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Secretary of the Interior Manuel Lujan announced today he has instructed the Assistant Secretary for Indian Affairs to publish a notice of opportunity to comment on the procedures proposed for Class III (casino-type) gaming to be conducted by the Mashantucket Pequot Tribe of Connecticut.

"Through this process we are fulfilling the intent of Congress in the Indian Gaming Regulatory Act of 1988 (IGRA)," Lujan said. "Under that law, the Secretary of the Interior is required to prescribe procedures to implement a compact chosen by a court-appointed mediator when negotiations between a state and a tribe have failed. In this case, the mediator chose the state's proposed compact over the tribe's proposed compact as the one that best comports with the law.

"The state's proposed compact envisions a comprehensive regulatory framework that follows state regulations wherever appropriate and assumes a major regulatory role on the part of the state," Lujan added. "If the state refuses to regulate the gaming, a default provision provides that the tribe will regulate the gaming consistent with the compact. Therefore, the compact appears sufficient as procedures for the tribe's Class III gaming."

Interior Department Solicitor Thomas L. Sansonetti said the law makes it clear that states must negotiate with tribes in good faith under IGRA. "Through good faith negotiations, states can interject their public policy judgments and make them part of the compact," Sansonetti said.

Under the 1988 law, traditional Indian games played in connection with tribal ceremonies are defined as Class I gaming within the sole jurisdiction of the tribes. Class II gaming includes bingo-type games, which the tribes may conduct if the state permits some form of bingo to be conducted, but which remains subject to provisions of the IGRA and the regulations of the National Indian Gaming Commission. All other gaming, such as casino gambling, parimutuel betting and slot machines, is designated as Class III gaming and is allowed only under a state-tribal compact.

The Mashantucket Pequot Tribe had sought to negotiate a compact with the State of Connecticut for Class III gambling, but the state refused and was sued by the tribe. The district court directed the state to enter into good faith negotiations with the tribe and conclude a compact within 60 days. This decision was upheld by the U.S. 2nd Circuit Court and is now pending a decision by the U.S. Supreme Court on whether to consider the case.

When the negotiations failed, a mediator was appointed by the court to review the tribe's and state's "last best offer'' for a compact. Even though the court chose the state's proposed compact as the one which best comports with the IGRA, the State of Connecticut refused to consent to the mediator's proposed compact. Under the IGRA, this sent the issue to the Secretary of the Interior to prescribe procedures to implement the proposed compact chosen by the mediator.

Seventeen tribal-state compacts, already in effect, were negotiated between the tribes and states. This is the first case in which disagreement between a tribe and the state triggered provisions of the law requiring the Secretary to become involved in determining procedures to implement a compact.

Interested parties will have 30 days in which to comment after the notice of the proposed procedures is published in the Federal Register.