

## Categorical Exclusion Administrative Record

### **CATEGORY 1 - Administrative and Routine Office Activities:**

- Normal personnel, fiscal, and administrative activities involving personnel (recruiting, hiring, detailing, processing, paying, supervising and records keeping).
- Preparation of administrative or personnel-related studies, reports, or investigations.
- Routine procurement of goods and services to support operations and existing infrastructure, including routine utility services and contracts, conducted in accordance with applicable procurement regulations, executive orders, and policies (e.g. Executive Order 13101).
- Normal administrative office functions (record keeping; inspecting, examining, and auditing papers, books, and records; processing correspondence; developing and approving budgets; setting fee payments; responding to request for information).
- Routine activities and operations conducted on or in an existing structure that are within the scope and compatibility of the present functional use of the building, will not result in a substantial increase in waste discharge to the environment, will not result in substantially different waste discharges from current or previous activities, and will not result in emissions that exceed established permit limits, if any. In these cases, a Record of Environmental Consideration (REC), documentation is required.
- NIGC training in classrooms, meeting rooms, gaming facilities, or via the internet.

The above-referenced actions are usually carried out in an office setting. These actions involve the use of electronic devices like computers, telephones, copiers, and fax machines. The NIGC currently leases all the facilities it occupies and was not responsible for accounting for the environmental impacts associated with construction of its office facilities. The owners of the facilities that the NIGC leases have not indicated that the NIGC's occupancy of, and actions taken within have cause environmental impact. This category of actions is categorically excluded by numerous other agencies (e.g. Federal Aviation Administration, Department of Energy, etc.).

Furthermore, it is the opinion of Brad Mehaffy, the NIGC's NEPA Compliance Officer, that the actions listed above typically do not have a significant impact on the human environment. Mr. Mehaffy has a Masters Studies of Environmental Law from Vermont Law School and has over six years experience with NEPA compliance. Mr. Mehaffy has taken part in the decisions to take most, if not all, of the actions listed above and has confirmed that taking those actions do not have a significant effect on the human environment.

Should any of the above actions involve an "extraordinary circumstances," the action will be subject to either an EA or an EIS.

## **CATEGORY 2 - Regulation, Monitoring and Oversight of Indian Gaming Activities:**

- Promulgation or publication of regulations, procedures, manuals, and guidance documents necessary for NIGC's oversight of Indian Gaming Facilities and intra-agency operations at existing facilities.
- Support of compliance and enforcement functions by conducting compliance training for tribal gaming regulators and managers in classrooms, meeting rooms, gaming facilities, or via the internet.
- Preparing and issuing subpoenas, holding hearings, and taking depositions for informational gathering purposes, not associated with administrative enforcement actions.

The actions referenced above are all necessary to perform the NIGC's oversight of Indian gaming activities. These actions are normally conducted either within the gaming facilities themselves or within an office environment and normally do not result in an impact to the environment.

Since its inception, the NIGC promulgated numerous regulations and published numerous guidance documents. The regulations and guidance documents created by the NIGC typically govern activities that occur within the physical structure of existing gaming facilities.

It is the opinion of Brad Mehaffy, the NIGC's NEPA Compliance Officer and Environmental, Public Health and Safety (EPHS) Program Manager, that the actions listed above typically do not have a significant impact on the human environment. Mr. Mehaffy has a Masters Studies of Environmental Law from Vermont Law School and has over six years experience with NEPA compliance. In developing his opinion, Mr. Mehaffy relied not only on his own experience, but he also consulted with a senior environmental scientist at the Bureau of Indian Affairs with extensive knowledge of the evolution of Indian gaming and the environment surrounding many Indian gaming facilities. Furthermore, the actions of the NIGC are very similar to those of the Department of Energy (DOE). These actions were found to be categorically excluded in DOE's own regulations. (See Category A9, 10 C.F.R. 1021.410, Appendix A to Subpart D of Part 1021). Thus, based on the DOE record and experience and the similarity of the NIGC's actions, there is support for this category of actions being excluded from further NEPA review.

Should any of the above actions involve an "extraordinary circumstances," the action will be subject to either an EA or an EIS.