



SILETZ TRIBAL GAMING COMMISSION

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Thursday, September 1, 2022

Via electronic submission to information@nigc.gov

E. Sequoyah Simermeyer, Chair
National Indian Gaming Commission
United States Department of the Interior
1849 C St., NW
Mail Stop #1621
Washington, DC 20240

Re: Comments on behalf of the Confederated Tribes of Siletz Indian on proposed rules published in the Federal Register by the NIGC on 08/10/2022

Dear Mr. Simermeyer,

The Siletz Tribal Gaming Commission (the TGRA) on behalf of the Confederated Tribes of Siletz Indians of Oregon (Siletz Tribe) respectfully submits the following comments regarding the recent proposed rules published by the National Indian Gaming Commission (Commission) in the Federal Register on August 10, 2022, for 25 CFR Parts 502, 556, and 558.

25 CFR §502.14 Key Employee.

- (a) “Any ~~person~~ gaming operation employee who performs one or more of the following functions for the gaming operation:”

The general term “person” is not under the control of the TGRA or Commission and using “gaming operation employee” better defines who this CFR applies to.

- (9) “~~Custodian~~ The gaming operation employee who guards, protects or maintains ~~of gaming systems gambling equipment and gaming software~~ as defined in 25 CFR 547.2 and ~~similar Class III systems,~~ gaming cash equivalents, or gaming system records;”

This control is vague at best. “Custodian” is not defined in the CFR. The Webster’s dictionary defines custodian as: one that guards and protects or maintains.

What is the intent in changing and expanding “gambling devices” in the current CFR to “gaming system”? “Gaming system” is not defined in 547.2; only gaming equipment and gaming software

is listed. With the near future of mobile gaming – would a patron’s personal gaming device be included as a “gaming system”?

The Siletz Tribal Gaming Commission believes that the control should be adjusted to use the definition of custodian, include the actual items listed in 25 CFR 547.2 and remove “similar class III systems”.

- (10) ~~Custodian~~ The gaming operation employee who guards, protects or maintains ~~of~~ surveillance systems or surveillance system records.”

The Siletz Tribal Gaming Commission’s position is that this control is an unnecessary overreach by NIGC and should be removed in its entirety. Under the circumstances for the Siletz Tribal Gaming Commission, the TGRA, the custodian of these records and system is an employee of the TGRA, not the Gaming Operation.

If the Commission is unwilling to remove the control in its entirety “custodian” should be changed to “the gaming operation employee who guards, protects or maintains”. Without fully defining who the custodian the interpretation is open to multiple regulators and may or may not include a vendor or integrator depending on the interpretation of an individual instead of being specific in the regulatory law.

- (b) “Any ~~person~~ gaming operation employee authorized by the gaming operation for unescorted access to restricted areas designated as restricted areas by the TGRA;”

The Siletz Tribal Gaming Commission believes the control should be removed in its entirety. As the TGRA we have regulatory, as well as physical, controls currently in place such as the Tribal-State Compact, NIGC regulations, security staff posts and key access that prevents unauthorized personnel from entering restricted areas of the gaming operation.

If the Commission is unwilling to remove this control, the general term “person” is not under the control of the TGRA or Commission and using “gaming operation employee” better defines who this CFR applies to.

- ~~“(c) If not otherwise licensed as a key employee or primary management official, the four persons most highly compensated persons by the gaming operation.~~

- ~~(d) Any other employee of the gaming enterprise operation designated by the Tribe as a key employee in its gaming ordinance by the TGRA.”~~

25 CFR 502.14(c) and 502.14(d) should be combined to read be “(c) Any other employee of the gaming operation designated as a key employee by the TGRA.” Gaming enterprise encompasses more than the gaming operation and is an overreach of the NIGC’s authority. The TGRA already has regulations and a process to determine the classification of all gaming operation employees regardless of their compensation.

25 CFR §502.19 Primary management official.

- (e) “Any other employed management official of the gaming ~~enterprise~~ operation designated by the ~~Tribe~~ TGRA as a primary management official ~~in its gaming ordinance.~~”

The control should be changed to read “Any other employed management official of the gaming operation designated by the TGRA as a primary management official.” The regulations in place require the TGRA to designate the PMO, not the Tribe itself.

Changing to “enterprise” is outside of the purview of the NIGC as the gaming enterprise encompasses entities that may not meet the requirements for regulatory oversight by the NIGC and is an overreach on the part of the NIGC.

25 CFR §502.25 Gaming Enterprise.

“Gaming Enterprise means the entities through which a Tribe conducts, regulates, and secures gaming on Indian lands within such Tribe’s jurisdiction pursuant to the Indian Gaming Regulatory Act. Prevue was supposed to read purview don’t know how I messed that one up, but view works for me. NIGC’s about us “overseeing and reviewing the conduct and regulation of Indian gaming operations.” Don’t see any language about gaming enterprise in this.”

This definition and any use of “gaming enterprise” with the controls needs to be eliminated and changed to a definition of “gaming operation” if the Commission believes it is necessary. The definition and use of “Gaming Enterprise” with the controls and using the definition as proposed expands the purview of the NIGC outside of their lawful regulatory control.

25 CFR §502.26 Tribal Regulator Authority (TGRA).

“Tribal Gaming Regulatory Authority (TGRA) means the [independent](#) governmental entity authorized by Tribal law to regulate gaming conducted pursuant to the Indian Gaming Regulatory Act.”

The Siletz Tribal Gaming Commission has no objections to this definition as suggest the addition of “independent” as established regulation requires such.

25 CFR §556.4 Background investigations.

“A Tribe shall perform a background investigation for each primary management official and for each key employee of the gaming [enterprise operation](#).”

As stated previously, gaming “enterprise” is an overreach of authority for the NIGC and should only reference their authority over the gaming operation as currently established by law.

25 CFR §556.6 Report to the Commission.

“(a) When a Tribe licenses a primary management official or a key employee, the Tribe shall maintain the information listed under § 556.4(a)(1) through (14).”

The Siletz Tribal Gaming Commission has no objections to this proposed change.

25 CFR §556.8 Compliance with this part.

All Tribal gaming ordinances and ordinance amendments approved by the Chair prior to [EFFECTIVE DATE OF FINAL RULE] do not need to be amended to comply with this part. All future ordinance submissions, however, must comply.

The Siletz Tribal Gaming Commission has no objections to this proposed change.

25 CFR §558.3 Notification to NIGC of license decision and retention obligations.

- “(a) After a **Tribe TGRA** has provided a notice of results of the background check to the Commission, a **Tribe TGRA** may license a primary management official or key employee.
- (b) Within 30 days after the issuance of the license, a **Tribe TGRA** shall notify the Commission of its issuance.
- (c) A key employee or primary management official who does not have a license after ninety (90) days shall not be permitted to perform the duties, functions, and/or responsibilities of a key employee or primary management official until so licensed.
- (d) If a **Tribe TGRA** does not license an applicant—
- (1) The **Tribe TGRA** shall notify the Commission; and
 - (2) Shall forward copies of its eligibility determination and notice of results, under § 556.6(b)(2) of this chapter, to the Commission for inclusion in the Indian Gaming Individuals Record System.
- (e) If a **Tribe TGRA** revokes a key employee or primary management official’s license—
- (1) The **Tribe TGRA** shall notify the Commission; and
 - (2) Shall forward copies of its license revocation decision and a summary of the evidence it relied upon to the Commission for inclusion in the Indian Gaming Individuals Record System.
- (f) A **Tribe TGRA** shall retain the following for inspection by the Chair or their designee for no less than three years from the date of termination of employment:
- (1) The information listed under § 556.4(a)(1) through (14) of this chapter;
 - (2) Investigative reports, as defined in § 556.6(b) of this chapter;
 - (3) Eligibility determinations, as defined in § 556.5 of this chapter;
 - (4) Privacy Act notice, as defined in § 556.2 of this chapter; and
 - (5) False Statement notice, as defined in § 556.3 of this chapter.”

The Siletz Tribal Gaming Commission has no objections to these proposed changes other than the Tribe should be changed to the TGRA as that is the primary regulatory authority on behalf of the Tribe.

25 CFR §558.4 Notice of information impacting eligibility and licensee’s right to a hearing.

- “(a) If, after the issuance of a gaming license pursuant to § 558.3, the Commission receives reliable information indicating that a key employee or a primary management official is not eligible for a license under §556.5 of this chapter, the Commission shall notify the issuing **Tribe TGRA** of the information.
- (b) Upon receipt of such notification under paragraph (a) of this section, a **Tribe TGRA** shall immediately suspend the license and shall provide the licensee with written notice of suspension and proposed revocation.
- (c) A **Tribe TGRA** shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
- (d) The right to a revocation hearing shall vest upon receipt of a license or at such earlier time as is determined by ~~Tribal law, regulation, and/or policy~~ the **TGRA**.
- (e) After a revocation hearing, a **Tribe TGRA** shall decide to revoke or to reinstate a gaming license. A **Tribe TGRA** shall notify the Commission of its decision within 45 days of receiving notification from the Commission pursuant to paragraph (a) of this section.”

The Siletz Tribal Gaming Commission has no objections to these proposed changes other than the Tribe should be changed to the TGRA as that is the primary regulatory authority on behalf of the Tribe.

25 CFR §558.6 Compliance with this part.

“All Tribal gaming ordinances and ordinance amendments that have been approved by the Chair prior to [EFFECTIVE DATE OF FINAL RULE] do not need to be amended to comply with this section. All future ordinance submissions, however, must comply.”

The Siletz Tribal Gaming Commission has no objections to these proposed changes.

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Thank you for providing a 30-day comment period on the proposed rules published in the Federal Register on August 10, 2022. This has been a long process since the consultations first began in the Summer of 2021. Providing a meaningful government to government consultation to offer a partnership in regulatory decision making acknowledges Tribal sovereignty which is first and foremost to the Siletz Tribe as well as all other Tribal nations.

Respectfully,



Shawna Gray, Executive Director
Siletz Tribal Gaming Commission

cc: Siletz Tribal Council
Dorsay & Eason, LLP, Attorneys at Law