



March 20, 2020

Dear Tribal Leader:

As you make decisions in rapidly evolving situations, the National Indian Gaming Commission (NIGC) seeks to share resources with you. This letter shares information about two resources. These resources can support the measures you and other tribal lawmakers are taking at the local level across Indian country. These measures are a valuable tool for local leadership efforts to prepare and respond to the effects that the Coronavirus disease 2019 (COVID-19) poses to tribally licensed gaming operations.

The first resource underscores tools available through the Centers for Disease Control and Prevention (CDC). It is a memorandum from the NIGC Training Program Manager to NIGC Region Directors. The memorandum highlights on-line guidance and training material found on the CDC website. The CDC website can have direct application to Indian gaming regulators and operators' assessment, preparation and response to the impact of COVID-19 at an Indian gaming facility.

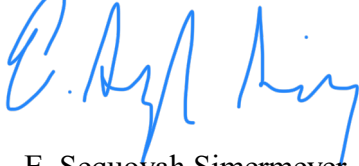
The second resource is the NIGC's response to questions you are raising at the local level about NIGC practices. The responses to these frequently asked questions are created with the on-the-ground perspective of NIGC's Region Directors and with input from the Commission. The NIGC's Division of Compliance will maintain the questions and answers list and make updates when needed as part of regular communication between the NIGC's Commissioners and the NIGC's Region Directors. This list of questions and answers is available on the NIGC website and is included as an attachment to this Dear Tribal Leader Letter.

Also attached to this letter is my March 20, 2020, memorandum to the NIGC Division of Compliance Director. The March 20, 2020, memorandum directs the Compliance Division to modify its focus on enforcement recommendations related to the NIGC's regulatory deadlines. I will continue to make modifications if necessary. In addition, the Vice Chair and I are assessing what measures may be appropriate for the full Commission to take in order to ease the challenges tribes and tribally licensed operations currently face.

Finally, do not hesitate to seek out support from the NIGC. I want to underscore the NIGC's support for the measures you are taking to enforce your tribes' laws, to make local decisions, and to confer with CDC guidance. Whenever a Tribal Gaming Regulatory Authority (TGRA) licenses an Indian gaming facility, the TGRA must attest to the NIGC that it has identified and enforces public health and safety laws. If your TGRA believes that it can no longer attest to its ability to ensure the public health and safety of employees and patrons or if the application of your tribes' public health and safety laws warrants, you and your TGRA will need to consider how the tribe will remedy the Indian gaming facility's threat to public health and safety with steps up to and including a temporary closure.

As the NIGC continues to monitor activity around this issue through its regional and national presence, the value of tribal coordination with neighboring jurisdictions in order to assess local conditions is clear. The Commission will continue to consider what measures it can take to ease the burden on tribes and gaming operations. Amid the challenges you face, I am grateful for your earnest and collaborative decision-making to support the local solutions that being with local leadership.

Sincerely,



E. Sequoyah Simermeyer
Chairman

Attachments

Training Manager's Memorandum to NIGC Regional Directors, March 20, 2020
Chairman's Memorandum to NIGC Compliance Division, March 20, 2020
COPY of NIGC FAQ List Regarding Compliance Practices, updated on www.NIGC.gov



MEMORANDUM

To: Dustin Thomas, Director of Compliance

From: E. Sequoyah Simermeyer, Chairman

Date: March 20, 2020

Re: Modifications in Enforcement Focus

Tribes continue to take unprecedented mitigation measures including wide-spread temporary closures. This memorandum outlines direction to the Division of Compliance. This direction informs enforcement recommendations for certain regulatory deadlines and supports tribes' focus on the preparation and response to the effect of the Coronavirus disease 2019 (COVID-19) while accounting for other regulatory responsibilities.

Please focus the Division of Compliance's oversight to account for the below modifications.

- Do not recommend late fee assessments for TGRA payments made within 90 days of the regulatory deadline.
- Any fingerprint card fee payments made within 30 days of reopening and accounting for the NIGC billing process should not be scrutinized. Please coordinate with the Division of Finance to streamline internal tracking measures that reflect this focus.
- With regard to deadlines for TGRAs' submission of Notices of Results for tribal license applicants, NIGC Compliance Officers' scrutiny of submission dates should account for an extended closure period in order to allow NIGC Compliance Officers the time needed to work with tribes to obtain relevant information.
- Coordinate with the NIGC Office of General Counsel an assessment of opportunities for adjusting facility license submission processing to account for temporary closures.
- With regard to the reporting deadlines for audited financial statements and Agreed Upon Procedure audits, do not scrutinize submissions within 30 days of the audit and report completions in order to allow time for the Tribe's communication with CPA firms.

Thank you for using the www.NIGC.gov Frequently Asked Questions resource to communicate with tribes how your Division will implement these modifications.



MEMORANDUM

To: NIGC Region Directors
From: Steve Brewer, Training Manager
Through: Dustin Thomas, Director of Compliance
Tom Cunningham, Assistant Director of Compliance
Date: March 20, 2020
Re: CDC Guidance and Resources

This memorandum identifies material maintained by the Centers for Disease Control and Prevention (CDC) that may be helpful in your communication with tribes in your Region. The Agency continues to encourage Tribal Gaming Regulatory Authorities (TGRAs) to consult with CDC guidance regarding preparation and mitigation steps related to the Coronavirus (COVID-19). The NIGC Training Program assessed the material available on www.CDC.gov and believes that the below www.CDC.gov links can be useful to support the readiness of a TGRA in responding to the risk presented by COVID-19 to Indian gaming facilities. This list is an initial survey of www.CDC.gov material and intended to help TGRAs make their own decisions about the wealth of material available on www.CDC.gov. Neither you nor tribes should consider this an exhaustive list of CDC resources.

CDC: Center for Disease Control and Prevention

Guidance for Businesses and Employers: Plan, Prepare and Respond to Coronavirus Disease 2019 with regard to employee sickness, environmental cleaning, and employee travel, etc.

Recommended Strategies for Employers to Use Now

<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

1. Important Considerations for Creating Infections Disease Outbreak Response Plan (IDORP):
 - a. What Employers should do
 - b. Recommendations for an IDORP
2. Additional resources on COVID-19

Environmental Cleaning & Disinfection Recommendations

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>

Recommendations for US Community Facilities with Suspected/Confirmed Coronavirus Disease 2019

1. Provides recommendations on the cleaning and disinfection of rooms or areas with suspected/confirmed COVID-19 have visited
2. Cleaning and Disinfection After Persons Suspected/Confirmed to Have COVID-19 Have Been in the Facility
3. How to Clean and Disinfect
4. Personal Protective Equipment (PPE) and Hand Hygiene:
5. Additional Considerations for Employers:

Crisis & Emergency Risk Communication (CERC) Videos and Webinars

<https://emergency.cdc.gov/cerc/index.asp>

The right message at the right time from the right person can save lives. CDC's Crisis and Emergency Risk Communication (CERC) draws from lessons learned during past public health emergencies and research in the fields of public health, psychology, and emergency risk communication. CDC's CERC program provides trainings, tools, and resources to help health communicators, emergency responders, and leaders of organizations communicate effectively during emergencies.

1. Training helps responders and public health professionals prepare to communicate in an emergency.
 - a. Online Training Opportunities
 - b. Videos/Webinars
 - c. Continuing Education

Crisis & Emergency Risk Communications (CERC) Manual

<https://emergency.cdc.gov/cerc/manual/index.asp>

CDC's Crisis and Emergency Risk Communication (CERC) manual is based on psychological and communication sciences, studies in issues management, and practical lessons learned from emergency responses. The CERC manual is intended for public health response officials and communicators who have a basic knowledge of public health communication, working with the media and social media, and local and national response structures.

Frequently Asked Questions — COVID-19

The most current version of this a document is available at www.NIGC.gov

The NIGC Division of Compliance maintains this list of Frequently Asked Questions (FAQ) in consultation with the NIGC's Office of General Counsel and the Agency's Commission. This collection of FAQs is updated as needed. To propose a question for this FAQ list, please coordinate with a Tribal Gaming Regulatory Authority (TGRA). The NIGC encourages all TGRAs to remain in close communication with their NIGC Region Office as Indian gaming facilities across Indian country assess and address the risks associated with the Coronavirus disease 2019 (COVID-19). The time periods discussed below with regards to submission deadlines will continue to be re-examined should closures continue beyond deadlines or the specific number of days provided for in this version of the FAQ.

1. **Question:** How many tribally licensed gaming facilities have temporarily closed in response to COVID-19?

Answer: The NIGC does not know of any Indian gaming operations that have not taken mitigation steps as a result of tribes' own local-level assessment of risks from COVID-19. As of Friday, March 20, 2020, the NIGC knows of 454 planned or ongoing closures. Every closure decision has been based on tribal governments local-level assessments. The NIGC continues to support local government coordination and promotes the resources and guidance available at www.CDC.gov.

2. **Question:** What are the staffing concerns for TGRAs and gaming operations should they choose to remain open?

Answer: The TGRA should continually assess critical positions such as surveillance, gaming inspectors, and compliance officers to ensure regulatory duties are being upheld. Should the casino remain operational, both the casino and TGRA must ensure enough staffing to remain compliant with NIGC MICS, TICS, SICS, Compacts and other applicable regulatory requirements. A review of critical positions should be made to determine adequate coverage of the gaming operation. Consideration should be made for positions in surveillance, security, cage, count and drop, and various management positions needed for signature and approval authority to ensure internal control.

3. **Question:** What are the notification requirements for closing a facility?

Answer: The NIGC encourages tribes to self-report temporary closures to the NIGC as soon as possible. Under 25 C.F.R. Part 559, notice for closing should be submitted to NIGC within 30 days of closing if the tribe anticipates being closed for more than 180 days. However, the NIGC is asking that TGRAs report closures within 72 hours for tracking purposes along with the date the tribe anticipates reopening. NIGC asks that the TGRA keep in contact with NIGC through their Region Office and inform them of any changes with the plan to reopen.

4. **Question:** What does the NIGC do if it learns that there are plans to close a a tribally licensed gaming facility?

Answer: As tribal law makers, tribal gaming regulatory bodies, and/or gaming operators decide to temporarily close a licensed facility based on their local on-the-ground assessments, the NIGC Region Offices will continue to have a presence. NIGC Region Directors have received a two-step protocol from the NIGC Director of Compliance. The protocol will help the NIGC maintain an appropriate presence and facilitate support for a tribal community that has temporarily closed based on local circumstances.

5. **Question:** What considerations should a TGRA account for when securing and adequately protecting casino assets in the event it becomes necessary to evacuate a casino with little forewarning and very little time to secure casino assets, such as monetary instruments and gaming instruments?

Answer: The TGRA, in coordination with casino management, should prepare for situations that would require expedited evacuation of the gaming facility. Plans should include transferring monetary instruments to the vault for security reasons. The Minimum Internal Control Standards found in NIGC regulations 25 C.F.R. Section 543.18(c)(4) requires the count of the cage and vault inventories by at least two employees with signatures attesting to the counts. Should the gaming operation close, this standard would be effective at the time of closure. Upon reopening, the cage and vault inventories would then be recounted and verified against the previous closing balances, with special emphasis and investigations placed on any variances between the two counts. The tribe and casino should consider transferring the cage and vault cash inventories to their financial institution as that would be considered the most secure option.

6. **Question:** What guidelines can the NIGC provide in the case of mandatory partial evacuations within the casino, but not a facility-wide closure, such as the following:

- a. Example: The evacuation and sterilization of the casino surveillance room.

Answer: Surveillance functions are critical to regulation and monitoring of assets. If the TGRA or gaming operation cannot properly regulate and monitor assets, the TGRA and/or gaming operation should consider what steps would best remedy the threat to assets, up to and including closure.

- b. Example: The evacuation and sterilization of the casino cash cage, soft count, slot tech department, or other mission critical departments.

Answer: The TGRA in coordination with the gaming operation should evaluate the adequacy of regulating, monitoring, or securing assets. Should there be threats that compromise the proper security and monitoring of assets, the TGRA should consider if it is appropriate to issue a temporary closure order.

7. **Question:** Can gaming operations refuse service or entry to patrons?

Answer: The TGRA should consult with its legal counsel to identify specific ordinances, codes, regulations and other authoritative documents (such as a tribe's declarations of emergency, executive orders or resolutions) that explain any limits on the tribe's authority to determine who enters and remains on its Indian lands.

8. **Question:** What Information Technology (IT) concerns should a TGRA consider during a temporary closure?

Answer: The TGRA in coordination with the gaming operation should ensure that NIGC MICS along with TICS and SICS are followed. This would include but not be limited to, having back-ups in place with frequent saving of information and testing to ensure back-up systems are functioning properly. In terms of logical access, TGRAs should follow TICS and SICS surrounding access levels and who is required to have access. This requires TGRAs to review access lists and logs that will assist in terminating any non-essential access. VPN access should also follow MICS, TICS and SICS guidelines, however reviewing those licenses that will require essential access should occur. If there is a need for temporary VPN access, when operations are restored remove all temporary access. Avoid using any "bring your own device" (BYOD) if possible, however if BYOD cannot be avoided have those devices vetted to diminish any risks for the operations. Lastly, consideration may be appropriate for adding an additional IT Administrative access-user to the IT remote user access group for redundancy.

9. **Question:** What are some important surveillance considerations during a closure?

Answer: The TGRA and gaming operation management should ensure cameras are positioned to monitor and record all sensitive areas including gaming supplies, exits and entrances. Also, the TGRA and gaming operation management should ensure surveillance systems' recordings are being backed-up and tested to be certain systems are working properly. Surveillance functions are critical to regulating and monitoring of assets. If the TGRA or gaming operation believes that it cannot properly regulate gaming operations and monitor assets, the TGRA and/or gaming operation should consider how best to remedy the threat by taking additional steps during the closure.

10. **Question:** What are some important considerations when clearing the casino floor?

Answer: The TGRA should coordinate with the gaming operation's management when removing all patrons and unauthorized employees from the facility. Develop a matrix or authorized access listing to the facility during the closure. Coordinate with IT for possible disabling of non-essential's logical access during closure. Procedures should be in place for monitoring VPN/remote access for vendors and authorized employees. Consider disabling all machines from play during the closure. Prior to disabling, a snap shot of all meters and in-house progressives should be obtained and provided to TGRA and accounting. Consider performing

emergency drop procedures and ensure all funds properly secure (e.g. vault). All monetary instruments should be properly secured and may be best secured by transferring to the vault. Casino management may want to consult with vendors whom they have lease participation agreements with. Consider that potential issues regarding adjustments to participation fees may arise.

11. **Question:** Will the NIGC adjust deadlines or grant any extensions for required submissions such as fees, contracts, and licensing?

Answer: IGRA and NIGC regulations do not provide for extensions to the statutory and regulatory deadlines. In instances where the tribe has provided written notice to the NIGC through their NIGC Region Office that its licensed gaming facility has closed, the NIGC Division of Compliance will remain in close communication with the TGRA if it is necessary to make recommendations for enforcement to the Chairman. This communication will help the Division of Compliance provide context for any recommendation in light of the Chairman's March 20, 2020. That memorandum modifies the Compliance Division's enforcement focus. The Chairman has conveyed to the NIGC Division of Compliance that the Commission is considering its options for implementing easing measures for Indian gaming operations during this national mitigation effort. Please remain in close communication with the NIGC with regard to the below requirements in order to assist with the Commission's assessment of any future measures.

a. Fees and Worksheets

- i. As required by 25 C.F.R. § 514, Fees and Worksheets are due three (3) months, six (6) months, nine (9) months, and twelve (12) months of the end of the gaming operation's fiscal year. For example, if the operation's fiscal year end is December 31, 2019, fees will be due on or before March 31, 2020, June 30, 2020, September 30, 2020 and December 31, 2020.
- ii. According to 25 C.F.R. § 514.9, fees that are not submitted when due are considered late until they are 90 days past due, after which the NIGC considers the fees as un-submitted, rather than late.
- iii. The Compliance Division will not recommend late fee assessments for payments made within 90 days of the regulatory deadline.
- iv. NIGC encourages tribes to submit payments using the on-line process at [pay.gov](https://www.pay.gov). Learn more about [pay.gov](https://www.pay.gov) and other fee related information at <https://www.nigc.gov/finance/Annual-fees>. You can submit additional inquiries to: fee_questions@nigc.gov

b. Fingerprint Fee Statements

- i. As required by 25 C.F.R. § 514, the current fingerprint card bill rate is \$22.00, billed monthly and due within forty-five (45) days of the date of the bill.

- ii. Payments made after reopening or staff returning to work but no later than 30 days from the date of the missed fingerprint fee statement due date will not be scrutinized. You can submit additional inquiries to: fingerprint_billing@nigc.gov

c. Licensing Submissions:

- i. Currently there are three required key employee and primary management official licensing requirements under 25 C.F.R. Parts 556 and 558. Under 25 C.F.R. Part 556.6 a Notice of Results (NOR) is due to the NIGC region office within sixty (60) days after an applicant begins work. Additionally, as required by 25 C.F.R. Part 558.3, a notice of license issuance is due to the NIGC region office within thirty (30) days of the tribe's issuance of a permanent license. Also, under 25 C.F.R. Part 558.3, if a tribe does not license the applicant, the tribe shall submit its eligibility determination and NOR to the NIGC. There is no a deadline for this submission.
- ii. TGRA's are encouraged to submit any outstanding NORs to the NIGC within 60 days of reopening or the applicant returns to work. At this time, the Notice of license can still be issued within 30 days of issuance on all NORs that were submitted late due to TGRA office closure. If Licensed by Tribe submissions were not completed for employees who were issued a permanent license before closure, those submissions must be made within 30 days of reopening. We request that Not Licensed by Tribe submissions are made within 30 days of reopening, however there is not a specific deadline for this particular submission. NIGC Compliance Officers' scrutiny of submission dates will account for any extended closure period.

Please contact your NIGC Regional Office for additional information.

d. Facility Licenses:

- i. As required in 25 C.F.R. Part 559, a request to the NIGC for any new facility under consideration requires at least one hundred twenty (120) days before the opening of the new gaming facility. Newly issued or renewed facility licenses must be submitted to the NIGC within 30 days of issuance. Finally, if a facility license is terminated, expires, or if the gaming facility closes or reopens, notification must be made to the NIGC within thirty (30) days of the event.
- ii. The NIGC will maintain the ability to accept electronic submission of all notices required under this requirement through facility_license_ephs@nigc.gov. The Compliance Division will actively assist TGRA's on ensuring timely notices are made where possible and take into consideration where facility and tribal government closures otherwise prevented timely submissions. Should any actions taken by the TGRA or tribal government trigger the submission of any of the above notices, please notify your Region Office for further guidance.

e. Agreed Upon Procedures Audit and Financial Statement Audit

- i. As detailed in 25 C.F.R. § 543.23(d)(1) the Tribe must engage a CPA to complete an Agreed Upon Procedures (AUP) Audit and report the findings to the NIGC within one hundred twenty (120) days of the gaming operation's fiscal year end. Additionally, 25 C.F.R. § 571 requires each tribe to prepare Audited Financial Statement which are also due within one hundred twenty (120) days of the gaming operation's fiscal year end.
- ii. With regard to the reporting deadlines for audited financial statements and Agreed Upon Procedure reports, NIGC encourages submissions within 30 days of the audit and report original due dates.