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Bulletin No. 2018-2

Subject: 2008 Systems Annual Review; 25 C.F.R. § 547.5(a)(2)(iii)

On December 27, 2017, the Commission published changes to the Minimum Technical Standards for Class II Gaming Systems and Equipment regulations (25 C.F.R. Part 547) in the Federal Register ([82 FR 61172](#)). The new regulations became effective on January 26, 2018. This Bulletin provides guidance on the newly added requirement for annual review of Class II gaming systems manufactured before November 10, 2008 (2008 Systems).

Prior to the Commission's recent change, all 2008 Systems were required to be removed from the gaming floor by November of 2018 unless the system was approved as compliant with the standards for newer systems. The Commission determined that the continued operation of 2008 Systems is in the best interest of Indian gaming provided that such systems are subject to additional annual review by TGRAs. With the new change, the 2008 Systems can remain on the floor but each year the TGRA must review the testing laboratory reports associated with the 2008 System to determine whether it can be approved pursuant to the standards for newer systems. As part of the review, the TGRA must identify all 2008 Systems operating on the floor as well as any 2008 systems that were subsequently approved by the TGRA as compliant with the standards for new systems. Additionally, for the 2008 Systems that would not be approved as compliant with the standards for newer systems, the TGRA must identify the components of the system preventing such approval.

This annual review requirement is intended to ensure that 2008 Systems are adequately monitored and to identify any systems that technically meet the standards for newer systems but have not been approved pursuant to those standards. To complete the review, the TGRA must review the testing laboratory reports associated with the 2008 System that are maintained by the TGRA. If the TGRA determines that the testing laboratory reports for the 2008 System and its current components demonstrate that the 2008 System meets the standards for newer systems, the TGRA may make a finding that the system conforms to the standards for newer systems and include a finding in the annual review that the system was so approved. That system will then no longer be subject to the 2008 Systems provisions, including subsequent 2008 System annual reviews.

If the TGRA determines that the testing laboratory reports for the 2008 System and its current components do not demonstrate that the 2008 System meets the standards for newer systems and therefore cannot be approved pursuant to those standards, the TGRA must make a finding identifying which components prevent such approval. Such components will likely fall within one of three categories: 1) components for which the associated testing laboratory report includes a finding that the component does not meet the standards for newer systems, 2) components for which the associated testing laboratory report did not include a finding regarding whether the

component met the standards for newer systems, and 3) components for which the TGRA has not maintained a testing laboratory report.

Please note that pursuant to 547.5(c)(3) TGRAs must maintain testing laboratory reports for all component modifications made after January 26, 2018, the effective date of the new regulations. Prior to this date, certain hardware component modifications for 2008 Systems did not require testing laboratory reports. A TGRA may determine at its discretion whether to request testing laboratory reports from the gaming operation, vendor, or manufacturer for hardware component modifications for which reports had not previously been required.

Finally, it is important to note that the annual review only requires review of existing laboratory reports which the TGRA has maintained for systems and components in use on the gaming floor. TGRAs are not required to submit systems or components for new testing in order to complete the annual review.

If you have any questions please contact a NIGC region office or the NIGC Director of Compliance.