation report amounts until after the count is completed and the drop proceeds are accepted into the cage/vault accountability.

(6) Count equipment and systems must be tested, and the results documented, before the first count begins, to ensure the accuracy of the equipment.

(7) If a currency counter interface is used:

(i) It must be adequately restricted to prevent unauthorized access; and

(ii) The currency drop figures must be transferred via direct communications

line or computer storage media to the accounting department.

(8) The kiosk financial instrument storage components and currency cassettes must be individually emptied and counted so as to prevent the commingling of funds between kiosks until the count of the kiosk contents has been recorded.

(i) The count of each kiosk must be recorded in ink or other permanent form of recordation.

(ii) Coupons or other promotional items not included in gross revenue (if any) may be recorded on a supplemental document by the count team members or accounting personnel. All single-use coupons must be cancelled daily by an authorized agent to prevent improper recirculation.

(9) If currency counters are utilized, a count team member must observe the loading and unloading of all currency at the currency counter, including rejected currency.

(10) Two counts of the currency rejected by the currency counter must be recorded per kiosk as well as in total. Rejected currency must be posted to the kiosk from which it was collected.

(11) Financial instrument storage components and currency cassettes, when empty, must be shown to another member of the count team, to another agent who is observing the count, or to surveillance, provided that the count is monitored in its entirety by an agent independent of the count.

(12) Procedures must be implemented to ensure that any corrections to the count documentation are permanent, identifiable, and the original, corrected information remains legible. Corrections must be verified by two count team agents.

(13) The count sheet must be reconciled to the total drop by a count team member who may not function as the sole recorder, and variances must be reconciled and documented.

(14) All count team agents must sign the report attesting to their participation in the count.

(15) A final verification of the total drop proceeds, before transfer to cage/vault, must be performed by at least two agents, one of whom is a supervisory count team member and the other a count team agent.

(i) Final verification must include a comparison of currency counted totals against the currency counter/system report (not the report generated by the kiosk), if a counter/system is used.

(ii) Any unresolved variances must be documented and the documentation must remain a part of the final count record forwarded to accounting.

(iii) This verification does not require a complete recount of the drop proceeds but does require a review sufficient to verify the total drop proceeds being transferred.

(iv) The two agents must sign the report attesting to the accuracy of the total drop proceeds verified.

(v) All drop proceeds and cash equivalents that were counted must be turned over to the cage or vault cashier (who must be independent of the count team) or to an agent independent of the revenue generation and the count process for verification. Such cashier or agent must certify, by signature, the amount of the drop proceeds delivered and received. Any unresolved variances must be reconciled, documented, and/or investigated by accounting/revenue audit.

(16) After certification by the agent receiving the funds, the drop proceeds must be transferred to the cage/vault.

(i) The count documentation and records must not be transferred to the cage/vault with the drop proceeds.

(ii) The cage/vault agent must not have knowledge or record of the drop proceeds total before it is verified.

(iii) All count records must be forwarded to accounting secured and accessible only by accounting agents.

(iv) The cage/vault agent receiving the transferred drop proceeds must sign the count sheet attesting to the verification of the total received, and thereby assuming accountability of the drop proceeds, and ending the count.

(v) Any unresolved variances between total drop proceeds recorded on the count room report and the cage/vault final verification during transfer must be documented and investigated.

(17) The count sheet, with all supporting documents, must be delivered to the accounting department by a count team member or agent independent of the cashiers department. Alternatively, it may be adequately secured and accessible only by accounting department.

(j) Controlled keys. Controls must be established and procedures implemented to safeguard the use, access, and security of keys in accordance with the following:

(1) Each of the following requires a separate and unique key lock or alternative secure access method:

(i) Drop or player interface cabinet;

(ii) Drop box or financial instrument storage component release;

(iii) Drop box or financial instrument storage component contents; and

(iv) Storage racks and carts.

(v) Kiosk currency cassettes

(k) Variances. The operation must establish, as approved by the TGRA, the

threshold level at which a variance must be reviewed to determine the cause.

Any such review must be documented.

■ 4. Amend § 543.21 by adding paragraph(c)(6) to read as follows:

§ 543.21 What are the minimum internal control standards for surveillance?

* * * * *

(c) * * *

(6) Kiosks: The surveillance system must monitor and record a general overview of activities occurring at each kiosk with sufficient clarity to identify the activity and the individuals performing it, including maintenance, drops or fills, and redemption of wagering vouchers or credits.

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Tracie L. Stevens,
Chairwoman.

Daniel J. Little,

Associate Commissioner.

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DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR part 547

RIN 3141-AA27

Minimum Technical Standards for Class II Gaming Systems and Equipment

AGENCY: National Indian Gaming Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On September 21, 2012, the National Indian Gaming Commission (“NIGC”) published a final rule amending its technical standards for Class II gaming systems and equipment, and the rule became effective on October 22, 2012. This document proposes an amendment to the regulatory text of the final rule to harmonize the charitable gaming exemptions in the Technical Standards and the Class II Minimum Internal Control Standards of NIGC regulations.

DATES: Submit comments on or before April 8, 2013.

ADDRESSES: You may submit comments by any one of the following methods, however, please note that comments sent by electronic mail are strongly encouraged.

• Email comments to:
reg.review@nigc.gov.

• Mail comments to: National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005.

• *Hand deliver comments to:* 1441 L Street NW., Suite 9100, Washington, DC 20005.

• *Fax comments to:* National Indian Gaming Commission at 202-632-0045.

FOR FURTHER INFORMATION CONTACT: Michael Hoenig, Senior Attorney, National Indian Gaming Commission, 1441 L Street NW, Suite 9100 Washington, DC 20005. Telephone: 202-632-7009; email: reg.review@nigc.gov.

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested parties are invited to participate in this Notice of Proposed Rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal.

II. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100-497, 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The Act establishes the NIGC and sets out a comprehensive framework for the regulation of gaming on Indian lands. On September 21, 2012, the NIGC published a final rule in the **Federal Register** called *Minimum Technical Standards for Class II Gaming Systems and Equipment*. 77 FR 58473. The standards are designed to assist tribal gaming regulatory authorities and operators with ensuring the integrity and security of Class II gaming, the accountability of Class II gaming revenue, and provide guidance to equipment manufacturers and distributors of Class II gaming systems.

On November 18, 2010, the NIGC issued a Notice of Inquiry and Notice of Consultation advising the public that the NIGC has endeavored to conduct a comprehensive review of its regulations and requesting public comment on which were most in need of revision, in what order the Commission should review its regulations, and the process NIGC should utilize to make revisions. 75 FR 70680. On April 4, 2011, after consulting with tribes and reviewing all comments, the NIGC published a Notice of Regulatory Review Schedule (NRR) setting out a consultation schedule and process for review. 76 FR 18457. Part 547 was included in the third regulatory group reviewed pursuant to the NRR.

Section 547.5(e)(5) of the final rule states that the Part does not apply to a charitable gaming operation provided that, among other things, the amount of