

MEMORANDUM

To: Division of Compliance

From: Tom Cunningham, Chief Compliance Officer [TC](#)

Date: September 29, 2023

Re: Special Emphasis on Compliance with Parts 502, 556 and 558

The Commission's Final Rule [88-FR-55370](#) went into effect September 14, 2023. This rule amended the definition of "primary management official" and "key employee" and added the definitions for "Gaming Enterprise" and "Tribal Gaming Regulatory Authority" (TGRA). The TGRA definition aligns with a corresponding definition in NIGC regulations, part 547. The rule modernized retention requirements for background investigations and licensing applications; vests revocation hearing rights upon license issuance as well as in accordance with tribal law, regulation, or policy; and augments revocation decision notification and submission requirements. This final rule permits tribes to designate other gaming enterprise employees as key employees and other employed gaming enterprise management officials as primary management officials, including TGRA personnel. These optional designations occur by any documentary means. Further, the key employee definition no longer sets forth a wage threshold but includes in the definition a gaming operation's four most highly compensated persons. Lastly, the Commission must be notified of license revocation decisions and include a copy of the revocation decision.

This memorandum outlines direction to the Division of Compliance and informs the Division on technical assistance, training, monitoring, communication and enforcement recommendations for the next year or until September 14, 2024, with regards to compliance with the recent amendments in parts 502, 556, and 558.

- NIGC staff will develop and update the Frequently Ask Questions (FAQ) with general questions received and answers provided to help ensure uniform understanding.
- Technical assistance will be provided to tribal regulators and officials through email, calls and during in-person encounters.
- Where tribes have limited regulatory resources, such as a small licensing staff, or where the tribes have large numbers of KE and PMO, NIGC staff will demonstrate and help identify how a phased approach to documenting new KE and PMO positions can be achieved.
- Special emphasis will be put on technical assistance and training with regards to the recent amendments using virtual or in-person site specific, regional, and national training events, to include those hosted by tribal regulatory and gaming associations.
- Background and licensing reviews conducted during site visits will include technical assistance or training along with the review of records, policy and procedures. Any

deficiencies will be communicated to the TGRA while on-site and in any site visit follow-up letters.

- Special emphasis will be put on ensuring that fingerprints submitted to the NIGC for processing are for persons specifically listed in part 502 definitions for a KE or PMO or who have been documented by the tribe as a KE or PMO in accordance with 502.14(d) or 502.19(e).
- Where needed or beneficial to the tribe, Letters of Technical Assistance will be used to clarify the intent of the recent amendments, document areas where improvements can be made and/or include recommendations on how compliance can be achieved.
- Reminders, technical assistance, training, and a Letter of Concern should proceed enforcement recommendations to the NIGC Chairman with attention focused on rectifying circumstances where:
 - There is no or very little background and licensing for key employee and primary management officials occurring;
 - Submissions required under part 558 are not occurring at all, are consistently and significantly late or are getting progressively later; and/or
 - The Tribe fails to address the violation(s) listed in a Letter of Concern within the established deadline.