Indian Affairs - Office of Public Affairs

Media Contact: Nedra Darling, OPA-IA Phone: 202-219-4152
For Immediate Release: April 7, 1999
Print PDF

The Department of the Interior will publish final regulations to deal with Indian gaming compact negotiations between States and Tribes when Tribes have exhausted other federal judicial remedies. A final rule has been sent to the Federal Register for publication. The new regulation will only apply in cases where Tribes and States have been unable to voluntarily negotiate Class III gaming compacts and where States otherwise allow Class III gaming activities and when States assert immunity from lawsuits to resolve the dispute.

The final regulation is the result of an extensive public process that began with the publication of an Advanced Notice of Proposed Rulemaking, published in the Federal Register in May, 1996, and a Proposed Rule in January, 1998.

"The vast majority of compacts negotiated between States and Tribes during the past 10 years have been negotiated voluntarily and in a spirit of good faith,"Assistant Secretary for Indian Affairs Kevin Gover explained. "We do not believe that the Indian Gaming Regulatory Act envisioned giving States a veto power over Class III Indian gaming when other Class III gaming activities take place within their borders. The new regulation addresses only this narrow issue and seeks to level the playing field once again in these rare circumstances."

The Indian Gaming Regulatory Act of 1988 (IGRA) mandated a process of judicially supervised mediation when States and Tribes were unable to negotiate a compact. However, since the Seminole Tribe of Florida v. Florida decision in the U.S. Supreme Court in April, 1996, Indian Tribes have been unable to request judicial mediation if States asserted sovereign immunity. The final regulation lays out a process for mediation under those narrow circumstances, seeking State involvement in developing any gaming procedures that might ensue. The final rule does not alter the qualifications necessary for land acquisition for off-reservation Indian gaming.

In addition, State law would continue to govern the 'scope of gaming' permitted in any procedures proposed by the Department to resolve Indian gaming compact disputes. This policy is consistent with the Department's position that IGRA does not authorize classes or forms of Indian gaming in any State where they are affirmatively prohibited.

More than 200 compacts between Tribes and States for Class III gaming have been successfully negotiated in good faith and implemented in 24 States since the passage of the Indian Gaming Regulatory Act in 1988.