

National Indian Gaming Commission Withdraws Facility License Notification Final Rule



Client Alert

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The National Indian Gaming Commission (“NIGC”) has formally withdrawn its direct final rule that would have significantly altered the timing requirements for tribal facility license notifications. The withdrawal was published in the *Federal Register* on November 24, 2025, and follows the receipt of adverse public comments on the proposed change.

This withdrawal preserves the longstanding 120-day advance notification requirement for tribes considering issuance of a new gaming facility license and maintains the existing expedited review framework until further notice.

Background on the Withdrawn Rule

On September 29, 2025, the NIGC published a direct final rule that would have amended the Facility License Notification Standards under 25 C.F.R. Part 559. The rule proposed to:

- Eliminate the current requirement that tribes notify the NIGC 120 days prior to issuing a new facility license.
- Replace that obligation with a more flexible standard requiring notice “any time before opening” a new gaming facility.
- Remove the expedited 60-day administrative review period, which is directly tied to the 120-day advance notice structure.
- Set an effective date of November 28, 2025, absent adverse public comment.

The NIGC characterized the rule as part of a broader federal deregulatory initiative under Presidential Executive Order 14219 and related memoranda aimed at repealing regulations perceived as exceeding statutory authority under the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. § 2701 et seq.

Reason for Withdrawal

Under the Administrative Procedure Act framework governing direct final rules, agencies must withdraw such rules upon receipt of “significant adverse comments.” The NIGC reported that it received adverse comments by the October 29, 2025, deadline and therefore formally withdrew the rule before it could take effect.

Importantly, the NIGC has announced its intention to initiate new notice-and-comment rulemaking in the future to revisit possible revisions to the facility license notification process and to directly address the concerns raised by commenters.

Practical Implications for Tribal Gaming Operations

With the withdrawal now effective:

- The 120-day advance notification requirement remains in full force for all new Class II and Class III gaming facilities.
- The expedited 60-day NIGC review period remains available where applicable.
- Tribal Nations planning expansions, relocations, or new gaming facilities should continue to structure project timelines around the existing regulatory framework.
- Any regulatory flexibility originally contemplated by the withdrawn rule is not currently available.

The Commission’s reaffirmation that it will pursue future rulemaking signals that this issue remains under active federal consideration, and changes may still be forthcoming after a formal public proposal process.

Looking Ahead

Tribal governments and gaming enterprises should closely monitor future NIGC rulemaking and be prepared to submit comments if a new proposed rule is issued. Strategic planning, financing, and construction schedules should continue to assume full compliance with the current 120-day notice rule unless and until formally amended through final agency action. Our Lippes Mathias Indian Law Practice stands ready to assist Tribal governments and gaming enterprises in monitoring and advising on developments.

This alert was drafted by Rory C. Wheeler (Law Clerk) under the review and supervision of partner and Indian Law

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