

§ 547.5 How does a) ~~Grandfathered gaming~~ tribal government, TGRA, or tribal gaming operation comply with this part?

(a) Gaming systems: ~~Any manufactured before November 10, 2008.~~

(1) A TGRA may not permit the use of any Class II gaming system manufactured before November 10, 2008, ~~that is not already certified pursuant to this sub-section or compliant with paragraph (c) of this section may be made available for use at any in a tribal gaming operation~~ unless:

~~(1) The TGRA submits the~~

- (i) Class II gaming system software that affects the play of the Class II game, together with the signature verification required by § 547.8(f) was submitted to a testing laboratory ~~recognized pursuant to paragraph (f) of this section~~ within 120 days after November 10, 2008, or October 22, 2012;
- (ii) ~~(2) The testing laboratory test tested~~ the submission to the standards established by § 547.8(b), § 547.8(f), § and § 547.14, and any additional technical standards adopted by the TGRA;
- (iii) ~~(3) The testing laboratory provides provided~~ the TGRA with a formal written report setting forth and certifying to the findings and conclusions of the test;
- (iv) ~~(4) The TGRA makes made~~ a finding, in the form of a certificate provided to the supplier or manufacturer of the Class II gaming system, that the Class II gaming system qualifies for grandfather status under the provisions of this section. A TGRA may make such a finding only upon receipt of a testing laboratory's report that the Class II gaming system is compliant with §547.8(b), §547.8(f), §547.14, and any other technical standards adopted by the TGRA. If the TGRA does not issue the certificate, or if the testing laboratory finds that the Class II gaming system is not compliant with §547.8(b), §547.8(f), §547.14, or any other technical standards adopted by the TGRA, then the gaming system must immediately be removed from play and not be utilized. is compliant with § 547.8(b), § 547.8(f), and § 547.14;

(5) The TGRA retains a copy of any testing laboratory's report so long as the Class II gaming system that is the subject of the report remains available to the public for play; and

(6) The TGRA retains a copy of any certificate of grandfather status so long as the Class II gaming system that is the subject of the certificate remains available to the public for play.

(b) Grandfather provisions. All Class II gaming systems manufactured on or before November 10, 2008, that have been certified pursuant to paragraph (a) of this section, are grandfathered Class II gaming systems for which the following provisions apply:

~~(1) Grandfathered Class II gaming systems may continue in operation for a period of ten years from November 10, 2008.~~

~~(v) The Class II gaming system is (2) Grandfathered Class II gaming systems may only be used as approved by the TGRA. The and the TGRA must transmittransmitted its notice of that approval, identifying the grandfathered Class II gaming system and its components, to the Commission;~~

~~(vi) (3) Remote communications may with the Class II gaming system are only be allowed if authorized by the TGRA;~~

~~——(4) As permitted by the TGRA, individual hardware or software components of a grandfathered Player interfaces of the Class II gaming system may be repaired or replaced to ensure proper functioning, security, or integrity of the grandfathered Class II gaming system.~~

~~——(5) All modifications that affect the play of a grandfathered Class II gaming system must be approved pursuant to paragraph (e) of this section, except for the following:~~

~~——(i) Any software modifications that the TGRA finds will maintain or advance the Class II gaming system's overall compliance with this part or any applicable provisions of part 543 of this chapter, after receiving a new testing laboratory report that the modifications are compliant with the standards established by §547.4(a), §547.8(b), §547.14, and any other standards adopted by the TGRA;~~

~~——(ii) Any hardware modifications that the TGRA finds will maintain or advance the Class II gaming system's overall compliance with this part or any applicable provisions of part 543 of this chapter; and~~

~~——(iii) Any other modification to the software of a grandfathered Class II gaming system that the TGRA finds will not detract from, compromise or prejudice:~~

~~——(A) The proper functioning, security, or integrity of the Class II gaming system, and~~

~~——(B) The gaming system's overall compliance with the requirements of this part or any applicable provisions of part 543 of this chapter.~~

~~(b)(vi) (iv) No such modification may be implemented without the approval of the TGRA. The TGRA must maintain a record of the modification so long as the Class II gaming system that is the subject of the modification remains available to the public for play and must make the record available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).~~

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- ~~(i)(vii)~~ Player interfaces of the Class II gaming system ~~(6) The player interface must~~ exhibit information consistent with §547.7(d) and any other information required by the TGRA; and
- ~~(viii) (7) If All player interfaces of the Class II gaming system have a grandfathered~~ date of manufacture before November 10, 2008.
- ~~(2)~~ For so long as a Class II gaming system is made available for use at any tribal gaming operation pursuant to this paragraph (a) the TGRA shall:
- (i) Retain copies of the testing laboratory's report, the TGRA's compliance certificate, and the TGRA's approval of the use of the Class II gaming system;
- (ii) Maintain records identifying the Class II gaming system and its current components; and
- (iii) Annually review the Class II gaming system, its current components, and the associated testing laboratory reports to determine whether the Class II gaming system may be approved pursuant to paragraph (eb) of this sub-section, it ceases to be a grandfathered system and the restrictions of paragraph (a) and. The TGRA shall make a finding identifying the Class II gaming systems reviewed, the Class II gaming systems subsequently approved pursuant to paragraph (b), and, for Class II gaming systems that cannot be approved pursuant to paragraph (b), the modifications necessary for such approval. The TGRA shall transmit its findings to the Commission within 120 days of the gaming operation's fiscal year end.
- ~~(2)(3)~~ If the Class II gaming system is subsequently approved pursuant to paragraph (b) of this section, this paragraph (a) no longer apply/applies.
- ~~(b) (e) Submission~~ Gaming system submission, testing, and approval— - generally.-
- ~~(3)(1)~~ Except as provided in paragraphs (b) paragraph (a) and (d) of this section, a TGRA may not permit the use of any Class II gaming system, or any associated cashless system or voucher system or any modification thereto, in a tribal gaming operation unless:
- (i) (1) The Class II gaming system, cashless system, voucher system, or modification thereto has been submitted to a testing laboratory;
- (ii) (2) The testing laboratory tests the submission to the standards established by:
- (A) (i) This part;
- (B) (ii) Any applicable provisions of part 543 of this chapter that are testable by the testing laboratory; and
- (C) (iii) The TGRA;
- (iii) (3) The testing laboratory provides a formal written report to the party making the submission, setting forth and certifying its findings and conclusions, and noting compliance with any standard established by the TGRA pursuant to paragraph (e)(2)(iii)(1)(ii)(C) of this section;

- (iv) ~~(4)~~ The testing laboratory's written report confirms that the operation of a player interface prototype has been certified that it will not be compromised or affected by electrostatic discharge, liquid spills, electromagnetic interference, ~~radio frequency interference~~, or any other tests required by the TGRA;
 - (v) ~~(5)~~ Following receipt of the testing laboratory's report, the TGRA makes a finding that the Class II gaming system, ~~cashless system, or voucher system~~ conforms to the standards established by:
 - (A) ~~(i)~~ This part;
 - (B) (ii) Any applicable provisions of part 543 of this chapter that are testable by the testing laboratory; and
 - (C) The TGRA.
- (2) For so long as a Class II gaming system is made available for use at any tribal gaming operation pursuant to this paragraph (b) the TGRA shall:
- (i) Retain a copy of the testing laboratory's report; and
 - (ii) Maintain records identifying the Class II gaming system and its current components.
- (c) Class II gaming system component repair, replacement, or modification.
- (1) As permitted by the TGRA, individual hardware or software components of a Class II gaming system may be repaired or replaced to ensure proper functioning, security, or integrity of the Class II gaming system.
 - (2) A TGRA may not permit the modification of any Class II gaming system in a tribal gaming operation unless:
 - (i) The Class II gaming system modification has been submitted to a testing laboratory;
 - (ii) The testing laboratory tests the submission to the standards established by:
 - (A) This part;
 - (B) Any applicable provisions of part 543 of this chapter that are testable by the testing laboratory; and
 - (C) ~~(iii)~~ The TGRA;
 - (iii) ~~(6)~~ The TGRA retains a copy of the testing laboratory's laboratory provides a formal written report required by to the party making the submission, setting forth and certifying its findings and conclusions, and noting compliance with any standard established by the TGRA pursuant to paragraph (c)(2)(ii)(C) of this section for as;
 - (iv) Following receipt of the testing laboratory's report, the TGRA makes a finding that the:
 - (A) The modification will maintain or advance the Class II gaming system's compliance with this part and any applicable provisions of part 543 of this chapter; and

(B) The modification will not detract from, compromise or prejudice the proper functioning, security, or integrity of the Class II gaming system;

~~(4)~~(3) If a TGRA authorizes a component modification under this paragraph, it must maintain a record of the modification and a copy of the testing laboratory report so long as the Class II gaming system, ~~cashless system, voucher system, or modification thereto~~ that is the subject of the ~~report~~modification remains available to the public for play ~~in its tribal gaming operation.~~

~~(d)~~(d) ~~Emergency hardware and software~~Class II gaming system component modifications.~~(4)~~

~~(5)~~(1) A TGRA, in its discretion, may permit the modification of previously approved ~~hardware or software~~components to be made available for play without prior laboratory testing or review if the modified hardware or software is:

- (i) ~~(i)~~(i) Necessary to correct a problem affecting the fairness, security, or integrity of a game or accounting system or any cashless system, or voucher system; or
- (ii) ~~(ii)~~(ii) Unrelated to game play, an accounting system, a cashless system, or a voucher system.

~~(6)~~(2) ~~(2)~~ If a TGRA authorizes modified ~~software or hardware~~components to be made available for play or use without prior testing laboratory review, the TGRA must thereafter require the hardware or software manufacturer to:

- (i) ~~(i)~~(i) Immediately advise other users of the same ~~hardware or software~~components of the importance and availability of the update;
- (ii) ~~(ii)~~(ii) Immediately submit the new or modified ~~hardware or software~~components to a testing laboratory for testing and verification of compliance with this part and any applicable provisions of part 543 of this chapter that are testable by the testing laboratory; and
- (iii) ~~(iii)~~(iii) Immediately provide the TGRA with a software signature verification tool meeting the requirements of § 547.8(f) for any new or modified software component.

~~(7)~~(3) ~~(3)~~ If a TGRA authorizes a ~~software or hardware~~component modification under this paragraph, it must maintain a record of the modification and a copy of the testing laboratory report so long as the Class II gaming system that is the subject of the modification remains available to the public for play ~~and must make the record available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).~~

~~(e)~~(e) ~~Compliance by charitable gaming operations.~~ This part does not apply to charitable gaming operations, provided that:

- (1) ~~(1)~~(1) The tribal government determines that the organization sponsoring the gaming operation is a charitable organization;

- (2) ~~(2)~~ All proceeds of the charitable gaming operation are for the benefit of the charitable organization;
- (3) ~~(3)~~ The TGRA permits the charitable organization to be exempt from this part;
- (4) ~~(4)~~ The charitable gaming operation is operated wholly by the charitable ~~organization's~~ organization's employees or volunteers; and
- (5) ~~(5)~~ The annual gross gaming revenue of the charitable gaming operation does not exceed \$3,000,000.

~~(f)~~ ~~(f)~~ Testing laboratories. ~~(f)~~

- ~~(6)~~ (1) A testing laboratory may provide the examination, testing, evaluating and reporting functions required by this section provided that:
- (i) ~~(i)~~ It demonstrates its integrity, independence and financial stability to the TGRA.
 - (ii) ~~(ii)~~ It demonstrates its technical skill and capability to the TGRA.
 - (iii) ~~(iii)~~ If the testing laboratory is owned or operated by, or affiliated with, a tribe, it must be independent from the manufacturer and gaming operator for whom it is providing the testing, evaluating, and reporting functions required by this section.
 - (iv) ~~(iv)~~ The TGRA:
 - (A) ~~(A)~~ Makes a suitability determination of the testing laboratory based upon standards no less stringent than those set out in § 533.6(b)(1)(ii) through (v) of this chapter and based upon no less information than that required by § 537.1 of this chapter, or
 - (B) ~~(B)~~ Accepts, in its discretion, a determination of suitability for the testing laboratory made by any other gaming regulatory authority in the United States.
 - (v) ~~(v)~~ After reviewing the suitability determination and the information provided by the testing laboratory, the TGRA determines that the testing laboratory is qualified to test and evaluate Class II gaming systems.

~~(7)~~ (2) ~~(2)~~ The TGRA must:

- (i) ~~(i)~~ Maintain a record of all determinations made pursuant to paragraphs (f)(1)(iii) and (f)(1)(iv) of this section for a minimum of three years ~~and must make the records available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).~~
- (ii) ~~(ii)~~ Place the testing laboratory under a continuing obligation to notify it of any adverse regulatory action in any jurisdiction where the testing laboratory conducts business.
- (iii) ~~(iii)~~ Require the testing laboratory to provide notice of any material changes to the information provided to the TGRA.

~~(d)~~ (g) Records. Records required to be maintained under this section must be made available to the Commission upon request. The Commission may use the information derived

therefrom for any lawful purpose including, without limitation, to monitor the use of Class II gaming systems, to assess the effectiveness of the standards required by this Part, and to inform future amendments to this Part. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).

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