

**FACILITY LICENSE STANDARDS
UPDATED QUESTIONS & ANSWERS
NOVEMBER 2008**

(please note, new Q&As are highlighted in red font)

Q: When will the Facility License Standards become effective?

A: The Facility License Standards will become effective 30 days from the date of publication in the Federal Register – February 1, 2008. The rules will, therefore, become effective on March 3, 2008.

Q: When should I submit a facility license to NIGC?

A: Notification of intent to issue a facility license on a new facility is required at least 120-days before the opening of a new gaming facility. Facility licenses issued or reissued on existing facilities must be submitted to the NIGC within 30 days after issuance or renewal.

Q: How often must the Tribe renew its facility license?

A: The Facility License Standards require that tribes reissue or renew their facility license at least once every three years. This is intended to ensure that a current certification exists showing that tribes have identified and are enforcing their environment, public health and safety laws.

Q: What lands information is required for a new gaming facility?

A: The notice of intent to license a new facility must be submitted to the NIGC at least 120 days prior to opening the facility. The notice must inform the NIGC of: 1) the name and address of the property; 2) the legal description of the property; 3) the BIA tract number if any; 4) if the land documentation is not maintained by the BIA, a copy of the deed or other trust document showing the status of the property; and documentation of the property's ownership.

If the lands information provided is not sufficient for the NIGC to determine that the parcel qualifies as Indian lands for purposes of IGRA, the Chairman may request additional information.

Q: Why does the NIGC require the BIA tract number?

A: This requirement was added to lessen the burden on tribes of providing lands documentation that is already maintained at the Bureau of Indian Affairs. The BIA tract number will allow the NIGC to obtain information directly from the BIA instead of requiring the tribe to produce that land documentation.

Q: Will the Facility License Standards be applied to Tribes who are already in the process of opening a new facility?

A: Yes, the Facility License Standards will become effective on March 3, 2008. If a tribe is already in the planning and construction phase of opening a new facility, and is unable to comply with the 120-day notice requirement contained in the regulations, the Tribe should notify the NIGC immediately, if it has not already done so. The NIGC will then work with the Tribe to avoid any issues related to non-compliance with the regulation.

Q: Where do I submit my facility license?

A: Facility Licenses should be submitted to the Washington D.C. office at the following address:

National Indian Gaming Commission
Attn: Facility License
1441 L Street, NW, Suite 9100
Washington, D.C. 20005

Electronic submissions may be made to: facility_license@nigc.gov. If a Tribe chooses to submit their facility license electronically to this address, they will receive a confirmation that their submission was received at the NIGC address. The NIGC recommends that electronic files be in pdf format, if possible.

Q: What if a Tribe is renewing a facility license in the short-term and will not be able to include all the information required under the Facility License Standards?

A: In this situation, the NIGC recommends that tribes contact the NIGC's EPHS program manager or the Office of General Counsel to work out an appropriate schedule for compliance with the regulation.

Q: What information is required to show that a tribe has identified the laws applicable to its gaming facility? Do tribes need to submit copies of the applicable laws?

A: Tribes need to submit a list of the laws it has identified as applicable to its gaming operation. Copies of those laws are not required to be submitted with the facility

license, but should be made available upon request. The Chairman may also request additional environmental, public health or safety documentation as necessary to ensure that a facility is operating in a manner that protects patrons and employees.

Q: What kind of submissions do you expect?

A: Tribes often issue facility licenses in the form of a certificate. Sample submissions for the EPHS and new facility notification portions of the regulation are available on the NIGC website at www.nigc.gov. Please note that these sample submissions are only intended as guidance and that the NIGC is aware that each submission will vary depending on the laws, resolutions, codes, policies, standards or procedures applicable to each gaming facility.

Q: What if in the course of licensing a facility, I learn that my tribe is not in complete compliance with all of its environmental, public health and safety laws?

A: The NIGC allows for situations such as this by requiring that if a tribe cannot certify that it is in compliance with all of its environmental, public health and safety laws, the tribe will adopt and submit a written plan detailing specific actions the tribe will take to ensure compliance within a six-month period. If the Tribe's plan for compliance will exceed six months, the Chairman must concur with an extension of the time period.

It should be noted, however, that even if a plan for compliance has been submitted, the NIGC will take appropriate action if imminent jeopardy exists.

Q: What information must be provided to the NIGC if a change of status occurs at a gaming facility (i.e., a facility closes or its license is terminated or not renewed)?

A: A tribe should notify the NIGC within 30 days if a facility license is terminated or not renewed or if a facility closes or reopens.

Q: What constitutes closure of a gaming facility sufficient to require notification to the NIGC?

When a Tribe ceases operations at a particular gaming facility, it shall notify the NIGC within 30 days of the closure of the facility. Closure includes facilities that are permanently closed, and also those facilities that are closed on a seasonal basis (i.e., operate for a certain number of months but may be closed during the winter months), or when repair or construction activities require closure of a facility for a period of time in excess of 30 days.

Q: What information must be provided to the NIGC in the event of a closure or reopening?

A: Within 30 days of any closure or reopening of a gaming facility, the Tribe should notify the NIGC in writing of: 1) the name of the gaming facility; 2) the address of the gaming facility; 3) the date of the closure or reopening; and 4) if non-permanent closure, the anticipated date of reopening.

Q: What actions may the NIGC take if a Tribe is found to be out of compliance with the Facility License Standards?

A: The NIGC may issue a notice of violation if a gaming operation operates without a valid facility license. If not corrected within a reasonable time, an order of temporary closure may be issued.

The NIGC recommends that tribes that have difficulty complying with the Facility License Standards communicate with their Regional Director, the Office of General Counsel or the EPHS Program Manager early in their licensing process to ensure that enforcement actions will not be necessary.

Q: How does a tribe determine whether a nearby building is a separate "facility" requiring its own license?

A: For purposes of the Facility License Standards, a facility license is required for each gaming place, facility or location where gaming occurs. If a place, facility or location is a stand-alone structure with no covered connection to another gaming place, facility or location (i.e., at least a covered breezeway), then a separate facility license will be required.

Q: Is a facility license required for those locations where the extent of the gaming is a few machines in a mini-mart or gas station?

A: Yes, the facility license standards apply to these locations. The Facility License Standards require a separate license for each gaming, place, facility or location where gaming occurs. Even though full scale gaming is not occurring at these locations, it is important for the NIGC to be aware of each location where gaming is occurring, and also to ensure that those locations are constructed, operated, and maintained in a manner that adequately protects the environment, public health and safety.

Q: Is notification required for expansion of an existing gaming facility?

A: Notification is not required if the expansion is merely an extension of an existing gaming facility. However, in some instances, NIGC has learned that the term extension has been used to describe construction of a new facility. As described

above, if a newly constructed gaming facility is not attached to the existing structure, it is considered a separate facility for purposes of the Facility License Standards and notification to the NIGC is required at least 120 days prior to opening.

In those situations where the existing facility and the new facility are connected but the existing facility will cease to operate as a gaming facility upon completion of the new facility, notification to NIGC is required, since the structure would be a new facility and not an extension of the current gaming facility. Notification to the NIGC would be required both for the opening of a new facility, as well as the closure of the existing facility.

Though not required by the regulations, in circumstances where expansion of the gaming facility will cross parcel lines, NIGC would appreciate notification as a courtesy since additional lands are involved.

Q: Who should I contact with questions about the Facility License Standards?

A: We recommend you contact your appropriate Regional Director, the EPHS Program Manager or Office of General Counsel attorneys regarding questions you have in relation to the NIGC’s facility license standards.

Region I – Portland:	503-326-5095
Region II – Sacramento:	916-414-2300
Region III – Phoenix:	602-640-2951
Region IV – St. Paul:	651-290-4004
Region V – Tulsa:	918-581-7924
Region VI – Washington DC:	202-632-7003
Washington D.C. Headquarters:	202-632-7003