



April 24, 2020

Dear Tribal Leader:

Many of you are now weeks into a full shutdown of your gaming operations and I want to commend you for making the health and safety of your employees and patrons a priority. I understand, though, that “closed” does not mean “idle.” Every tribe, tribal gaming regulatory authority, and tribal gaming facility is no doubt in the midst of ensuring that everything is lined up and ready to go when it is determined they can safely reopen. That date, of course, depends on several factors that vary from location to location. But regardless of when you reopen, being ready to reopen means not only that employees are in place and machines are turned on, but also that everything that can be done to ensure the public health and safety at the operation has been done.

A number of resources are available as you and your colleagues identify preparations necessary to safely reopen tribally licensed gaming operations. Adequate preparation efforts are important to the success of the Indian gaming industry. I join you in knowing that this success has always and will continue to include the public’s safety.

Reopening is a careful and measured decision you must make. As Indian gaming’s federal regulatory body, the National Indian Gaming Commission (NIGC) wants to provide you with information to help your planning efforts. As you consider reopening in the future, here are some resources that might aid in the decision-making process.

President Trump has unveiled Guidelines for Opening Up America Again, a three-phased approach based on the advice of public health experts. These guidelines are available at <https://www.whitehouse.gov/openingamerica>. This resource relies on up-to-date data and an assessment of readiness in order to satisfy gating criteria before proceeding to a phased comeback at the local and regional levels.

The CDC also continues to update its website with helpful information to “help get and keep America open.” It includes guidance geared specifically toward tribes, states, localities, and territories. This can be found at <https://www.cdc.gov/coronavirus/2019-ncov/php/open-america/index.html>.

Partnerships and intergovernmental coordination at the local level are an additional resource. This resource provides an opportunity to anticipate and plan for potential outcomes before reopening. Tribally driven coordination aids in the assessment of local health conditions and neighboring jurisdictions' mitigation plans.

The NIGC continues to update resources available at www.NIGC.gov. I am attaching to this letter guidance related to your planning for a re-opening. In addition, information related to preparation measures for reopening is available on the recently updated NIGC Frequently Asked Questions document. As operations and tribal regulatory bodies identify operational questions and propose site specific solutions, the NIGC will continue to expand on how mitigation measures protect the public's safety and ensure a fair gaming operation.

Tribal gaming regulatory bodies work closely with the NIGC. They are a proven body of knowledge and often entrusted with issuing gaming facility licenses as well as attesting to environmental, public health and safety. Their expertise can provide a unique perspective and help ensure compliance with regulatory expectations. Your tribe's gaming regulatory body is an essential resource to involve in any planning process.

As you consider the appropriate measures necessary to reemerge from a temporary closure, your planning efforts are an opportunity to rebuild and emphasize your community's ability to be prepared for the future. Preparedness will continue to be an area of focus for the NIGC's work as we collaborate with you. I am grateful for your efforts as tribes promote local level planning that will continue to protect Americans.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Smermeyer". The signature is fluid and cursive, with a large initial "E" and a long, sweeping underline.

E. Sequoyah Smermeyer

Attachment: NIGC Guidance, Updated April 24, 2020



Reopening Guidance for Temporarily Closed Indian Gaming Facilities April 24, 2020

The National Indian Gaming Commission has created this guidance to assist gaming tribes, their tribal gaming regulatory authorities (TGRAs) and their gaming operations as they consider reopening their gaming operations following temporary closure due to COVID-19. Although each Tribe must decide for itself whether and when to reopen, the Indian Gaming Regulatory Act, NIGC regulations, and every approved tribal gaming ordinance requires that the gaming facility be operated in a way that does not jeopardize the public health and safety. This guidance is designed to help Tribes ensure this mandate is upheld as they consider reopening.

In addition, because the NIGC also has an oversight role that includes the public health and safety, we have developed a COVID-19 Environment, Public Health and Safety (EPHS) Preliminary Assessment that our compliance staff will use to assess a gaming operation's compliance with 25 C.F.R. part 559. That assessment document is attached to this guidance. The COVID-19 EPHS Preliminary Assessment's focus is on EPHS and does not address specific internal controls or asset protection that should be considered when reopening. Those areas are addressed in this NIGC re-opening guidance. The Reopening Assessment can be used by the TGRA in conjunction with its own internal checklist or used as a building block to develop its own internal checklist. This assessment is not all-encompassing but, as designed, will give the NIGC and tribe, if they choose to use it, a quick assessment of the main areas of consideration with regards to facility licensing, EPHS attestation and other immediate considerations relative to the COVID-19 pandemic. No one item in the assessment is controlling, rather all of the factors listed are designed to be looked at as a whole, in context of the particular gaming operation. The NIGC is providing this guidance to assist the tribe and its TGRA to prepare for reopening in a way that ensures the public health and safety of your gaming facilities.

The following guidance covers both regulatory requirements found in IGRA and NIGC regulations as well as best practices and suggestions to ensure that the gaming operation is reopened and operated in a way that ensures the health and safety of employees and patrons. This information will be updated as necessary.

Regulatory and Staffing Concerns

1. The NIGC requests that tribes notify the NIGC of their intent to reopen a gaming operation.
2. Review Tribal Gaming Ordinance for any regulatory staffing and quorum requirements.
3. Ensure all key regulatory and licensed gaming positions are filled to ensure compliance with applicable regulations and control over the gaming operation. Critical regulatory positions may include: Surveillance Operators, Inspectors/Compliance Officers, Auditors, and Investigators.
4. Review and assess compliance with MICS, TICS and SICS prior to opening. *See* 25 C.F.R. § 543.
5. Verify that outsourced accounting and/or internal audit contractors are operational and ready for resumption of services. *See* 25 C.F.R. § 571.12; 25 C.F.R. § 543.
6. Review submissions due to the NIGC during the closed period and submit any outstanding submissions accordingly (licensing, audits, fees, etc.) including facility license and EPHS certifications. *See* 25 C.F.R. § 556; 25 C.F.R. § 558; 25 C.F.R. § 559; 25 C.F.R. 571.12; 25 C.F.R. 543.
7. Assess current licensing schedules, including renewals, and other decisions. Issues to be aware of under 25 C.F.R. §§ 556 and 558 include the 60-day NOR submission deadlines, 30-day notification of License Issuance, and the requirements under 25 C.F.R. § 558.3(c), which prohibits a key employee or primary management official from working greater than 90 days without a gaming license.

Public Health and Safety Recommendations (25 U.S.C. § 2710(B)(2)(e); 25 C.F.R. § 522.2(i); 25 C.F.R § 522.4(b)(7); 25 C.F.R. § 559.4)

1. TGRAs and Operations should coordinate and implement measures to ensure public health and safety that may include patron and employee screening, personal protective equipment, physical and social distancing, sanitizing and cleaning plans and any necessary adjustments to internal controls (TICS/SICS).
2. COVID-19 Training: All employees should receive training on COVID-19 safety and sanitation protocols. More comprehensive training may be necessary for Housekeeping, Cleaners, Food & Beverage and Security. Front and back of house signage could be posted reminding employees and patrons of protocols and hygiene reminders.
3. Cleaning Protocols: Cleaning agents should be reviewed to ensure they meet EPA guidelines, are approved for use and are effective against COVID-19 and other viruses. The frequency of cleaning and sanitizing should be increased in all employee and public areas with an emphasis on high traffic areas and frequent contact surfaces.
4. Employee Hand Washing: Correct hygiene and frequent hand-washing with soap is vital to help combat the spread of the virus. All employees should be instructed to wash their hands frequently, or use hand sanitizer when a sink is not available and after any of the following activities: using the restroom, sneezing, touching the face, blowing the nose, cleaning, sweeping, mopping, smoking, eating, drinking, entering and leaving the gaming floor, going on break and before or after starting a shift.

5. Hand Sanitizers: Hand sanitizer dispensers should be placed in various locations including patron and employee entrances, reception areas, lobbies, and casino floors.
6. Personal Protective Equipment (PPE): Determination should be made if PPE should be worn by employees based on their roles and responsibilities. If PPE is used by employees, training should be provided on how to properly use and dispose of all PPE. Determination should also be made with regards to patron use of PPE including face masks. The TGRA should review applicable ordinances, regulations, and/or policies and procedures regarding the use of face masks and consider making appropriate adjustments to TICS/SICS.
7. Physical Distancing: Guests and employees should be advised to practice physical distancing by standing at least six feet apart, while standing in lines, using elevators or moving around the property. Restaurant tables, slot machines, gaming devices, table/card games, and other physical layouts should be arranged to ensure appropriate distancing.

Considerations for Gaming Floor (25. C.F.R. §§ 543; 547)

1. Test internal and external network connectivity to ensure they are functioning properly, (e.g. firewalls for both networks are up and operational).
2. Test internet connectivity.
3. TGRAs and/or Operations should coordinate with vendors to ensure that systems and support are ready to resume operations.
4. Ensure gaming systems, including game servers, have been tested for connectivity and functionality, including wide area ball calls.
5. Test the player tracking system parameters to ensure integrity and proper operation of the system.
6. Review player tracking reports to identify any anomalies such as changes to player accounts and/or point adjustments while the casino was closed. Any discrepancies should be investigated to resolution.
7. Test emergency systems including, but not limited to, smoke/fire alarms and backup generator(s).
8. Test information technology systems and backup data.
9. Review ticket redemption, player point accruals, or coupon expirations, etc. to determine if expiration dates will be extended.
10. Ensure any temporary VPN user accounts that were created during the emergency closure have been deactivated upon resumption of the gaming operations.
11. Ensure that all wide area and in-house progressive jackpot meters are correct and are properly posted for all gaming departments (gaming machines, poker, table games, etc.).

Consideration for Surveillance and Security (25 C.F.R. § 543)

1. Test to ensure surveillance systems are functioning properly, including any back up power sources.
2. Ensure all required camera views and recordings are available in accordance with 25 C.F.R part 543.21.

3. Ensure all previously deactivated electronic employee access privileges have been reactivated.
4. Test all electronic/electromagnetic locks to secure areas to ensure they are functioning properly.
5. If available, the TGRA should review the facility entry logs for non-authorized entry or suspicious activity during the time period the operation was closed.

Considerations for Cage/Vault and Revenue Audit (25 C.F.R § 543)

1. Ensure required minimum cash (See TGRA approved minimum bank role formula) is on site in accordance with 25 C.F.R § 543.18(c)(4)
<https://www.nigc.gov/images/uploads/checklists-and-worksheets/MinimumBankrollVerification02192018.xlsx>
2. Reconcile and fill ATMs, kiosks, and cash recyclers if previously emptied.
3. If ATMs, kiosks, and cash recyclers were not dropped prior to closing, funds should be reconciled and verified.
4. Count and verify vault and cage inventories.
5. Emergency and/or final drop proceeds should be reconciled and verified.
6. Audits of assets left in place should be conducted for the period the operation was closed e.g. pull tabs, controlled (sensitive) keys, cheques, cards, dice, bingo paper, gaming devices, pre-numbered forms, monetary instruments and other secure inventory items as appropriate.
7. Consideration should be given to the regular monthly and quarterly inventories required under 25 C.F.R. part 543.24.
8. Audits of non-gaming inventories such as food and beverage, alcohol storage, gift shops, etc. should be conducted.
9. After restoration of the accounting system has been conducted, a review of data should be conducted to identify any potential fraudulent or unauthorized activity.
10. All variances should be fully investigated to resolution.

COVID-19 Preliminary Assessment	
Tribe:	TGRA POC Name/Number:
Casino Name:	Casino POC Name/Number:
Projected Opening Date:	NIGC Compliance Officer:
Date Notified of Reopening:	Class II _____ Class III _____
Applicable NIGC Regulations	

25 CFR §559.1 What is the scope and purpose of this part?

(a) The purpose of this part is to ensure that each place, facility, or location where class II or III gaming will occur is located on Indian lands eligible for gaming and obtains an attestation certifying that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner that adequately protects the environment and the public health and safety, pursuant to the Indian Gaming Regulatory Act.

(b) Each gaming place, facility, or location conducting class II or III gaming pursuant to the Indian Gaming Regulatory Act or on which a tribe intends to conduct class II or III gaming pursuant to the Indian Gaming Regulatory Act is subject to the requirements of this part.

25 CFR §559.4 What must a tribe submit to the Chair with the copy of each facility license that has been issued or renewed?

A tribe shall submit to the Chair with each facility license an attestation certifying that by issuing the facility license, the tribe has determined that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner which adequately protects the environment and the public health and safety. This means that a tribe has identified and enforces laws, resolutions, codes, policies, standards or procedures applicable to each gaming place, facility, or location that protect the environment and the public health and safety, including standards, under a tribal-state compact or Secretarial procedures.

25 CFR §559.6 May the Chair require a tribe to submit applicable and available Indian lands or environmental and public health and safety documentation regarding any gaming place, facility, or location where gaming will occur?

A tribe shall provide applicable and available Indian lands or environmental and public health and safety documentation requested by the Chair.

Applicable Approved Tribal Gaming Ordinance Section(s) :¹

Applicable Tribal-State Gaming Compact Section(s):²

The NIGC interpretive rule regarding IGRA’s environment, public health, and safety mandate (Federal Register at 67 Fed. Reg. 46109 (July 12, 2002)):

Reopening Questions Related to EPH&S		Y	N	N/A	Notes
1	Does the TGRA attest that there is no longer a threat to public health and safety? Identify approving official.				
2	Have all applicable tribal and/or federal restrictions on businesses and/or				

	individual gatherings related to the COVID-19 Pandemic been lifted or amended that allow for reopening? Please list any existing or amended restrictions.				
3	Are there local, county, or State restrictions on businesses and/or individual gatherings related to the COVID-19 pandemic that have been determined to apply to the gaming operation and that are still in effect? ³				
4	If yes to #3, has the Tribe or TGRA reviewed those restrictions and made a determination as to how the Tribe may safely reopen?				
5	Are there other existing local, county, or State restrictions on businesses and/or individual gatherings related to the COVID-19 pandemic? ⁴				
6	Has the TGRA identified and does it have in its possession all EPHS standards applicable to the gaming facility?				
7	Has the TGRA reviewed all the EPHS standards applicable to the gaming facility and can it attest that the facility meets or will meet the standards at the time of reopening?				
8	Has the TGRA conducted or will it cause an inspection of the gaming facility to ensure the gaming facility meets the EPHS standards? List date, organization, contact information of inspector(s).				
9	Do the standards identified in #8 include requirements that the gaming facility perform a deep cleaning to a prescribed standard?				
10	Has the TGRA identified public health and/or EPHS experts to assist with				

	inspections and identification of violations of the Tribe's EPHS standards and instances of imminent jeopardy that may be caused due to the COVID-19 Pandemic?				
11	Do the standards identified in #8 include requirements that the gaming facility perform a deep cleaning to a prescribed standard?				
12	TGRA (or Tribe) adopted additional requirements/protocol to include inspection standards/schedules, use of notices, and enforcement actions, including temporary closure orders, to address the COVID-19 Pandemic?				
13	Have changes to internal controls been approved by the TGRA and/or Casino to allow for personal protective equipment (PPE) to be worn by gaming facility staff and patrons such as masks and gloves? If yes, have existing/additional standards been identified/implemented to ensure that the new policies/procedures will protect against theft. For example, if allowing count room employees to use gloves, masks, or hoods, are there other TICS/SICS in place to ensure against theft?				
14	Has the TGRA developed or adopted current monitoring, testing and reporting mechanisms to address COVID-19 Pandemic rules approved by the TGRA? Describe.				
15	Does the TGRA and Casino have the appropriate staff to ensure internal control and compliance with applicable regulations?				

16	Has the TGRA implemented any social/physical distancing measures within the gaming facility that are consistent with CDC guidelines?				
17	Has the gaming facility adopted protocol to address instances where staff or patrons report or display symptoms of COVID-19? Has the gaming facility adopted protocol to address instances where staff or patrons test positive for COVID-19? Is there a source of protocol or was the protocol developed internally?				
18	Has the Tribe or TGRA determined what indicator(s) will signal consideration for reclosing the gaming facility?				
19	Has the TGRA/Casino tested emergency service systems (fire alarms, sprinklers, etc.)?				
20	Has the TGRA confirmed the gaming facility will have adequate emergency services response (fire, EMS, police) from the agencies previously designated as first responders prior to COVID-19 Pandemic? Has TGRA ensured agencies can and will respond to calls at the gaming facility.				
21	Will areas of the gaming facility remain closed?				
22	Will the TGRA and Casino continue to monitor and prepare for the possibility of a subsequent wave of COVID-19 outbreaks? Describe preparedness plan.				
23	Is the TGRA or Operation requesting any preopening technical assistance?				