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## BULLETIN

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No. 2022-02

April 4, 2022

**Subject: Self-Regulation and Post-Certification Compliance**

The purpose of this bulletin is to provide guidance to tribes on how to comply with IGRA and NIGC regulations after it receives a self-regulation certificate. For a basic introduction to self-regulation, *see* Bulletin 2022-01.<sup>1</sup>

Once the Commission issues a certificate of self-regulation, a self-regulated tribe is exempt from some reporting requirements, pays lower fees on its Class II gaming revenues, and is subject to less oversight from the NIGC. Specifically, a self-regulated tribe is not required to submit the annual Agreed-Upon Procedures (AUP) report to the Commission if its certificate is in good standing.<sup>2</sup> The NIGC may not assess a fee on a self-regulated tribe's Class II gaming activity in excess of 0.25%.<sup>3</sup> The NIGC may not perform site visits of Class II gaming operations or demand access to records of Class II gaming operations.<sup>4</sup>

However, self-regulated tribes are not exempt from other reporting requirements under IGRA and NIGC regulations. For example, self-regulated tribes must continue to submit annual independent audits of the gaming operations,<sup>5</sup> quarterly fee statements,<sup>6</sup> and background and licensing notifications for primary management officials and key employees.<sup>7</sup> The exemption

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<sup>1</sup> *See* NIGC Compliance Bulletins, available at <https://www.nigc.gov/compliance/bulletins>.

<sup>2</sup> *See* 25 U.S.C. § 2710(c)(5)(A); *see also* 25 U.S.C. § 2706(b)(1).

<sup>3</sup> 25 U.S.C. § 2710(c)(5)(C); *see also* 25 C.F.R. § 514.3(b).

<sup>4</sup> *See* 25 U.S.C. § 2710(c)(5)(A); *see also* 25 U.S.C. § 2706(b)(2-4). If, however, the Tribe and NIGC have executed the *Memorandum of Understanding with the National Indian Gaming Commission regarding Criminal History Record Information*, the Commission retains its authorities set forth in the MOU, including the authority to “audit the handling and maintenance of [CHRI] in electronic and paper recordkeeping systems to ensure that appropriate security and privacy protections are in place.”

<sup>5</sup> 25 U.S.C. § 2710(b)(2)(C); 25 C.F.R. §§ 518.10(a), 571.12, 571.13.

<sup>6</sup> 25 C.F.R. §§ 514.5, 514.6.

<sup>7</sup> 25 U.S.C. § 2710(b)(2)(F); 25 C.F.R. pts. 556, 558.

from the Commission's powers granted to self-regulated tribes does not affect these reporting requirements.<sup>8</sup>

Self-regulation also requires a tribe to comply with additional reporting requirements. Specifically, self-regulated tribes must submit resumes of all tribal gaming regulatory employees hired and licensed by the tribe after a certificate was issued.<sup>9</sup> A self-regulated tribe must also advise the Commission of any changes in circumstances that are material to the self-regulation approval criteria.<sup>10</sup>

A self-regulated tribe may still request technical assistance and training from the NIGC.

To summarize, self-regulated tribes:

- a) are not required to submit AUP reports;
- b) pay lower fees on Class II revenues;
- c) are not subject to NIGC site visits or requests for records regarding Class II operations;
- d) must submit annual independent audits;
- e) must submit quarterly fee statements;
- f) must submit background and license notifications for PMOs and KEs;
- g) must submit the resumes of each tribal gaming regulatory employee hired and licensed by the tribe after a certificate was issued;
- h) must advise the Commission of any material change in circumstances affecting the tribe's approval criteria; and
- i) may request training and technical assistance from the NIGC.

If you have any questions self-regulation and post-certification compliance, please contact a NIGC Region Office or the Office of Self-Regulation at 202-632-7003.

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<sup>8</sup> See 25 U.S.C. § 2710(c)(5)(A).

<sup>9</sup> 25 C.F.R. § 518.10(b).

<sup>10</sup> 25 C.F.R. § 518.11.