



NIGC Sets Aside Class II Classification, Definition Regulations

Oklahoma City, OK June 5, 2008 —National Indian Gaming Commission (NIGC) Chairman Philip N. Hogen announced today that NIGC is putting aside what have become the more controversial portions of the four-part package of Class II gaming regulations proposed October 2007. Speaking at the Oklahoma Sovereignty Symposium in Oklahoma City, Hogen explained that the package was intended to draw a “bright line” between equipment tribes may use for uncompact “Class II” gaming, such as bingo, and equipment used for “Class III” gaming, such as slot machines, which requires Tribal compacts with States. The NIGC, Hogen said, will now consider only Technical Standards and Minimum Internal Control Standards for Class II gaming and will put aside the controversial proposals that would create a system for game classification as well as modify the definition of “facsimiles of any game of chance.”

Due to their potential economic impact, the proposed regulations are considered “major rules,” and therefore require a cost-benefit study, Hogen told attendees. This study is being prepared as to each of the four originally proposed regulations, with results expected by next month. At that point, the Commission may take action to finalize its proposals regarding the Technical and Minimum Internal Control Standards, he said.

Hogen also announced that the issue of what constitutes a Class II game continues to be before the Commission. The Metlakatla Indian Community of Metlakatla, Alaska, recently submitted an amendment to its Tribal Gaming Ordinance authorizing “one-touch” fully electronic bingo as Class II gaming. Hogen said that he had disapproved the amendment, finding that when bingo is played in a manner that permits a player to once push a button and do nothing else, that game no longer constitutes “bingo” or a “game similar to bingo” under IGRA and is a Class III electronic facsimile of a game of chance.

Hogen stated that the Tribe would now have the right to appeal his decision to the full Commission, and, if affirmed, to federal court. Taken together, Hogen explained, the Commission’s focus on technical standards and minimum internal controls, and the possibility of further judicial clarification of games that tribes may use in the absence of Tribal-State compacts, would help achieve long-sought clarity, sooner, rather than later.

[Please click here to view Chairman Hogen's disapproval letter.](#)

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The NIGC is an independent regulatory agency established within the Department of the Interior pursuant to the Indian Gaming Regulatory Act of 1988.