



March 16, 2020

Dear Tribal Leader:

This letter provides additional information about the measures the National Indian Gaming Commission (NIGC) continues to take in response to Coronavirus (COVID-19). These efforts support the NIGC's regulatory responsibility and the national effort to protect our most vulnerable citizens from the spread of COVID-19.

Tribal government leadership is the best first line of defense. The importance of local level decisions that are guiding Indian gaming's response to COVID-19 cannot be overstated. This is especially true for three reasons. First, you as tribal law makers are well positioned to assess the risks associated with your Indian gaming facility's operations when you apply your tribe's environmental public health and safety (EPHS) laws. When a Tribal Gaming Regulatory Authority (TGRA) issues a license to a facility, it must attest to the NIGC that it has identified and enforces laws to protect the environment and public health and safety, and that the operation of the gaming is conducted in a manner that adequately does so. Second, guidance from health authorities at the federal and local level are a vital resource best implemented at the tribal level. The NIGC continues to encourage tribes to use the extensive federal health authority resources available at [CDC.gov](https://www.cdc.gov). This guidance will help tribal policy makers to deliberate next steps in their communities. Third, the NIGC continues to encourage tribal law makers to involve your TGRAs in outreach to local jurisdictions. Intergovernmental coordination is an exercise of tribes' inherent authority to develop government-to-government relationships that will best serve the goals and needs of the people they lead.

The collaborative approach being led by tribal leaders across Indian country is informing local level decisions about reducing or modifying operations at Indian gaming facilities and, in some cases, temporarily closing those facilities. As tribal lawmakers and tribal gaming regulatory bodies decide to temporarily close a licensed facility based on their local on-the-ground assessments, the NIGC Regional Directors will continue to have a presence. I am attaching to this letter a recent directive from the NIGC Director of Compliance instructing NIGC Regional Directors. That directive includes a protocol for the NIGC Regional Director as he or she becomes aware that a facility is temporarily closing.

The protocol will help maintain an appropriate NIGC presence at the local level during closures. The NIGC regulations at 25 C.F.R. Sec. 559 do not require tribes to submit notice for a temporary closure lasting less than 180 days. However, the NIGC is implementing a protocol to help facilitate support for a tribal community that has temporarily closed based on local circumstances. The intention of this protocol is in line with the regulatory history for sec. 559 and ensures the NIGC is supporting and facilitating assistance where necessary.

The protocol will help the NIGC assess what resources may be helpful in a geographic region as tribes work with local authorities in that region to modify or close operations. Part of the NIGC's assistance will include enhanced communication, and an assessment of a tribe's specific preparation when warranted. Thank you in advance for your support for the Regional Directors work in this area.

Finally, thank you for the efforts that each of you is making across Indian country to protect our most vulnerable citizens. These efforts underscore the importance of promoting tribal self-sufficiency in the NIGC's work.

Sincerely,



E. Sequoyah Simermeyer  
Chairman

Attachments

Memorandum on NIGC Regional Director Protocols, March 16, 2020



March 16, 2020

**MEMORANDUM**

**To:** NIGC Region Directors  
**From:** Dustin Thomas, Director of Compliance  
**Cc:** NIGC Commission  
NIGC Office of General Counsel  
**Re:** Regional Office Protocol in the event of Local Level Modifications to Operations Including a Temporary Closure

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This memorandum outlines a two-step protocol that each Regional Director will apply when the Tribe has directed a closure, the casino voluntarily closes or the Tribal Gaming Regulatory Authority (TGRA) issues a temporary closure order for local level mitigation measures in response to the Coronavirus ("COVID-19"). Part of this process includes the completion of an NIGC Facility Closure Notification – COVID-19 ("COVID-19 Closure Checklist") and an NIGC Preparedness Questionnaire – COVID-19 ("COVID-19 Preparedness Questionnaire").

***Take Measures to Establish Enhanced Communication with the TGRA***

It is important we ensure the Regional Offices continue to communicate with the TGRA during a closure. If a Tribe, TGRA, or Casino closes a licensed Indian gaming facility, please take the below steps to ensure regular communication.

- Establish a standing check-in and an outline for emergency contact procedures.
- Monitor the need for coordination when media coverage impacts any Crisis and Emergency Risk Communication plan the closure decision is intended to support.
- Offer to organize a standing teleconference with neighboring TGRAs and local non-tribal jurisdictions if appropriate.
- Discuss steps to assess the extension of a closure or a decision to re-open.



### ***Assess Tribe-Specific Preparation Based on the Local Conditions***

In general, TGRA's are basing any temporary closure decision on an assessment of local level and property-specific risk. All jurisdictions share a common goal of protecting the most vulnerable members of our society by minimizing that risk. To that end, please take the following steps to ensure a robust assessment of risk is occurring in areas where TGRAs and Indian gaming stakeholders have begun to take the precautionary steps of closing facilities to the public.

- Communicate to TGRA's that the NIGC Region Office has determined it will solicit information regarding preparedness through the attached "COVID-19 Preparedness Questionnaire."
- Provide TGRAs with the attached "COVID-19 Closure Checklist" and request the information be provided as soon as possible.
- Communicate to the Director of Compliance any resistance to providing complete information or if you anticipate the TGRA's information collection will require more than 72 hours.
- Once completed by the TGRA, conduct an assessment of the attached checklist to consider if easing procedures are appropriate to allow for greater compliance with EPHS requirements and if the TGRA has made an effort to support coordination with local area health authorities.

### **Attachments**

NIGC Facility Closure Notification – COVID-19  
NIGC Preparedness Questionnaire – COVID-19

[illegible]

Risk Rating: 5 = no emergency plan, preparedness, or proactive measures, 3 = Some form of emergency plan, some proactive

# COVID-19 Preparedness Questionnaire

Tribe:		Date:	
Casinos:		NIGC Staff:	
Tribal Official Contacted:		Contact Info:	
Relevant NIGC Regulations	Yes	No	Risk Rating (1, 3, 5) Date/Explanation/Notes
<p>§559.1 What is the scope and purpose of this part?</p> <p>(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.</p> <p>(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.</p> <p>[77 FR 58772, Sept. 24, 2012, as amended at 80 FR 31994, June 5, 2015]</p>	N/A	N/A	
<p>§559.4 What must a tribe submit to the Chair with the copy of each facility license that has been issued or renewed?</p> <p>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.</p> <p>[77 FR 58772, Sept. 24, 2012, as amended at 80 FR 31995, June 5, 2015]</p>	N/A	N/A	
<p>§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?</p> <p>A tribe shall provide applicable and available Indian lands or environmental and public health and safety documentation requested by the Chair.</p>	N/A	N/A	
<b>Pre-Screening Questions</b>			
1 Is the gaming operation(s) open?			
2 Is there a current facility license on file with NIGC?			
3 Is there a compliant EPHS attestation?			
4 What does the tribal gaming ordinance require specific to EPHS, over and above what is required in IGRA and NIGC regulations?			
5 What does the tribal -state gaming compact or Secretarial procedures require specific to EPHS, over and above what is required in IGRA and NIGC regulations?			
6 Has a State issued any Executive Orders to close or placed any limitations on commercial gaming operations in the State?			
<b>Questions for TGRA Regarding Emergency Preparedness Plan</b>			
7 Is there a emergency preparedness plan in place and does the plan address communicable diseases?			
8 Is someone designated as the crisis/event manager/coordinator? (who makes decisions in the emergency plan include name in explanation)			
9 Has the TGRA, gaming operation and tribe met on the COVID-19 matter?			
10 How often are you meeting to review information?			



Has the TGRA or Tribe designated an external agency as an indicator or benchmark for decision making? CDC, IHS, state or county governments?				
Do you have a plan for temporary/emergency shutdown as part of your preparedness plan?				
Is the TGRA reviewing the plan and discussing what indicators will be used to engage the plan?				
Does the TGRA foresee any issue enforcing any orders they issue with regards to EPHS or temporary suspension of gaming activities?				
Does the TGRA foresee needing the assistance of the NIGC resources to analyze information, access resources or convey urgency or risk to the gaming operation or tribal decision makers?				
Has the TGRA identified critical positions and staffing levels to ensure adequate regulatory oversight?				
<b>Surrounding Jurisdiction Limitations or Restrictions</b>				
Has the neighboring or surrounding local, county or state government issued any order or request to limit large number gatherings?				
If yes, what is the limit?				
Is the tribe adopting or setting a similar limit?				
Are any commercial gaming operations under restrictions or closure orders? Will the Tribe adopt similar restrictions over any Class II only gaming facilities?				
<b>Containment Efforts</b>				
What steps is the gaming operation taking to control the spread of COVID-19?				
What steps are used in cleaning and decontamination?				
<b>Inspection and Determination (specific to COVID-19)</b>				
Who conducted the inspection? (Name, Title, Agency, Contact Information)				
What were the results of the inspection? If any findings were identified, did the TGRA follow up?				
Has the TGRA conducted an assessment of all pertinent information related to COVID-19 and the impact on the tribes gaming operation with regards to public health and safety?				
Does the TGRA have any indication the gaming operation is being maintained in a manner that does not protect the health and safety of its staff, customers and the public in compliance the tribes gaming ordinance and other adopted codes and regulations?				
<b>Resources Requested or Referred</b>				