

holders for which proxies will be solicited for the election of directors, as required pursuant to section 111(e)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(e)(1)), the registrant shall provide a separate shareholder vote to approve the compensation of executives, as disclosed pursuant to Item 402 of Regulation S-K (§ 229.402 of this chapter), including the compensation discussion and analysis, the compensation tables, and any related material.

Note to § 240.14a-20: TARP recipients that are smaller reporting companies entitled to provide scaled disclosure pursuant to Item 402(l) of Regulation S-K are not required to include a compensation discussion and analysis in their proxy statements in order to comply with this section. In the case of these smaller reporting companies, the required vote must be to approve the compensation of executives as disclosed pursuant to Item 402(m) through (q) of Regulation S-K.

■ 4. Amend § 240.14a-101 to add a sentence at the end of Item 20 to read as follows:

§ 240.14a-101 Schedule 14A. Information required in proxy statement.

SCHEDULE 14A INFORMATION

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Item 20. Other proposed action. * * * Registrants required to provide a separate shareholder vote pursuant to section 111(e)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(e)(1)) and § 240.14a-20 shall disclose that they are providing such a vote as required pursuant to the Emergency Economic Stabilization Act of 2008, and briefly explain the general effect of the vote, such as whether the vote is non-binding.

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By the Commission.

Dated: January 12, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010-756 Filed 1-15-10; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 514

RIN 3141-0001

Amendments to Various National Indian Gaming Commission Regulations; Correction

AGENCY: National Indian Gaming Commission.

ACTION: Correcting amendments.

SUMMARY: On July 27, 2009 (74 FR 36926), the National Indian Gaming Commission (“NIGC”) published a final rule updating various NIGC regulations and streamlining procedures. On August 25, 2009 (74 FR 42275), NIGC extended the effective date of the changes made by the final rule to December 31, 2009. This publication corrects inadvertent errors left in § 514.1 of the final rule so that fees and fee statements are due on June 30th and December 31st of each calendar year, not on March 1st and August 1st as originally published.

DATES: *Effective Date:* This correction is effective on January 19, 2010.

FOR FURTHER INFORMATION CONTACT: Christopher White, Comptroller, at (202) 632-7003; fax (202) 632-7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: Under the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. 2701-2721, NIGC is funded through fees assessed on Class II and Class III gaming operations. Prior to the December 31, 2009 effective date of NIGC’s final rule, “Amendments to Various National Indian Gaming Commission Regulations” (74 FR 36926), NIGC regulations required tribes to submit fees and fee statements four times per year. The prior regulations also required that the fees and fee statements be received at NIGC’s Washington, DC headquarters no later than the last day of each quarter—March 31st, June 30th, September 30th, and December 31st of each calendar year.

The final rule amended 25 CFR 514.1 to require the payment of fees and submission of fee statements only twice each year, and it implemented the “mailbox” rule such that payments and submissions were timely if sent on or before their due dates.

Unfortunately, as published, the final rule contained incorrect due dates for fees and fee statements, giving them as March 1 and August 1 of each calendar year. This publication corrects § 514.1(c)(2), § 514.1(c)(6)(i), and § 514(d) so that the due dates for the submission of fees and fee statements read correctly as June 30th and December 31st of each calendar year. This correction makes no change to the adoption of the mailbox rule. Payments and submissions are still timely if sent on or before June 30th and December 31st of each calendar year.

The NIGC finds that it may make this correction without notice and public comment. The changes are few and ministerial, and they remove typographical errors so that the adopted regulations read correctly and reflect the

NIGC’s intent. What is more, leaving the incorrect dates in place during a notice-and-comment period has the potential to prejudice Indian tribes and is therefore contrary to the public interest.

The incorrect final rule would make fees and fee statements due on March 1, 2010, a full four months (121 days) before the NIGC intended them to be due. Further, as a practical matter, NIGC could not propose an amended rule, receive and review comments, publish an amended final rule, and have that amended rule become effective before March 1. As a result, unless the final rule is corrected immediately, any failure by a tribe to submit fees by March 1 would be a technical violation of NIGC regulations and cause concern about the possibility, however remote, of a notice of violation and attendant fines and penalties.

Even though that outcome is unlikely, there is no need to artificially place tribes out of compliance with IGRA or to create a risk of adverse enforcement actions. An immediate ministerial change to three sentences will correct the NIGC’s error, preserve tribal compliance with IGRA, and alleviate any concern about the possibility of enforcement actions.

List of Subjects in 25 CFR Part 514

Gambling, Indians—lands, Indians—tribal government, Reporting and recordkeeping requirements.

■ Accordingly, 25 CFR part 514 is corrected by making the following correcting amendments:

PART 514—FEES

■ 1. The authority citation for part 514 continues to read as follows:

Authority: 25 U.S.C. 2706, 2708, 2710, 2717, 2717a.

§ 514.1 [Amended]

■ 2. Amend § 514.1 as follows:

■ a. Amend paragraph (c)(2) by correcting “March 1st and August 1st” to read “June 30th and December 31st”.

■ b. Amend paragraph (c)(6)(i) by correcting “March 1st” to read “June 30th”.

■ c. Amend paragraph (d) by correcting “March 1st and August 1st” to read “June 30th and December 31st”.

Dated: January 12, 2010.

George T. Skibine,
Acting Chairman.

[FR Doc. 2010-802 Filed 1-15-10; 8:45 am]

BILLING CODE 7565-01-P