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CHEROKEE NATION GAMING  
COMMISSION

Administrative Procedures Act Posting

**TITLE:** Cherokee Nation Gaming Commission Rules and Regulations

**TYPE OF ACTION:** Notice of Proposed Rule Making

**PROPOSED RULES:** Chapter VII – E – System of Internal Controls (SICS) – Submission, Review & Approval Process.

**PUBLICATION DATE:** August 13, 2021

**SUMMARY:**

The Cherokee Nation Gaming Commission is soliciting public comment on potential revisions to the system of internal controls (SICS), the process for submitting such controls, and the process by which the Cherokee Nation Gaming Commission will evaluate and act on submission requests.

**AUTHORITY:**

Title 4 § 22 CNCA  
25 C.F.R. Part 542  
25 C.F.R. Part 543  
25 C.F.R. Part 547  
Tribal-State Compact Part 5  
Off Track Wagering Compact & Appendices

**REGULATORY ANALYSIS:**

No regulatory analysis of the revised rule was performed.

**COMMENT PERIOD:**

Written comments must be received on or before 5 p.m., September 12, 2021. Comments may be submitted electronically at [gaming-commission@cherokee.org](mailto:gaming-commission@cherokee.org).

Written comments may be sent to the Cherokee Nation Gaming Commission, P. O. Box 627, Tahlequah, OK 74465 and must be postmarked by the date above.

A copy of the current Cherokee Nation Gaming Commission Rules and Regulations may be obtained by submitting a request electronically or in writing using either of the above electronic & physical addresses. Likewise, a copy of the same may be accessed by visiting the following website:

<https://www.cherokee.org/our-government/gaming-commission/statutes-and-regulations/>

The Tribal-State Compact may be accessed by visiting the Bureau of Indian Affairs' website at <https://www.bia.gov/as-ia/oig/gaming-compacts>

**BACKGROUND:**

The Indian Gaming Regulatory Act (IGRA) was enacted by the United States Congress on 17 October 1988, establishing the National Indian Gaming Commission (NIGC). Under the IGRA, the NIGC is charged with regulating Class II gaming and certain aspects of Class III gaming.

The NIGC adopted certain regulations in Chapter III of Title 25, Code of Federal Regulations (Parts 500-599), to provide purpose and scope, procedures for service of NIGC determinations, requirements for submitting new and existing gaming ordinances to the Chairman for approval, requirements for background investigations on Primary Management Officials and Key Employees, and requirements for licensing employees of Indian gaming operations.

The Cherokee Nation adopted Legislative Act 30-89 on 8 April 1989 establishing the Cherokee Nation Gaming Commission (CNGC) to regulate the conduct of gaming owned and operated by the Cherokee Nation. The Act was amended several times with the last revision being passed by the Tribal Council in July 2014 and approved by the National Indian Gaming Commission (NIGC)

in October 2014.

Citing the need for effective controls in Indian gaming operations, the NIGC promulgated the Minimum Internal Control Standards (MICS; codified in Section 25 CFR §542) in January 1999 that govern the conduct of most daily activities within a tribal gaming operation. Later, the NIGC adopted Class II MICS and Class II Technical Standards in 2008 (codified in Section 25 CFR §543 and §543, respectively). Tribes were expected to use the MICS, as amended, in developing their own Tribal Internal Control Standards (TICS), which were required to meet or exceed those standards established by the NIGC. Tribal gaming operations were, in turn, expected to use the TICS to create and implement a System of Internal Control Standards (SICS) by which the gaming operation would achieve regulatory compliance with Tribal and Federal regulations.

The NIGC defines SICS as:

“An overall operational framework for a gaming operation that incorporates principles of independence and segregation of function, and is comprised of written policies, procedures, and standard practices based on overarching regulatory standards specifically designed to create a system of checks and balances to safeguard the integrity of a gaming operation and protect its assets from unauthorized access, misappropriation, forgery, theft, or fraud.”

The “overall operational framework” contains not just policies and procedures, but industry best practices, standard operating procedures, desk procedures, computer system applications and documentation, and other items gaming management chooses to adopt to “safeguard the integrity of the operation and protect its assets from unauthorized access, misappropriation, forgery, theft, or fraud.”

The Cherokee Nation entered into a gaming compact with the State of Oklahoma in 2005. Part 5 (B) of the compact requires “all enterprises and facilities shall comply with tribal internal control standards that provide a level of control that equals or exceeds those set forth in the National Indian Gaming Commission’s Minimum Internal Control Standards (25 C.F.R., Part 542).”

The Compact also states in Part 5 (A) “(t)he tribe shall promulgate any rules and regulations necessary to implement this Compact.”

In 2004, the CNGC provided the gaming management with a set of guidelines outlining the expectations for all items requested by the gaming operations that required approval from the

CNGC (e.g. games, systems, policies & procedures). The CNGC updated these guidelines and later adopted a more formal system for submission and review in December 2015.

At the request of Cherokee Nation Entertainment (CNE), the Cherokee Nation Gaming Commission seeks to further revise this regulation to formalize the expectations and requirements for developing items requiring CNGC approval, the process for submitting such items, and the process by which the CNGC will evaluate and act on submissions.



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CHEROKEE NATION GAMING COMMISSION  
RULES AND REGULATIONS

<b>CHAPTER:</b>	<b>Authorization of Gaming Activity</b>	<b>CHAPTER #:</b>	<b>VII</b>
<b>SUBJECT:</b>	<b>System of Internal Controls (SICS) – Submission, Review, &amp; Approval Process</b>	<b>SECTION – SUBSECTION:</b>	<b>E</b>
<b>EFFECTIVE DATE:</b>		<b>SUPERSEDES MATERIAL DATED:</b>	
<b>APPROVED BY:</b>		<b>DATE:</b>	

**PURPOSE**

The purpose of this Section is to establish the standards and procedures under which the System of Internal Controls (SICS) utilized at all gaming facilities under the jurisdiction of the Cherokee Nation Gaming Commission (CNGC) are submitted, reviewed, and acted upon.

**SCOPE**

The provisions of this Section shall apply to all SICS created and/or in use by gaming operation and support departments and personnel of gaming facilities under the jurisdiction of the CNGC.

**AUTHORITY**

Title 4 § 22 CNCA  
25 C.F.R. Part 542  
25 C.F.R. Part 543  
25 C.F.R. Part 547  
Tribal-State Compact Part 5  
Off Track Wagering Compact & Appendices

**A. DEFINITIONS**

1. *Enterprise* – The entity conducting gaming operations on behalf of or as authorized by the Cherokee Nation.
2. *External Standards* – A regulation or standard promulgated by an entity other than the Cherokee Nation Gaming Commission (e.g. Internal Revenue Service; Tribal-State Compact); standards contained within any gaming agreement to which the Cherokee Nation and/or the Enterprise is a party, with which the Enterprise must comply; industry practices and guidelines (e.g. GAAP, GASB) which the Enterprise has adopted and included in its SICS.

3. *Cherokee Nation Gaming Commission (CNGC)* – The regulatory body established by the Cherokee Nation to oversee and regulate the conduct of gaming on Indian lands owned by the Cherokee Nation or leased by the Enterprise. The CNGC may also be referred to as the Tribal Compliance Agency (TCA) for purposes of the Tribal-State Compact.
4. *Minimum Internal Control Standards (MICS)* – Minimum Internal Control Standards promulgated by the National Indian Gaming Commission as codified in 25 C.F.R. Sections 542, 543, and 547, as amended.
5. *National Indian Gaming Commission (NIGC)* – The federal agency charged with overseeing Indian gaming on behalf of the United States government.
6. *System of Internal Controls (SICS)* – The overall operational framework for a casino operation that incorporates principles of independence and segregation of function, and is comprised of written policies, procedures, and standard practices based on overarching regulatory standards specifically designed to create a system of checks and balances to safeguard the integrity of an operation and protect its assets from unauthorized access, misappropriation, forgery, theft, or fraud. The “overall operational framework” contains not just policies and procedures, but industry best practices, SOP’s, desk procedures, computer system applications and documentation, and other items adopted by the Enterprise.
7. *State Compliance Agency (SCA)* – The state agency charged with overseeing compact gaming on behalf of the State of Oklahoma.
8. *Technical Standards* – Standards promulgated by the National Indian Gaming Commission (NIGC) or the Cherokee Nation Gaming Commission (CNGC) or contained in any Tribal-State Compact to which the Cherokee Nation is a party.
9. *Tribal Internal Control Standards* – Standards established by the CNGC that meet the standards set forth in 25 C.F.R. Parts 542 and 543; appropriate external standards and technical standards may also be included.
10. *Variance* – An alternate standard from those required by the TICS that achieves a level of security and integrity sufficient to accomplish the purpose of the standard it is to replace, and has been approved by the CNGC and NIGC, as applicable.

## **B. SYSTEM OF INTERNAL CONTROLS – GENERAL**

SICS, in general, create administrative structures, set priorities, assign responsibility, delegate authority, establish accountability, and define reporting requirements. They directly or substantially affect procedural or substantive rights and duties of individuals and the overall integrity of the gaming operation.

1. The Enterprise must design/write SICS that comply with all applicable CNGC regulations, technical standards, external standards, minimum internal control standards, interpretations, bulletins, and any variances that may have been granted.
2. The SICS should address the following, as applicable:
  - a. The purpose of the SICS;
  - b. The scope of casinos, departments and employees to be covered by the SICS;
  - c. The subject matter or policy being addressed;
  - d. Any specific procedures to be followed;
  - e. Time periods or deadlines for activities;
  - f. Cross-references to all required laws and regulations;
  - g. Historical information on modifications made to the SICS.
3. Effective SICS contain clear and concise language with complete, detailed controls;
  - a. Words such as “should” and “may” imply choice and may only be used if appropriate in the context of the standard;
  - b. References to external standards or including verbatim statutory/regulatory or similar language will not be accepted unless they provide sufficient detailed information that can be used to determine/demonstrate compliance with the TICS or applicable external standards.
4. A separate defined format and numbering scheme for SICS (e.g. policies) and non-policy SICS (e.g. SOPS, desk procedures, etc.) that are readily distinguishable from another;

## **C. SUBMISSIONS**

1. General
  - a. The Enterprise shall submit proposed SICS along with a completed SICS Approval Form, as provided by the CNGC; the submission shall follow the instructions provided with the SICS Approval Form and contain the information described in sub-sections 2, 3, and 4 below, as applicable.
  - b. All SICS must complete a review and approval cycle designed by the Enterprise prior to being submitted to the CNGC. The submission of a SICS Submission Form, as

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- provided by the CNGC, will serve as evidence of completion of the internal Enterprise process.
- c. The submission must be delivered via a method to be determined/authorized by the CNGC.
2. New Submissions; Revisions
- a. A completed SICS Submission Form;
  - b. A complete document;
  - c. Provide all applicable/related SICS;
  - d. Provide all applicable/related documents (e.g. permissions matrix, system/network topology, standard operating procedures, forms, logs);
  - e. All proposed revisions must be submitted in redline-strikethrough format indicating language to be removed and using a color other than black (e.g. blue) to indicate any new language added or other changes made to the SICS;
  - f. For proposed revisions to approved SICS, the Enterprise must continue to comply with existing approved SICS until the CNGC formally approves the revisions.
3. Emergency Requests
- a. The Enterprise may request emergency approval of a new or revised submission provided the request:
    - i. Is submitted in writing and contains information outlined in section 2 above;
    - ii. Contains a full description of the circumstances constituting the emergency. In general, the following circumstances are considered emergencies:
      - a. Potential or imminent injury to a person, property, or assets;
      - b. Potential or imminent financial loss;
      - c. Potential or imminent compromise of game or system integrity.
    - iii. Expected duration of change in policy or procedure; timeframe for the development & submission of a SICS revision.
  - b. An emergency submission may be acted on by the CNGC Chairman or the CNGC Director in a timeframe according to the risk level associated with the request.
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- c. Any emergency request acted on by the CNGC Chairman or CNGC Director will be presented at the next scheduled Gaming Commission meeting for affirmation by the full Gaming Commission.

4. Variances

- a. For each standard, for which the gaming operations seeks a variance, it shall submit to the CNGC a written request by management and a detailed report, which shall include the following:
  - i. A detailed description of the variance;
  - ii. An explanation of how the variance achieves a level of security, integrity, and controls sufficient to accomplish the purpose of the standard it is to replace; and
  - iii. The alternate standard as approved by management and the record on which it is based.
- b. The CNGC may approve a variance for a gaming operation if it has determined that the variance will achieve a level of control sufficient to accomplish the purpose of the standard it is to replace. All variances will be processed in accordance with CNGC TICS Section 2 – Compliance, sub-sections 2.5 – Variance Process for Gaming Operations and 2.6 – NIGC Concurrence.

5. All submissions must include an implementation plan and, if applicable, a training plan.

#### **E. EVALUATION; REMAND; APPROVAL**

1. A preliminary review will be performed to determine if a submission conforms to the requirements of the section under which it is provided (e.g. new, revision, emergency). If any portion of a submission is omitted, the submission will be remanded to the Enterprise for correction and re-submission.
2. The Commission will use the following evaluation, at a minimum, criteria in determining a SICS compliance with applicable TICS and external standards:
  - a. Affect game integrity;
  - b. Affect financial integrity;
  - c. Compromise security (physical or logical);
  - d. Compromise segregation of duties;

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- e. Pose a threat to the environmental, public health and safety of the patrons or employees;
  - f. Departure from established statutes, regulations, or controls (e.g. variance);
  - g. Contrary to law, other SICS, or external standards;
  - h. Any other factor the Commission deems relevant.

### 3. Objections

- a. If the Commission objects to any portion of the proposed SICS, the Commission will communicate the reasons for the objections and give the Enterprise an opportunity to cure the objections.
- b. If the Enterprise is unable to cure the objections within the associated review timeline, the Enterprise may withdraw the submission and resubmit the SICS at a later date.

### 4. Timelines

- a. New, Revision, and Variance requests will be reviewed and acted on by the Commission within sixty (60) calendar days of receipt.
- b. Emergency requests will be reviewed and acted on by the CNGC Chair or the CNGC Director within a reasonable timeframe.
- c. The above timelines do not apply to SICS submitted as part of a game or system approval request; however, the timelines will apply to any revision or variance request submitted for previously approved game or system SICS.

## **F. POST APPROVAL**

- 1. The Commission will provide written notice of all actions taken on submitted SICS.
  - a. The Commission will set a compliance date, which will be based, in part, on the implementation plan included with the submission and any deadlines provided by external standards sources.
  - b. Any special conditions attached to a SICS approval will be communicated in the written notice.
- 2. The Enterprise must provide the Commission with a clean copy (i.e. comments and edit mark-ups removed) of the SICS reflecting new approval and effective dates.
  - a. Approval dates for New, Revisions, and Variance submissions will be the date the SICS were approved by the full commission.

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- b. Approval dates for Emergency submissions will be the date authorized by the CNGC Chair or the CNGC Director.
  3. The Commission will perform a follow-up inspection within six- (6) weeks of the Compliance Date to determine if the SICS are meeting compliance with applicable TICS or external standards.

#### **H. PENALTIES**

1. Only CNGC-approved SICS may be used at facilities licensed by the CNGC.
2. Use of unapproved SICS may result in disciplinary action including, but not limited to monetary fines and licensing action.



## SYSTEM OF INTERNAL CONTROLS SUBMISSION FORM

Please complete the form to request approval for a new SICS or to revise or rescind an existing SICS.

For new submissions, forward the original SICS Submission Form to the Cherokee Nation Gaming Commission via email at [SICS-Submissions@cherokee.org](mailto:SICS-Submissions@cherokee.org). For revisions, provide a redlined version.

New  Revised  Rescinded  Emergency

SICS Reference Number & Title: \_\_\_\_\_

Proposed Effective/Implementation Dates: \_\_\_\_\_

Related SICS:

Brief Summary of new policy or revisions to an existing policy, reason for rescinding the existing policy, or circumstances constituting the emergency. (if additional space is necessary, please use an additional sheet(s))

**Enterprise Approval:**

\_\_\_\_\_  
Name & Title of Responsible Official

\_\_\_\_\_  
Date

**For CNGC Use Only**

\_\_\_\_\_  
Date Received

\_\_\_\_\_  
Approved/Remanded/Denied