



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 Thursday, March 26, 2020, the NIGC knows of 519 or 98% 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. Learn more about 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.