



National Indian Gaming Commission Newsletter

**An Independent Regulatory
Agency of the
United States of America**

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Chairman

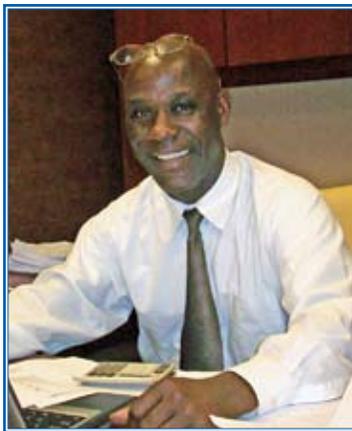
Philip N. Hogen

Vice Chair

Norm DesRosiers

NIGC

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Michael Ross

The Institute of Internal Auditors (IIA) announced that Michael Ross, an NIGC Auditor has successfully completed the Certified Government Auditing Professional (CGAP) examination in January, 2008. Offered throughout the world, the CGAP exam is a specialty exam designed for audit practitioners in various levels of government. The CGAP exam explores comprehension of government auditing practice, methodologies, and environment. Related standards, including IIA standards and government auditing standards are tested along with control/risk models.

The CGAP designation is awarded to individuals who have met the requirements of The IIA's CGAP program, including the challenging examination, high standards of character and proof of education and government auditing experience.

Established in 1941, the Institute of Internal Auditors is an international professional association of more than 150,000 members with global headquarters in Altamonte Springs, Florida. Throughout the world, the IIA is recognized as the internal audit profession's leader in certification, education, research and technological standards.

In addition to Michael's recent certification, the NIGC Audit Division staff, which currently consists of 14 individuals, have attained the following professional certifications and advanced degrees: Certified Public Accountant (6), Certified Fraud Examiner (4), Certified Government Audit Professional (2), Certified Business Manager (1), Computer Technical Industry Association Certifications (4), Master of Business Administration (2), Master of Public Administration (2) and Juris Doctor.(1).

MESSAGE FROM CHAIRMAN HOGEN



Chairman Phil Hogen

The NIGC offices have been busy places of late, and a number of the initiatives and projects we've been working on are discussed elsewhere in this issue of our newsletter. One of the final matters Commissioner Chuck Choney acted upon with the Commission, before his retirement back home to Oklahoma at the end of last year, was the Commission's adoption of its new Facility License regulations. These new regulations will become effective on March 3, 2008. These provisions will further implement the directives in the Indian Gaming Regulatory Act (IGRA) that tribes license all their gaming facilities and that as they build and operate gaming facilities, provisions be made to protect the environment and public health and safety. These regulations mandate tribes license their facilities once every three years, and that as they do so, they identify the non-federal environmental, health and safety standards and codes the tribes utilize and apply to their facilities, and at the time of issuance or renewal of the licenses, they certify that the facilities are in compliance with those provisions. Recent fires at major gaming facilities remind us once again that even in the largest and most modern gaming facilities, risks are always attendant in our industry, and hopefully the periodic reviews tribes will make of their facilities under these new procedures will help minimize them.

In connection with our on-going effort to put in place regulations which would draw clearer distinctions between Class II electronic and technological aids to the play of bingo and games from compacted Class III electronic facsimiles of games of chance, the Commission had conducted a study of the economic impact the regulations now proposed. It is the Commission's view that in the absence of such clearer delineation, a number of tribes have placed in play as Class II equipment systems which go beyond being just an "aid" to the players, and rather replicate the play of the gaming activity to the point they've become facsimiles, which fall into Class III. The study indicates that replacing such equipment with systems that comply with the proposed rules will require significant investment and development costs, and when installed, will likely generate less future revenue. The Commission recognizes that the transition from regulations that have been open to interpretation to more detailed requirements will have a substantial impact. While the Commission regrets this aspect of the study, it continues to hold the view that in the long run, attaining a defensible compliance program that

will accommodate technical advances, together with a generous "grandfather" provision that will permit a reasonable phase-out of non-compliant equipment, will strengthen the industry. In response to tribal request to extend the comment period for the proposed regulatory package, the Commission has extended the deadline for comment until March 9, 2008. The Commission has also invited its Technical and Minimum Internal Control Standards Tribal Advisory Committees to meet with us in Washington on February 29, 2008. The Committees will be assisting the Commission evaluate the comments on the proposals received by that date, so those with comments are encouraged to send their concerns to the Commission promptly.

The Tribal Advisory Committees have worked hard in assisting the Commission with these projects, and the Commission is deeply appreciative of their efforts, as well as the "working group" which was assembled to provide input to those Committees. As the ranks of the Committees have grown somewhat thin over time, as some Committee members have done more than their share over their years of service, and in response to tribal requests that greater geographical distribution be represented on the Committees, the Commission is seeking to re-constitute the membership of its MICS Tribal Advisory Committee. Letters will soon go out to tribal leadership, asking for nominations to that Committee.

Since the Federal Court rulings in the Colorado River Indian Tribes vs. NIGC litigation precluded NIGC's mandatory application of its MICS to Class III gaming, discussions have been ongoing in Congress and with tribes about filling any gap in oversight which might threaten the real or perceived integrity of Indian gaming. Flowing from those discussions, a number of tribes have recently amended their tribal gaming ordinances to adopt NIGC's MICS for their Class III gaming, and to recognize NIGC's authority to enforce them. This is yet another positive step in the partnership existing between the Federal government and tribal governments in fostering tribal economic development through gaming.

Finally, the Commission is continuing its effort to find the proper course as it complies with the Government Performance Results Act (GPRA). GPRA requires the Commission to adopt a comprehensive 5-year plan that identifies milestones by which progress toward its goals are measured, and reflects the needs expressed to it by the tribes which it serves. After posting a draft of this plan on the Commission website last Fall, the Commissioners and staff are attempting to refine that draft, and produce a clearer, more concise product, which will better state where the Commission intends to go, and to better reflect tribal concerns which continue to be gathered by NIGC's ongoing government-to-government consultation process, and tribal attention to this effort, and suggestions for it are invited.

While much has been done recently at the Commission, much remains to be done and I am optimistic that in 2008, NIGC and its strong staff will continue to fulfill the roles which it was assigned in the Indian Gaming Regulatory Act.

2007 FINAL FEE RATE

In December of 2007, the National Indian Gaming Commission (Commission) adopted the final annual fee rates of 0.00% for tier 1 and 0.059% (.00059) for tier 2 for calendar year 2007. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission.

If a tribe has a certificate of self-regulation under 25 CFR part 518, the final fee rate on class II revenues for calendar year 2007 shall be one-half of the annual fee rate, which is 0.0295% (.000295).

The fees are due in four quarterly payments. Please be sure to use calendar year 2006 as the base period for determining 2007 fees payments. Also, please provide the following identifying information: name, address and telephone number of the gaming operation; name of licensing tribe; name, telephone number, and email address of contact person.

Should you have any questions, please contact Kwame Mainoo, National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005; telephone (202) 632-7003; fax (202) 632-7066 (these are not toll-free numbers).

ADDITIONAL DISASTER ASSISTANCE FOR INDIAN GAMING FACILITIES

Indian gaming facilities throughout the country face various natural and man-made disaster threats depending on the gaming facility's location. The National Indian Gaming Commission (NIGC) has identified two resources to aid in the protection of these facilities, employees, and the general public visiting the facility. The following information is also available on our website at www.nigc.gov.

The Emergency Guide for Business and Industry produced by the Federal Emergency Management Administration (FEMA) provides vital information in a step-by-step fashion on how to create and maintain a comprehensive emergency management program.

The information can be found at <http://www.fema.gov/business/guide/index.shtm>.

Additionally, FEMA hosts a website that contains disaster specific information. This website provides detailed information on actions to take before, during and after a disaster occurs.

That website can be found at <http://www.fema.gov/plan/index.shtm>.

In addition to these resources, the NIGC is prepared to provide assistance as necessary. If a gaming commission or manager requires assistance, they should contact their Regional NIGC office. The NIGC Regional Office will coordinate the assistance with the NIGC Headquarters Office.

NIGC RELEASES ECONOMIC IMPACT STUDY FOR PROPOSED CLASS II REGULATIONS

The National Indian Gaming Commission (NIGC) recently released its economic impact study of proposed Class II game classification standards, Class II technical standards and a revision to the definition of “electronic or electronic mechanical facsimile.”

The NIGC commissioned an independent study of the potential economic impact of the proposed Class II regulations that were published in the Federal Register October 24, 2007. If finalized, these regulations would be the first to provide detailed specifications as to what constitutes class II machines. The question of what constitutes a class II game—which can be played without a class III compact with the State in which the tribe conducts gaming—has not been the subject of regulatory

specifications. The Commission therefore sought to identify the potential economic impact of the proposed regulations in an area that had not previously been subject to clarifying specifications.

The comment period will remain open through March 9, 2008, resulting in a 135 day comment period since the proposed regulations were published in the Federal Register. The Commission will take into consideration all comments related to the economic impact study while moving the process forward.

To view a copy of the economic impact study, please visit our website at www.nigc.gov

NIGC FACILITY LICENSE REGULATIONS

The National Indian Gaming Commission (NIGC) published final facility license standards in February 1, 2008. These regulations will go into effect on March 3, 2008.

The Indian Gaming Regulatory Act (IGRA) which Congress enacted in 1988 requires that tribes must license their gaming facilities and that when they build and operate gaming facilities, they must make provisions for protection of the environment and health and public safety. Under the new regulations, before a new gaming facility opens, a tribe will be required to submit to the Chairman a notice that it is considering issuing a new facility license at least 120 days prior to opening, along with certain Indian lands information. Further, the facility licenses must be renewed at least once every three

(3) years at all new and existing facilities. With each facility license issuance or renewal, a tribe will certify that it has identified and enforces the environmental and public health and safety laws applicable to its gaming operation(s), and that it is ensuring that it adequately protects the environment and public health and safety. Concurrent with the facility license certification, a tribe will submit a list identifying the laws, resolutions, codes, policy standards or procedures adopted by the tribe regarding environmental and public health and safety in its gaming operation.

For further information on the proposed regulations, please visit our website at www.nigc.gov.

NEW NIGC CHIEF OF STAFF

A familiar face to NIGC, Cindy Shaw returned in January 2008 to serve as Chief of Staff. Cindy was a Staff Attorney with the Office of General Counsel from 2001 to 2005 when she left to work for then-Chairman of the Senate Committee on Indian Affairs, Senator John McCain. Cindy worked for the Committee until April 2007 when she joined the DC law firm Patton Boggs as Of Counsel, concentrating on Native American issues.

Previous work experience has included a position as a lawyer for a small firm in Washington, DC, representing tribes against the Department of Labor and as a writer and reporter for the Bureau of National Affairs where

she covered regulatory and administrative law issues.

As Chief of Staff, Cindy will be responsible for managing the day-to-day operations of the Commission and implementing the policies and procedures of the Commission.



Cindy Shaw

Cindy received her Bachelor of Arts in English from Mount Holyoke College in South Hadley, Massachusetts, and her law degree from the University of Washington in Seattle.

NIGC Government-to-Government Consultations Southwest Gaming Conference, Scottsdale, Arizona January 15-16, 2008



NIGC meets with Salt River Pima-Maricopa



NIGC meets with Jicarilla Apache Tribe, New Mexico



NIGC meets with Tonto Apache Tribe, Arizona



NIGC meets with Ak-Chin Indian Community

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Consultation Photos
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NIGC meets with Pueblo of Acoma



NIGC meets with Yavapai Apache, Prescott, Arizona



NIGC meets with Tohono O'odham Nation



NIGC meets with Colorado River Indian Tribes



NIGC meets with San Carlos Apache Tribe

We look forward to working with you in the coming year. Following is contact information for the National Indian Gaming Commission's Regional Offices, including updated staff information and contact information.

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**Eric Schalansky
Region Director**

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