

COMMENTS TO NIGC REGULATIONS
SUBMITTED BY THE CHITIMACHA TRIBE OF LOUISIANA (“TRIBE”)

1. Part 559 – Facility License Notifications, Renewals, and Submissions

Section 559.1(a) recites that the purpose of these rules is, in pertinent part, “to ensure that each place, facility, or location where class II or class III gaming will occur is located on Indian lands eligible for gaming . . .” (emphasis added). It is the purpose of this comment to address questions arising from this standard that will soon be faced by Indian gaming establishments in the context of possible Internet gambling.

The Tribe understands the limitations of IGRA that all gaming be conducted on Indian Lands. The issue created by Internet gambling is whether or not that form of wagering conforms to those requirements. The Tribe believes that it would be extremely damaging to Indian gaming if IGRA were interpreted in a way that would prohibit Indian casinos from offering Internet gaming. The Tribe further believes that IGRA does not mandate that interpretation, and that regulatory language should be developed to make that fact clear. Finally, the Tribe strongly suggests that the development of that language not be delayed. Many states are presently considering intra-state Internet wagering systems. Similarly, Congress has recently been presented with new proposed legislation in the area of federally supervised and taxed “National” Internet gaming law and policy. Should the Federal Government or any or all of those states pass such legislation, and should that legislation either not directly address, or ambiguously address, its application to Indian gaming the NIGC failure to enact regulations making it clear that Indian casinos may participate either in nationally or intra-state Internet gaming, then those Indian casinos would be placed at a significant competitive disadvantage.

For these reasons, the Tribe offers the following suggestion for appropriate placement in Part 559:

“Internet Wagering” means the placing of wagers using a computer network of both federal and non-federal interoperable packet switched data networks through which a casino may offer legal gambling games. Should Internet Wagering be permitted within any state or by the Federal government in a way that does not prohibit such wagering at Indian casinos,, nothing in these regulations shall prevent the conduct of such Internet Wagering at Indian casinos located in a specific state or as otherwise permitted under Federal law and regulations and provided that such Internet Wagering complies with all other requirements of IGRA and these regulations. For purposes of the IGRA and these regulations, all wagers placed in the course of Internet Wagering offered by an Indian casino shall be deemed to be placed when received at the Indian casino on Indian lands. Any intermediate routing of electronic data in connection with such a wager shall not effect the fact that the wager is placed at the Indian casino and therefore on Indian lands.

2. Part 573 – Enforcement

The Tribe offers the following suggested amendments to sub-section 573.2(c) in this Part. It believes that these suggestions both clarify the language of the rule and provide a fairer system for the resolution compliance issues. The Tribe's suggested language is in **bold** and its suggested deleted language is in [brackets].

(c) Either action under sub-section (b)[may] shall provide a reasonable time period for the respondent to[come into voluntary compliance] file an Answer either explaining the steps it has taken to come into compliance or explaining in detail why it believes that it is already in compliance. [And i] If the corrective action [is not fully completed] alleged to have been taken by Respondent in its Answer was not actually taken, legal enforcement action may be taken. If the Respondent alleges in its Answer that it was already in compliance, the Chairman shall, within a reasonable time, re-evaluate Respondent's conduct and, if the Chairman still believes that the Respondent is out of compliance, provide the Respondent with a written rejection of its Answer and may then initiate further legal enforcement action.