



NORTH FORK RANCHERIA
OF MONO INDIANS OF CALIFORNIA

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August 10, 2011

Via Electronic Mail: [reg-review @ NIGC.gov](mailto:reg-review@NIGC.gov)

Ms. Lael Echo-Hawk, Counselor to the Chair
National Indian Gaming Commission
1441 L. Street, N.W. Suite 9100
Washington, D.C. 20005

Re: Comments on NIGC's Preliminary Draft of Revised 25 C.F.R. Parts 556,
558, 571 and 573

Dear Commissioners:

The North Fork Rancheria of Mono Indians (Tribe) is pleased to submit the attached comments on the above-referenced revisions prepared by the National Indian Gaming Commission (NIGC). Our comments are in the form of a blacklined markup of the NIGC's Preliminary Draft revisions with accompanying commentary added where necessary to explain the intent or rationale of our proposed changes. These comments were prepared in conjunction with our developer, but ultimately reflect the comments of our Tribe.

We appreciate the opportunity to provide these comments and hope that they assist the NIGC in developing the best regulations possible.

Sincerely,

Maryann McGovran
Tribal Vice-Chair

Enclosures

Part 1 556 – Background Investigations for Primary Management Officials and Key Employees

§ 556.1 Scope of this ~~Part~~[part](#).

§ 556.2 Privacy ~~Notice~~[notice](#).

§556.3 Notice regarding false statements.

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§ 556.5 Tribal ~~Eligibility Determination~~[eligibility determination](#).

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§556.8 Compliance with this ~~Part~~[part](#).

§ 556.1 Scope of this ~~Part~~[part](#).

Unless a tribal-state compact assigns sole jurisdiction to an entity other than a tribe with respect to background investigations [of key employees or primary management officials](#), the requirements of this part apply to all class II and class III gaming [operations](#). The procedures and standards of this part apply to [background investigations of](#) primary management officials and key employees.

§ 556.2 Privacy ~~Notice~~[notice](#).

(a) A tribe shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(b) A tribe shall notify in writing existing key employees and primary management officials that they shall either:

(1) Complete a new application form that contains a Privacy Act notice; or

(2) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

(c) All tribal gaming ordinances, [resolutions](#) and ~~ordinance~~ amendments approved by the Chair prior to the effective date of this section and that reference this notice do not need to be amended to comply with this section. All future [tribal gaming](#) ordinance, [resolution or amendment](#) submissions, however, must comply.

[Commentary: The term used in the statute at 25 U.S.C. § 2711\(d\)\(2\)\(B\) and in the regulations at 25 C.F.R. § 522 is “ordinance or resolution.” Therefore, the reference to a gaming “resolution” has been added for the sake of consistency with the terminology used in statute and the other provisions of the regulations.](#)

(d) All [gaming](#) license application forms used one-hundred eighty (180) days after the effective date of this section shall comply with this section.

§556.3 Notice regarding false statements.

(a) A tribe shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant:

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

(b) A tribe shall notify in writing existing key employees and primary management officials that they shall either:

(1) Complete a new application form that contains a notice regarding false statements; or

(2) Sign a statement that contains the notice regarding false statements.

(c) All tribal gaming ordinances, [resolutions](#) and ~~ordinance~~ amendments approved by the Chair prior to the effective date of this section and that reference this notice do not need to be amended to comply with this section. All future [tribal gaming](#) ordinance, [resolution and amendment](#) submissions, however, must comply.

(d) All gaming license application forms used 180 days after the effective date of this section shall comply with this section.

§ 556.4 Background investigations.

A tribe shall perform a background investigation for each primary management official and for each key employee of a gaming operation.

(a) A tribe shall request from each primary management official and from each key employee all of the following information:

(1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, and all languages (spoken or written);

(2) Currently and for the previous five years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and ~~drivers~~driver's license numbers;

(3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (a)(2) of this section;

(4) Current business and residence telephone numbers;

(5) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(8) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

(9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years ~~of~~after the date of the application, the name and address of the court involved and the date and disposition;

(10) For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years ~~of~~after the date of the application and is not otherwise listed pursuant to paragraph (a)(8) or (a)(9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

(11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(12) A photograph;

(13) Any other information a tribe deems relevant; and

(14) Fingerprints consistent with procedures adopted by a tribe according to [§ 522.2\(h\)](#) of this chapter.

(b) If a tribe has submitted a notification of results for an individual seeking to be ~~employed~~[licensed](#) by another tribe as a primary management official or key employee, and the second tribe (1) has access to the investigative materials held by the first tribe; or (2) obtained the investigative materials from the NIGC, the second tribe may [utilize such materials to](#) update the investigation [under § 556.4 of this part](#) and investigative report under §556.6(b)(1) of this part.

[Commentary: Consideration should be given to re-organizing this provision to Section 556.6](#)

(c) In conducting a background investigation, a tribe or its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

[Commentary: Consideration should be given to re-organizing this provision to the end of Section 556.5.](#)

§ 556.5 Tribal ~~Eligibility Determination~~[eligibility determination](#).

A tribe shall conduct ~~an~~ [a background](#) investigation sufficient to make an eligibility determination.

(a) To make a finding concerning the eligibility of a key employee or primary management official for [the](#) granting of a gaming license, an authorized tribal official shall review a person's:

(1) Prior activities;

(2) Criminal record, if any; and

(3) Reputation, habits and associations.

(b) If the authorized tribal official, in applying the standards adopted in a tribal [gaming ordinance or resolution](#), determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal

practices and methods and activities in the conduct of gaming, an authorizing tribal official shall not license that person in a key employee or primary management official position.

§ 556.6 ~~Report~~ Reports to the Commission.

(a) When a tribe employs a primary management official or a key employee, the tribe shall maintain a complete application file containing the information listed under §556.4(a)(1)–(14) of this part.

(b) Before issuing a gaming license to a primary management official or to a key employee, a tribe shall:

(1) Create and maintain an investigative report on each background investigation. An investigative report shall include all of the following:

(i) Steps taken in conducting a background investigation;

(ii) Results obtained;

(iii) Conclusions reached; and

(iv) The bases for those conclusions.

(2) Submit a notification of results of the applicant’s background investigation to the Commission no later than sixty (60) days after the applicant begins work. The notification of results shall contain:

(i) Applicant’s name, date of birth, and social security number;

(ii) Date on which the applicant began or will begin work as key employee or primary management official;

Commentary: Under 556.6(b)(2), the notification may be submitted after the applicant has begun work.

(iii) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:

A. ~~Licenses~~ Gaming licenses that have previously been denied;

B. Gaming licenses that have been revoked, even if subsequently reinstated;

C. Every known criminal charge brought against the applicant within the last 10 years ~~of~~ after the date of application; and

D. Every felony of which the applicant has been convicted or any ongoing prosecution.

(iv) ~~Copy~~A copy of the eligibility determination made under §556.5 of this ~~Part~~part.

§556.7 Notice to the Commission.

(a) All notices under this part shall be provided to the Commission through the appropriate Regional office.

(b) Should a tribe wish to submit notifications electronically, ~~they~~it should contact the appropriate Regional office or the Commission for guidance on acceptable document formats and means of transmission.

Commentary: There should be a nationwide standard for acceptable document format and means of transmission even if the documents are to be submitted to the Regional offices, rather than to the central Commission office.

556.8 Compliance with this ~~Part~~part.

All tribal gaming ordinances, resolutions and ~~ordinance~~ amendments approved by the Chair prior to the effective date of this ~~Part~~part and that reference this ~~Part~~part, do not need to be amended to comply with this ~~Part~~part. All future tribal gaming ordinance, resolution and amendment submissions, however, must comply.