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§ 518.1 What does this part cover?

§ 518.2 Who may petition for a certificate of self-regulation?

§ 518.3 What must a tribe submit to the Commission as part of its petition?

§ 518.4 What criteria must a tribe meet to receive a certificate of self-regulation?

§ 518.5 What process will the Commission use to review petitions?

§ 518.6 When will a certificate of self-regulation become effective?

§ 518.7 ~~What must a self-regulating tribe provide~~ the Commission to maintain its self-regulatory status?

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§ 518.8 Does a tribe that holds a certificate of self-regulation have a continuing duty to advise the Commission of any additional information?

§ 518.9 Are any of the investigative or enforcement powers of the Commission limited by the issuance of a certificate of self-regulation?

§ 518.10 ~~When~~ may the Commission remove a certificate of self-regulation?

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§ 518.11 May a tribe request a hearing on the Commission's proposal to remove its certificate?

§ 518.1 What does this part cover?

This part sets forth requirements for obtaining ~~a~~ certificate of self-regulation of class II gaming operations under 25 U.S.C. 2710(c). When the Commission issues a certificate of self-regulation, the certificate is issued to the tribe, not to a particular gaming operation. ~~The~~ certificate applies to all class II gaming activity conducted by the tribe holding the certificate.

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§ 518.2 Who may petition for a certificate of self-regulation?

A tribe may petition the Commission for a certificate of self-regulation of class II gaming if, for the three (3) year period immediately preceding the date of its petition:

(a) The tribe has continuously conducted the gaming activity for which it seeks self-regulation;

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(b) All gaming that the tribe has engaged in, or has licensed and regulated, on Indian lands within the tribe's jurisdiction, is located within a State that permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by federal law), in accordance with [25 U.S.C. 2710\(b\)\(1\)\(A\)](#);

(c) The governing body of the tribe has adopted an ordinance or resolution that the Chairman has approved, in accordance with [25 U.S.C. 2710\(b\)\(1\)\(B\)](#);

(d) The tribe has otherwise complied with the provisions of [25 U.S.C. 2710](#); and

(e) The gaming operation and the tribal regulatory body have, for the three years immediately preceding the date of the petition, maintained all records required to support the petition for self-regulation.

§ 518.3 What must a tribe submit to the Commission as part of its petition?

(a) A petition for a certificate of self-regulation under this part shall contain:

(1) ~~Two~~ copies on 8-1/2" X 11" paper of a petition for self-regulation approved by the governing body of the tribe and certified as authentic by an authorized tribal official;

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~~(2) The following information with supporting documentation:~~

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(i) ~~A~~ brief history of each gaming operation(s), including the opening dates and periods of voluntary or involuntary closure;

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(ii) ~~An~~ organizational chart of the tribal regulatory body;

(iii) ~~A brief~~ description of ~~the criteria tribal regulators must meet before being eligible for employment as a tribal regulator;~~

Deleted: the process by which all employee and regulator positions at the independent tribal regulatory body are filled, including qualifying and disqualifying criteria

(iv) ~~A brief~~ description of the process by which the tribal regulatory body is funded; and the funding level for the three years immediately preceding the date of the petition;

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(v) ~~A~~ list of the current regulators and employees of the tribal regulatory body, their titles, the dates they began employment, and, if serving limited terms, the expiration date of such terms;

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Deleted: (vi) A list of the current gaming operation division heads;

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~~(vi) A brief description of the accounting system(s) at the gaming operation which tracks the flow of the gaming revenues;~~

~~(vii) A list of gaming activity internal controls at the gaming operation(s);~~

~~(viii) A description of the record keeping system(s) for all investigations, enforcement actions, and prosecutions of violations of the tribal gaming ordinance or regulations, for the three (3)-year period immediately preceding the date of the petition;~~

~~(ix) A copy of the facility license issued by the tribe for each gaming operation where class II gaming activity takes place; and~~

~~(x) The tribe's current set of gaming regulations, if not included in the approved tribal gaming ordinance.~~

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- Deleted:** and .
- (vii) A report, with supporting documentation, including a sworn statement signed by an authorized tribal official, which explains how tribal net gaming revenues were used in accordance with the requirements of [25 U.S.C. 2710\(b\)\(2\)\(B\)](#); .
- (2) A descriptive list of the documents maintained by the tribe, together with an assurance that the listed documents or records are available for the Commission's review for use in determining whether the tribe meets the eligibility criteria of § 518.2 and the approval criteria of § 518.4, which shall include but is not limited to: .
- (i) The tribe's constitution or other governing documents; .
- (ii) If applicable, the tribe's revenue allocation plan pursuant to [25 U.S.C. 2710\(b\)\(3\)](#); .
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§ 518.4 What criteria must a tribe meet to receive a certificate of self-regulation?

(a) The Commission shall issue a certificate of self-regulation if it determines that for the three years immediately preceding the petition, the tribe has:

(1) Conducted its gaming activity in a manner that:

- (i) Has resulted in an effective and honest accounting of all revenues;
- (ii) Has resulted in a reputation for safe, fair, and honest operation of the activity; and
- (iii) Has been generally free of evidence of criminal or dishonest activity;

(2) Conducted its gaming operation on a fiscally and economically sound basis;

(3) Conducted its gaming activity in compliance with the IGRA, NIGC regulations in this chapter, and the tribe's gaming ordinance and gaming regulations; and

(4) Adopted and is implementing adequate systems for:

- (i) Accounting of all revenues from the gaming activity;
- (ii) Investigating, licensing and monitoring of all employees of the gaming activity; and
- (iii) Investigating, enforcing and prosecuting violations of its gaming ordinance and regulations.

Deleted: (3) A copy of the public notice required under [25 CFR 518.5\(d\)](#) and a certification, signed by a tribal official, that it has been posted. Upon publication of the notice in a local newspaper, the tribe shall forward an affidavit of publication to the Commission.¶

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(4) The gaming activity has been conducted in compliance with the IGRA, NIGC regulations in this chapter, and the tribe's gaming ordinance and gaming regulations.¶

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(b) A tribe may illustrate that it has met the criteria listed in paragraph (a) of this section by addressing factors such as those listed below. The list of factors is not all-inclusive; other factors not listed here may also be addressed.

(1) The tribe adopted and is implementing minimum internal control standards which are at least as stringent as those promulgated by the Commission;

(2) The tribe requires tribal gaming regulators to meet the same suitability requirements as those required for key employees and primary management officials of the gaming operation(s);

(3) The tribe utilizes an adequate system for accounting of all gaming revenues from class II gaming activity;

(4) The tribe has an adequate dispute resolution process for gaming operation employees and customers and has taken steps to ensure that the process is adequately implemented;

(5) The tribe has a gaming regulatory body which:

(i) Monitors gaming activities to ensure compliance with federal and tribal laws and regulations;

(ii) Monitors the gaming revenues accounting system for continued effectiveness;

(iii) Performs routine operational or other audits of the class II gaming activities;

(iv) Routinely receives and reviews gaming revenue accounting information from the gaming operation(s);

(v) Has access to and may inspect, examine, photocopy and audit all papers, books, and records of the gaming operation(s) and class II gaming activities;

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(vi) Monitors compliance with minimum internal control standards for the gaming operation;

(vii) Has adopted and is implementing an adequate system for investigating, licensing, and monitoring of all employees of the gaming activity;

(viii) Maintains records on licensees and on persons denied licenses, including persons otherwise prohibited from engaging in gaming activities within the tribe's jurisdiction;

(ix) Establishes standards for, and issues, vendor licenses or permits to persons or entities who deal with the gaming operation, such as manufacturers and suppliers of services, equipment and supplies;

(x) Establishes or approves, the rules governing class II games, and requires their posting;

(xi) Has adopted and is implementing an adequate system for the investigation of possible violations of the tribal gaming ordinance and regulations, and takes appropriate enforcement actions;

(xii) Takes testimony and conducts hearings on regulatory matters, including matters related to the revocation of primary management officials, key employee and vendor licenses;

(6) The tribe allocates and appropriates a sufficient source of permanent and stable funding for the tribal regulatory body;

(7) The tribe has adopted and is implementing a conflict of interest policy for the regulators/regulatory body and their staff;

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- Deleted: (xiv) Inspects games, tables, equipment, cards, and chips or tokens used in the gaming operation(s); -
- (xv) Establishes standards for technological aids and tests such for compliance with standards; -
- (xvi) Establishes or approves video surveillance standards; -
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~~(8) The tribe demonstrates~~ that the operation is financially stable;

~~(9) The tribe has adopted~~ and ~~is implementing~~ a system for adequate prosecution of violations of the tribal gaming ordinance and regulations; ~~and~~

~~(10) The tribe demonstrates~~ that the operation is being conducted ~~in a manner which adequately protects the environment and the public health and safety.~~

(c) The burden of establishing self-regulation is upon the tribe filing the petition.

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(iii) Proof of compliance with applicable building, health, and safety codes; and .
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-

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(d) During the review of ~~a tribe's petition for self-regulation of class II gaming~~, the Commission shall have complete access to ~~all papers, books, and records of the tribal regulatory body; the gaming operation premises;~~ and any other entity involved in the regulation or oversight of the gaming operation. The Commission shall be allowed to inspect and photocopy any relevant materials. The tribe shall take no action to prohibit the Commission from soliciting information from any current or former employees of the tribe, the tribal regulatory body, or the gaming operation. Failure to adhere to this paragraph may be grounds for denial of a petition for self-regulation.

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§ 518.5 What process will the Commission use to review petitions?

(a) The Chairman shall appoint one Commissioner to administer the Office of ~~Self-Regulation~~. The Office of ~~Self-Regulation~~ shall undertake an initial review of ~~a tribe's~~ petition to determine whether the tribe meets all of the eligibility criteria of § 518.2. If the tribe fails to meet any of the eligibility criteria, the Office of ~~Self-Regulation~~ shall deny the petition and so notify the tribe. If the tribe meets all of the eligibility criteria, the Office of ~~Self-Regulation~~ shall review the petition and accompanying documents for completeness. If the Office of ~~Self-Regulation~~ finds the petition ~~to be~~ incomplete, it shall immediately notify the tribe by letter, certified mail ~~or~~ return receipt requested, of any obvious deficiencies or significant omissions apparent in the petition and provide the tribe with an opportunity to submit additional information and/or clarification.

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(b) The Office of ~~Self-Regulation~~ shall notify a tribe by letter when it considers a petition to be complete.

(c) Upon receipt of a complete petition, the Office of ~~Self-Regulation~~ shall ~~a~~ review and investigation to determine whether the tribe meets the approval criteria under § 518.4. During the course of this review, the Office of ~~Self-Regulation~~ may request from the tribe any additional material it deems necessary to assess whether the tribe has met the requirements for self-regulation. The tribe shall provide all information requested by the Office of ~~Self-Regulation~~ in a timely manner. The Office of ~~Self-Regulation~~ may consider any evidence which may be submitted by interested or informed parties. The Office of ~~Self-Regulation~~ shall make all such information on which it relies in making its determination available to the ~~tribe~~ and shall afford the ~~tribe~~ an opportunity to respond.

Deleted: (d) The tribe shall post a notice, contemporaneous with the filing of the petition, advising the public that it has petitioned the Commission for a certificate of self regulation. Such notice shall be posted in conspicuous places in the gaming operation and the tribal government offices. Such notice shall remain posted until the Commission either issues a certificate or declines to do so. The tribe shall also publish such notice, once a week for four weeks, in a local newspaper with a broad based circulation. Both notices shall state that one of the criteria for the issuance of a certificate is that the tribe has a reputation for safe, fair, and honest operation of the gaming activity, and shall solicit comments in this regard. The notices shall instruct commentors to submit their comments directly to the Office of Self Regulation, shall provide the mailing address of the Commission and shall request that commentors include their name, address and day time telephone number. .

~~(d) The Office of Self-Regulation shall make an initial determination within 120 days of receipt of a complete petition, and shall issue a report of its findings to the tribe.~~

(1) If the Office of ~~Self-Regulation~~ determines that the tribe has satisfied the criteria for a certificate of ~~self-regulation~~, it shall indicate in its report and shall issue a certificate in accordance with ~~§ 518.6~~.

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(2) If the Office of ~~Self-Regulation~~'s initial determination is that a tribe has not met the criteria for a certificate of ~~self-regulation~~, it ~~shall~~ advise the tribe in its

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1 report. The tribe shall have 60 days from the date of service of the report to
2 submit to the Office of Self-Regulation a written response to the report. This
3 response may include additional materials which:

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4 (i) The tribe deems necessary to adequately respond to the findings; and

5
6 (ii) The tribe believes supports its petition.

7 (e) At the time of the submission of its response, the tribe may request a hearing before
8 the Office of Self-Regulation. This request shall specify the issues to be addressed by the
9 tribe at such hearing, and any proposed oral or written testimony the tribe wishes to
10 present.

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11
12 (f) The Office of Self-Regulation shall notify the tribe within 10 days of receipt of such
13 request of the date and place of the hearing. The Office of Self-Regulation shall also set
14 forth a hearing schedule, including the specification of all issues to be addressed at the
15 hearing, the identification of any witnesses, the time allotted for testimony and oral
16 argument, and the order of the presentation. The hearing schedule will be provided to the
17 tribe prior to the hearing.

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19 (g) Following review of the tribe's response and the conduct of the hearing, the Office of
20 Self-Regulation shall issue a decision on the petition. The decision shall set forth with
21 particularity the findings with respect to the tribe's compliance with the standards for self-
22 regulation set forth in this Part. If the Office of Self-Regulation determines that a
23 certificate will issue, it will do so in accordance with § 518.6.

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25 (h) The decision to deny a petition shall be appealable to the full Commission under Part
26 585.

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Deleted: . Such appeal shall be received by the Commission within thirty (30) days of service of the decision and shall include a supplemental statement that states with particularity the relief desired and the grounds therefor. The full Commission shall decide the appeal based only on a review of the record before it. The decision on appeal shall require a majority vote of the Commissioners. .

27 (i) The decision of the Commission to approve or deny a petition shall be a final agency
28 action.

29 **§ 518.6 When will a certificate of self-regulation become effective?**

30
31 A certificate of self-regulation shall become effective on January 1 of the year following
32 the year in which the Commission determines that a certificate will issue. Complete
33 petitions are due no later than June 30. No petitions will be considered for the following
34 January 1 effective date that have not been received by June 30 of the previous year.
35 Petitions will be reviewed and investigated in chronological order based on the date of
36 receipt of a complete petition. The Commission will announce its determinations on
37 December 1 for all those reviews and investigations it completes.

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1 **§ 518.7 What must a self-regulating tribe provide the Commission to maintain its**
2 **self-regulatory status?**
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5 Each tribe that holds a certificate of self-regulation shall be required to submit the
6 following information to the Commission on an annual basis:

7 (a) An independent audit, as required by 25 U.S.C. 2710(b)(2)(c), to be filed with the
8 Commission on April 15th of each year following the first year of self-regulation; and

9 (b) A complete resume for all employees hired and licensed by the tribe subsequent to its
10 receipt of a certificate of self-regulation, to be filed with the Commission upon hiring and
11 licensing or as arranged with the appropriate NIGC regional office. For purposes of this
12 subsection (b), "employees" shall consist of primary management officials, as defined in
13 25 C.F.R. § 502.19, and key employees, as defined in 25 C.F.R. § 502.14.

14 Failure to submit the information required by this section may result in a removal of a
15 certification of self-regulation.

16 **§ 518.8 Does a tribe that holds a certificate of self-regulation have a continuing duty**
17 **to advise the Commission of any additional information?**
18

19
20 Yes. A tribe that holds a certificate of self-regulation has a continuing duty to
21 immediately advise the Commission of any change in circumstances that are material to
22 the approval criteria in § 518.4 and may reasonably cause the Commission to review and
23 reconsider the tribe's certificate of self-regulation. Failure to do so is grounds for removal
24 of a certificate of self-regulation. Such circumstances may include, but are not limited to:
25 a change in management contractor; financial instability; or any other factors that are
26 material to the decision to grant a certificate of self regulation.

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1 **§ 518.9 Are any of the investigative or enforcement powers of the Commission**
2 **limited by the issuance of a certificate of self-regulation?**

3
4 ~~Yes. During any time in which a tribe has a certificate of self-regulation, the following~~
5 ~~four powers of the Commission shall be inapplicable:~~

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6 ~~(a) The power to monitor class II gaming conducted on Indian lands on a continuing~~
7 ~~basis:~~

8 ~~(b) The power to inspect and examine all premises located on Indian lands on which~~
9 ~~solely class II gaming is conducted;~~

10 ~~(c) The power to conduct, or cause to be conducted, such background investigations as~~
11 ~~may be necessary; and~~

12 ~~(d) The power to demand access to and to inspect, examine, photocopy, and audit all~~
13 ~~papers, books and records respecting gross revenues of class II gaming conducted on~~
14 ~~Indian lands and any other matters necessary to carry out the duties of the Commission~~
15 ~~under IGRA.~~

16 ~~Notwithstanding the inapplicability of the above four powers to self-regulating tribes, the~~
17 Commission retains ~~all other~~ investigative and enforcement powers over ~~the~~ class II
18 gaming ~~activities of self-regulating~~ tribes. The Commission shall retain its powers to
19 investigate and bring enforcement actions for violations of the IGRA, ~~its implementing~~
20 regulations, and violations of tribal gaming ordinances.

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21 **§ 518.10 When may the Commission remove a certificate of self-regulation?**

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24 The Commission may, after an opportunity for a hearing, remove a certificate of self-
25 regulation by a majority vote of its members if it determines that the tribe no longer
26 meets the eligibility criteria of § 518.2, the approval criteria of § 518.4, the requirements
27 of § 518.7 or the requirements of § 518.8. The Commission shall provide the tribe with
28 prompt notice of the Commission's intent to remove a certificate of self-regulation under
29 this Part. Such notice shall state the reasons for the Commission's action and shall advise
30 the tribe of its right to a hearing under § 518. 11. The decision to remove a certificate is
31 appealable to Federal District Court pursuant to [25 U.S.C. 2714](#).

32 **§ 518.11 May a tribe request a hearing on the Commission's proposal to remove its**
33 **certificate?**

34
35 Yes. A tribe may request a hearing regarding the Commission's proposal to remove a
36 certificate of ~~self~~-regulation under ~~Part 585~~. Such a request shall be filed with the
37 Commission within thirty (30) days after the tribe receives notice of the Commission's

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1 action. Failure to request a hearing within the time provided by this section shall
2 constitute a waiver of the right to a hearing.

3 **§ 518.12 May a tribe request reconsideration by the Commission of a denial of a**
4 **petition or a removal of a certificate of self-regulation?**

5
6
7 Yes. A tribe may file a request for reconsideration of a denial of a petition or a removal
8 of a certificate of self-regulation within 30 days of receipt of the denial or removal. Such
9 request shall set forth the basis for the request, specifically identifying those Commission
10 findings which the tribe believes to be erroneous. The Commission shall issue a final
11 decision within 30 days of receipt of the request. If the Commission fails to issue a
12 decision within 30 days, the request shall be considered to be disapproved.

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3 § 518.1 What does this part cover?

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5 § 518.2 Who may petition for a certificate of self-regulation?

6
7 § 518.3 What must a tribe submit to the Commission as part of its petition?

8
9 § 518.4 What criteria must a tribe meet to receive a certificate of self-regulation?

10
11 § 518.5 What process will the Commission use to review petitions?

12
13 § 518.6 When will a certificate of self-regulation become effective?

14
15 | § 518.7 ~~What must a self-regulating tribe provide If a tribe holds a certificate of self-~~
16 ~~regulation, is it required to annually report information to~~ the Commission to
17 maintain its self-regulatory status?

18
19 § 518.8 Does a tribe that holds a certificate of self-regulation have a continuing duty
20 to advise the Commission of any additional information?

21
22 § 518.9 Are any of the investigative or enforcement powers of the Commission
23 limited by the issuance of a certificate of self-regulation?

24
25 | § 518.10 ~~Under what circumstances~~ When may the Commission remove a certificate
26 of self-regulation?

27
28 § 518.11 May a tribe request a hearing on the Commission's proposal to remove its
29 certificate?

30
31
32
33 § 518.1 What does this part cover?

34
35 | This part sets forth requirements for obtaining ~~and procedures governing, the~~
36 ~~Commission's a~~ certificate of self-regulation of class II gaming operations under 25
37 U.S.C. 2710(c). When the Commission issues a certificate of self-regulation, the
38 certificate is issued to the tribe, not to a particular gaming operation. The certificate
39 applies to all class II gaming ~~operations operated~~ activity conducted by the tribe holding
40 the certificate.

41 § 518.2 Who may petition for a certificate of self-regulation?

42
43 | A tribe may petition the Commission for a certificate of self-regulation of class II
44 gaming if, for the three (3) year period immediately preceding the date of its petition:

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1
2 (a) The tribe has continuously conducted the gaming activity for which it seeks self-
3 regulation;

4
5 (b) All gaming that the tribe has engaged in, or has licensed and regulated, on Indian
6 lands within the tribe's jurisdiction, is located within a State that permits such gaming for
7 any purpose by any person, organization or entity (and such gaming is not otherwise
8 specifically prohibited on Indian lands by federal law), in accordance with [25 U.S.C.](#)
9 [2710\(b\)\(1\)\(A\)](#);

10
11 (c) The governing body of the tribe has adopted an ordinance or resolution that the
12 Chairman has approved, in accordance with [25 U.S.C. 2710\(b\)\(1\)\(B\)](#);

13
14 (d) The tribe has otherwise complied with the provisions of [25 U.S.C. 2710](#); and

15
16 (e) The gaming operation and the tribal regulatory body have, for the three years
17 immediately preceding the date of the petition, maintained all records required to support
18 the petition for self-regulation.

19 **§ 518.3 What must a tribe submit to the Commission as part of its petition?**

20
21 (a) A petition for a certificate of self-regulation under this part shall contain:

22
23 (1) Two copies on 8-1/2" X 11" paper of a petition for self-regulation approved by
24 the governing body of the tribe and certified as authentic by an authorized tribal
25 official, ~~which includes~~.

26 ~~(2) The petition shall include The following information, with supporting~~
27 ~~documentation:~~

28 (i) A brief history of each gaming operation(s), including the opening
29 dates and periods of voluntary or involuntary closure;

30
31 (ii) An organizational chart of the ~~independent~~ tribal regulatory body;

32 (iii) A ~~brief~~ description of ~~the the process by which all employee and~~
33 ~~regulator positions at the independent tribal regulatory body are filled,~~
34 ~~including qualifying and disqualifying criteriacriteria tribal regulators~~
35 ~~must meet before being eligible for employment at thea tribal regulatory~~
36 ~~ageney;~~

37
38 (iv) A ~~brief~~ description of the process by which the ~~independent~~ tribal
39 regulatory body is funded; and the funding level for the three years
40 immediately preceding the date of the petition;

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(v) A list of the current regulators and employees of the ~~independent~~ tribal regulatory body, their titles, the dates they began employment, and, if serving limited terms, the expiration date of such terms; ~~(vi) A list of the current gaming operation division heads;~~

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1 and

2
3 ~~(vii) A report, with supporting documentation, including a sworn~~
4 ~~statement signed by an authorized tribal official, which explains how tribal~~
5 ~~net gaming revenues were used in accordance with the requirements of 25~~
6 ~~U.S.C. 2710(b)(2)(B);~~

7
8 ~~(2) A descriptive list of the documents maintained by the tribe, together~~
9 ~~with an assurance that the listed documents or records are available for the~~
10 ~~Commission's review for use in determining whether the tribe meets the~~
11 ~~eligibility criteria of § 518.2 and the approval criteria of § 518.4, which~~
12 ~~shall include but is not limited to:~~

13
14 ~~(i) The tribe's constitution or other governing documents;~~

15
16 ~~(ii) If applicable, the tribe's revenue allocation plan pursuant to 25 U.S.C.~~
17 ~~2710(b)(3);~~

18
19 ~~(viii) A brief description of the accounting system(s) at both the gaming~~
20 ~~operation and the tribe that which account tracks for the flow of the gaming~~
21 ~~revenues from receipt to their ultimate use, consistent with IGRA;~~

22
23
24 ~~(ivii) A Manual(s) of the internal control systems list of gaming activity~~
25 ~~internal controls at of the gaming operation(s);~~

26
27 ~~(v) A description of the record keeping system for all allegations of~~
28 ~~criminal or dishonest activity for the three (3)-year period immediately~~
29 ~~preceding the date of the petition, and measures taken to resolve the~~
30 ~~allegations;~~

31
32 ~~(viii) A description of the record keeping system(s) for all investigations,~~
33 ~~enforcement actions, and prosecutions of violations of the tribal gaming~~
34 ~~ordinance or regulations, for the three (3)-year period immediately~~
35 ~~preceding the date of the petition, including dispositions thereof;~~

36
37 ~~(vii) A description of the personnel record keeping system of all current~~
38 ~~employees of the gaming operation(s);~~

39
40 ~~(viii) A copy of the ~~The dates of issuance, and criteria for the issuance of~~~~
41 ~~tribal gaming licenses issued for each place, facility or location at which~~
42 ~~gaming is facility license issued by the tribe for each gaming operation~~
43 ~~where class II gaming activity takes place conducted; and~~

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(ix) The tribe's current set of gaming regulations, if not included in the approved tribal gaming ordinance; and,

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~~(3) A copy of the public notice required under 25 CFR 518.5(d) and a certification, signed by a tribal official, that it has been posted. Upon publication of the notice in a local newspaper, the tribe shall forward an affidavit of publication to the Commission.~~

§ 518.4 What criteria must a tribe meet to receive a certificate of self-regulation?

(a) The Commission shall issue a certificate of self-regulation if it determines that for the three years immediately preceding the petition, the tribe has, ~~for the three years immediately preceding the petition:~~

(1) Conducted its gaming activity in a manner that:

(i) Has resulted in an effective and honest accounting of all revenues;

(ii) Has resulted in a reputation for safe, fair, and honest operation of the activity; and

(iii) Has been generally free of evidence of criminal or dishonest activity;

~~(2) Conducted its gaming operation on a fiscally and economically sound basis;~~

~~(3) Conducted its gaming activity in compliance with the IGRA, NIGC regulations in this chapter, and the tribe's gaming ordinance and gaming regulations; and~~

~~(4) Adopted~~ Adopted and is implementing adequate systems for:

(i) ~~Accounting~~ Accounting of all revenues from the gaming activity;

(ii) ~~Investigation~~ Investigating, licensing and monitoring of all employees of the gaming activity; and

(iii) ~~Investigation~~ Investigating, ~~enforcement~~ enforcing and ~~prosecution~~ prosecuting of violations of its gaming ordinance and regulations.;

~~(3) Conducted the operation on a fiscally and economically sound basis; and~~

~~(4) The gaming activity has been conducted in compliance with the IGRA, NIGC regulations in this chapter, and the tribe's gaming ordinance and gaming regulations.~~

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1 (b) ~~Indicators that a tribe has met the criteria set forth in paragraph (a) of this section may~~
2 ~~include, but are not limited to~~ A tribe may illustrate that it has met the criteria listed in
3 paragraph (a) of this section by demonstrating addressing factors such as those listed in
4 this paragraph below. The list included in this paragraph of factors is not all all-
5 inclusive; a tribe may demonstrate its eligibility for certification through the
6 demonstration of other factors not listed here may also be addressed.

7 (1) ~~The tribe has~~ Adopted ion ~~and is implement~~ ed ing ation ~~of~~ minimum internal
8 control standards which are at least as stringent as those promulgated by the
9 Commission, or until such standards are promulgated by the Commission,
10 minimum internal control standards at least as stringent as those required by the
11 State of Nevada or the State of New Jersey;

12
13 (2) The tribe requires tribal gaming regulators to meet the same suitability
14 requirements as those required for key employees and primary management
15 officials of the gaming operation(s) ~~Evidence that suitability determinations are~~
16 ~~made with respect to tribal gaming regulators which are at least as stringent as~~
17 ~~those required for key employees and primary management officials of the~~
18 ~~gaming operation(s);~~

19 (3) ~~The tribe created~~ utilizes an adequate system for accounting of all gaming
20 revenues from cClass II gaming activity;

21 (4) ~~The tribe created~~ has an adequate dispute resolution procedu ~~res~~ process for
22 gaming operation employees and customers; and has taken steps to ensures that
23 such systemthe process is adequately implemented;

24
25 (5) ~~The tribe has~~ Evidence of an establish ~~ed~~ independent gaming regulatory
26 body, either within the tribal government or independent of the tribal government,
27 which:

28 (i) Monitors gaming activities to ensure compliance with federal and tribal
29 laws and regulations;

30
31 ~~o tribal law;~~ (ii) ~~Ensures that there is an adequate system for accounting of~~
32 ~~all revenues from the Mactivity and monitors the gaming revenues~~
33 ~~accounting such~~ system for continued effectiveness;

34
35 (iii) ~~Perform~~ ss routine operational or other audits of the class II gaming
36 operation(s)activities;

37
38 (iv) Routinely receives and reviews gaming revenue accounting
39 information from the gaming operation(s);

40
41 (v) Has access to and may inspect, examine, photocopy and audit all

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papers, books, and records of the gaming operation(s) and class II gaming activities;

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1 ~~(vii) Provides ongoing information to the tribe on the status of the tribe's~~
2 ~~gaming operation(s);~~

3
4 (viii) Monitors compliance with minimum internal control standards for
5 the gaming operation;

6
7 ~~(viii) Has adopted~~ and is implementing an adequate system for
8 investigating, licensing, and monitoring of all employees of the gaming
9 activity;

10
11 ~~(viii) Maintains records on licensees and on persons denied licenses,~~
12 including persons otherwise prohibited from engaging in gaming activities
13 within the tribe's jurisdiction;

14
15 ~~(xi) Inspects and examines all premises where gaming is conducted;~~

16
17 ~~(ix) Establishes standards for,~~ and issues, vendor licenses or permits to
18 persons or entities who deal with the gaming operation, such as
19 manufacturers and suppliers of services, equipment and supplies;

20
21 ~~(xii) Establishes or approves, and requires the posting of, the rules of~~
22 ~~governing class II games, and requires their posting;~~

23
24 ~~(xiv) Inspects games, tables, equipment, cards, and chips or tokens used~~
25 ~~in the gaming operation(s);~~

26
27 ~~(xv) Establishes standards for technological aids and tests such for~~
28 ~~compliance with standards;~~

29
30 ~~(xvi) Establishes or approves video surveillance standards;~~

31
32 ~~(xvii) Has adopted~~ and is implementing an adequate system for the
33 investigation of possible violations of the tribal gaming ordinance and
34 regulations, and takes appropriate enforcement actions; and

35
36 ~~(xviii) Determines that there are adequate dispute resolution procedures~~
37 ~~for gaming operation employees and customers, and ensures that such~~
38 ~~system is adequately implemented; and~~

39
40 ~~(xiv) Takes testimony and conducts hearings on regulatory matters,~~
41 including matters related to the revocation of primary management
42 officials, and key employee and vendor licenses;

43 ~~(64) The tribe Documentation of a sufficient source of permanent and stable~~
44 ~~funding for the independent tribal regulatory body which is allocated~~ and

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appropriate and a sufficient source of permanent and stable funding for the independent tribal regulatory body ~~by the tribal governing body;~~

(75) ~~Adoption~~ The tribe has adopted and is implementing a conflict of interest policy for the regulators/regulatory body and their staff;

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~~(86) The tribe demonstrates Evidence that the operation is financially stable;~~

~~(97) The tribe has adopted Adoption and is implementationing of a system for adequate prosecution of violations of the tribal gaming ordinance and regulations; which may include the existence of a tribal court system authorized to hear and decide gaming related cases; and~~

~~(108) The tribe demonstrates Evidence that the operation is being conducted in a safe manner in a manner which adequately protects the environment and the public health and safety, which may include, but not be limited to:~~

~~;and~~

~~(i) The availability of medical, fire, and emergency services;(ii) The existence of an evacuation plan; and~~

~~(iii) Proof of compliance with applicable building, health, and safety codes; and~~

~~(9) Evidence that reports are produced or received by the tribe, the tribal regulatory body, or the gaming operation based on an evaluation of the internal controls of the gaming operation during the three (3) year period immediately preceding the date of the petition.~~

(c) The burden of establishing self-regulation is upon the tribe filing the petition.

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1 | (d) During the review of ~~the a tribe's~~ petition for self-regulation of class II gaming, —the
2 | Commission shall have complete access to ~~all areas of and~~ all papers, books, and records
3 | of the tribal regulatory body~~;~~; the gaming operation premises~~;~~; and any other entity
4 | involved in the regulation or oversight of the gaming operation. The Commission shall be
5 | allowed to inspect and photocopy any relevant materials. The tribe shall take no action to
6 | prohibit the Commission from soliciting information from any current or former
7 | employees of the tribe, the tribal regulatory body, or the gaming operation. Failure to
8 | adhere to this paragraph may be grounds for denial of a petition for self-regulation.

9 | **§ 518.5 What process will the Commission use to review petitions?**

10 |
11 |
12 | (a) The Chairman shall appoint one Commissioner to administer the Office of Self-
13 | Regulation. The Office of Self-Regulation shall undertake an initial review of a tribe's
14 | petition to determine whether the tribe meets all of the eligibility criteria of § 518.2. If the
15 | tribe fails to meet any of the eligibility criteria, the Office of Self-Regulation shall deny
16 | the petition and so notify the tribe. If the tribe meets all of the eligibility criteria, the
17 | Office of Self-Regulation shall review the petition and accompanying documents for
18 | completeness. If the Office of Self-Regulation finds the petition to be incomplete, it shall
19 | immediately notify the tribe by letter, certified mail or return receipt requested, of any
20 | obvious deficiencies or significant omissions apparent in the petition and provide the
21 | tribe with an opportunity to submit additional information and/or clarification.

22 |
23 | (b) The Office of Self-Regulation shall notify a tribe by letter when it considers a petition
24 | to be complete.

25 |
26 | (c) Upon receipt of a complete petition, the Office of Self-Regulation shall ~~conduct~~ a
27 | review and investigation to determine whether the tribe meets the approval criteria under
28 | § 518.4. During the course of this review, the Office of Self Regulation may request from
29 | the tribe any additional material it deems necessary to assess whether the tribe has met
30 | the requirements for self-regulation. The tribe shall provide all information requested by
31 | the Office of Self-Regulation in a timely manner. The Office of Self-Regulation may
32 | consider any evidence which may be submitted by interested or informed parties. The
33 | Office of Self-Regulation shall make all such information on which it relies in making its
34 | determination available to the tribe and shall afford the tribe an opportunity to respond.

35 |
36 | ~~(d) The tribe shall post a notice, contemporaneous with the filing of the petition, advising~~
37 | ~~the public that it has petitioned the Commission for a certificate of self regulation. Such~~
38 | ~~notice shall be posted in conspicuous places in the gaming operation and the tribal~~
39 | ~~government offices. Such notice shall remain posted until the Commission either issues a~~
40 | ~~certificate or declines to do so. The tribe shall also publish such notice, once a week for~~
41 | ~~four weeks, in a local newspaper with a broad based circulation. Both notices shall state~~
42 | ~~that one of the criteria for the issuance of a certificate is that the tribe has a reputation for~~
43 | ~~safe, fair, and honest operation of the gaming activity, and shall solicit comments in this~~
44 | ~~regard. The notices shall instruct commentors to submit their comments directly to the~~

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~~Office of Self-Regulation, shall provide the mailing address of the Commission and shall request that commentors include their name, address and day time telephone number. (ed) The Office of Self-Regulation shall make an initial determination within 120 days of receipt of the complete petition. After making an initial determination on the petition, the Office of Self-Regulation and shall issue a report of its findings to the tribe.~~

(1) If the Office of Self-Regulation determines that the tribe has satisfied the criteria for a certificate of self-regulation, it shall ~~so~~ indicate in its report and shall issue a certificate in accordance with §25-CFR 518.6.

(2) If the Office of Self-Regulation's initial determination is that a tribe has not met the criteria for a certificate of self-self-regulation, it ~~shall shall so~~ advise the tribe in its report, ~~and the~~ The tribe shall have 60 days from the date of service of the report to submit to the Office of Self-Regulation a written response to the report. This response may include additional materials which:

(i) The tribe deems necessary to adequately respond to the findings; and

(ii) The tribe believes supports its petition.

~~(ef) At the time of the submission of its response, the tribe may request a hearing before the Office of Self-Regulation. This request shall specify the issues to be addressed by the tribe at such hearing, and any proposed oral or written testimony the tribe wishes to present. The Office of Self-Regulation may limit testimony.~~

~~(fg) The Office of Self-Regulation shall notify the tribe, within 10 days of receipt of such request, of the date and place of the hearing. The Office of Self-Regulation shall also set forth the schedule for the conduct of the hearing a hearing schedule, including the specification of all issues to be addressed at the hearing, the identification of any witnesses, the time allotted for testimony and oral argument, and the order of the presentation. The hearing schedule will be provided to the tribe prior to the hearing.~~

~~(gh) Following review of the tribe's response and the conduct of the hearing, the Office of Self-Regulation shall issue a decision on the petition. The decision shall set forth with particularity the findings with respect to the tribe's compliance with the standards for self-regulation set forth in this Part. If the Office of Self-Regulation determines that a certificate will issue, it will do so in accordance with § 518.6.~~

~~(ht) The decision to deny a petition shall be appealable to the full Commission. Such appeal shall be received by the Commission within thirty (30) days of service of the decision and shall include a supplemental statement that states with particularity the relief desired and the grounds therefor. The full Commission shall decide the appeal based only on a review of the record before it. The decision on appeal shall require a majority vote of the Commissioners. under Part 585.~~

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1
2 (ij) The decision of the Commission to approve or deny a petition shall be a final agency
3 action. ~~A denial shall be appealable under 25 U.S.C. 2714, subject to the provisions of §~~
4 ~~518.12. The Commission decision shall be effective when the time for the filing of a~~
5 ~~request for reconsideration pursuant to § 518.12 has expired and no request has been~~
6 ~~filed.~~

7 **§ 518.6 When will a certificate of self-regulation become effective?**
8
9

10 A certificate of self-regulation shall become effective on January 1 of the year following
11 the year in which the Commission determines that a certificate will issue. Complete
12 petitions are due no later than June 30. No petitions will be considered for the following
13 January 1 effective date that have not been received by June 30 of the previous year.
14 Petitions will be reviewed and investigated in chronological order based on the date of
15 receipt of a complete petition. The Commission will announce its determinations on
16 December 1 for all those reviews and investigations it completes.

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1
2 **§ 518.7 ~~If a tribe holds a certificate of self-regulation, is it required to~~ What must a**
3 **self-regulating tribe provide annually report information to the Commission to**
4 **maintain its self-regulatory status?**

5
6
7 ~~Yes.~~ Each tribe that holds a certificate of self-regulation shall be required, ~~on an annual~~
8 ~~basis,~~ to submit ~~a self-regulation report~~ the following information to the Commission in
9 order to maintain its self-regulatory status on an annual basis:

10 (a) ~~Aan annual~~ independent audit, as required by 25 U.S.C. 2710(b)(2)(c), annually to
11 the Commission in order to maintain its self-regulatory status. Such report shall set forth
12 information to establish that the tribe has continuously met the eligibility requirements of
13 § 518.2 and the approval requirements of § 518.4 and shall include a report, with
14 supporting documentation, including a sworn statement signed by an authorized tribal
15 official, which explains how tribal net gaming revenues were used in accordance with the
16 requirements of 25 U.S.C. 2710(b)(2)(B)". The annual report independent audit to shall be
17 filed with the Commission on April 15th of each year following the first year of self-
18 regulation; and Failure to file such report shall be grounds for the removal of a certificate
19 under § 518.8.

20 (b) A complete resume for all employees hired and licensed by the tribe subsequent to its
21 receipt of a certificate of self-regulation, to be filed with the Commission upon hiring and
22 licensing or as arranged with the appropriate NIGC regional office. For the purposes of
23 this subsection (b), "employees" shall be defined as consist of -primary management
24 officials, as defined in 25 C.F.R. § 502.19, ~~or~~ and key employees, as defined in 25 C.F.R.
25 § 502.14.

26 Failure to submit the information required by this section may result in a removal of a
27 certification of self-regulation.

28 **§ 518.8 Does a tribe that holds a certificate of self-regulation have a continuing duty**
29 **to advise the Commission of any additional information?**

30
31
32 Yes. A tribe that holds a certificate of self-regulation has a continuing duty to
33 immediately advise ~~immediately~~ the Commission of any change in circumstances that are
34 material to the approval criteria in § 518.4 and may reasonably cause the Commission to
35 review and reconsider the tribe's certificate of self-regulation. Failure to do so is grounds
36 for removal of a certificate of self-regulation. Such circumstances may include, but are
37 not limited to: a change in management contractor; financial instability; or any other
38 factors that are material to the decision to grant a certificate of self regulation.

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1 **§ 518.9 Are any of the investigative or enforcement powers of the Commission**
2 **limited by the issuance of a certificate of self-regulation?**

3
4 ~~No~~ Yes. During any year During any time in which a tribe has a certificate of self-
5 regulation, the following four powers of the Commission shall be inapplicable:

6 (a) The power to monitor class II gaming conducted on Indian lands on a continuing
7 basis;

8 (b) The power to inspect and examine all premises located on Indian lands on which
9 solely class II gaming is conducted;

10 (c) The power to conduct, or cause to be conducted, such background investigations as
11 may be necessary; and

12 (d) The power to demand access to and to inspect, examine, photocopy, and audit all
13 papers, books and records respecting gross revenues of class II gaming conducted on
14 Indian lands and any other matters necessary to carry out the duties of the Commission
15 under IGRA.

16 Notwithstanding the inapplicability of the above four powers to self-regulating tribes,
17 Subject to the provisions of 25 U.S.C. 2710(e)(5)(A) the Commission retains its all other
18 investigative and enforcement powers over the all-class II gaming activities of self-
19 regulating tribes, notwithstanding the issuance of a certificate of self-regulation. The
20 Commission shall retain its powers to investigate and bring enforcement actions for
21 violations of the IGRA, accompanying its implementing regulations, and violations of
22 tribal gaming ordinances.

23 **§ 518.10 ~~Under what circumstances~~ When may the Commission remove a certificate**
24 **of self-regulation?**

25
26
27 The Commission may, after an opportunity for a hearing, remove a certificate of self-
28 regulation by a majority vote of its members if it determines that the tribe no longer
29 meets the eligibility criteria of § 518.2, the approval criteria of § 518.4, the requirements
30 of § 518.7 or the requirements of § 518.8. The Commission shall provide the tribe with
31 prompt notice of the Commission's intent to remove a certificate of self-regulation under
32 this Part. Such notice shall state the reasons for the Commission's action and shall advise
33 the tribe of its right to a hearing under § 518. 11. The decision to remove a certificate is
34 appealable to Federal District Court pursuant to 25 U.S.C. 2714.

35 **§ 518.11 May a tribe request a hearing on the Commission's proposal to remove its**
36 **certificate?**

37
38 Yes. A tribe may request a hearing regarding the Commission's proposal to remove a

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1 | certificate of self-regulation under Part 585. 518.10. Such a request shall be filed with the
2 Commission within thirty (30) days after the tribe receives notice of the Commission's
3 action. Failure to request a hearing within the time provided by this section shall
4 constitute a waiver of the right to a hearing.

5 **§ 518.12 May a tribe request reconsideration by the Commission of a denial of a**
6 **petition or a removal of a certificate of self-regulation?**

7
8
9 Yes. A tribe may file a request for reconsideration of a denial of a petition or a removal
10 of a certificate of self-regulation within 30 days of receipt of the denial or removal. Such
11 request shall set forth the basis for the request, specifically identifying those Commission
12 findings which the tribe believes to be erroneous. The Commission shall issue a final
13 decision within 30 days of receipt of the request. If the Commission fails to issue a
14 decision within 30 days, the request shall be considered to be disapproved.