

VIEJAS

TRIBAL GOVERNMENT
GAMING COMMISSION

May 3, 2006

To: Financial Crimes Enforcement Network (FinCEN)

From: Norm DesRosiers, Commissioner 
Viejas Tribal Gaming Commission

Re: Regulatory Information Number (RIN) 1506-AA84

On March 21, 2006 the Federal Register published proposed changes to Part 103 of Title 31 of the Code of Federal Regulations submitted by the Department of the Treasury, Financial Crimes Enforcement Network (FinCEN). FinCEN asked for comments on the proposed changes as published in the Federal Register.

The Viejas Tribal Gaming Commission reviewed the proposed rule changes and we found an area of concern. Our comments will specifically address Part 103 (b)(2)(i)(I) of the proposed amendment to 31CFR103.

The amendment states "We are proposing to add a new paragraph, 31CFR103.22(b)(2)(i)(I) , to include "bills inserted into electronic gaming devices" as a type of "cash in" transaction. The insertion of currency into a slot machine or a video lottery terminal (which are electronic gaming devices), regardless of whether a customer wagers the currency, involves the physical transfer of currency to the casino. In the absence of a wager, the transfer is analogous to the purchase of a token or chip with currency, as the customer exchanges currency for a: (i) Token to wager at a slot machine or video lottery terminal, or (ii) chip to wager at a table game. The purchase of a token (or chip) with currency is a transaction in currency involving cash in. Likewise, the insertion of currency into a slot machine or video lottery terminal is a transaction in currency, even in the absence of a wager."

Then in Section VI, Regulatory Flexibility Act it states "For larger casinos, the requirements of the proposed amendments to 31 CFR 103.22(b)(2)(i)(E) and 103.22(b)(2)(i)(I) may be satisfied, in large part, by using existing business practices and records."

We have numerous concerns regarding this proposal:

- The use of "existing business practices and records" will not adequately report "bills inserted into electronic gaming devices."
- Our gaming system only captures play for patrons using their player's club card. For our property, tracked play, through the use of players club cards, only accounted for an average of 47% of play for the year of 2005. Therefore, more than 50% of play would not be reported through our gaming system.
- It is logical and sensible to assume that anyone intending to launder money through a gaming device is not going to tie their identity to the device with a player's club card.
- Our gaming system is not configured to report "bills inserted into electronic gaming devices". Instead, our system records bills inserted into electronic gaming devices plus any credits earned as the total amount of "cash in" per player.

VIEJAS

TRIBAL GOVERNMENT
GAMING COMMISSION

- Players often leave their player's club card in a gaming machine after they are finished playing a machine. Another player may insert cash into the machine unaware that the previous player's card is still recording his "cash-in."
- At times, the machine meters are slow. They may not properly associate the bills inserted into the gaming machine to the correct player.
- To accurately report "bills inserted into electronic gaming devices" would be very labor-intensive. It would require our staff to observe all patrons throughout the duration of their play.

Therefore, 31 CFR 103.22(b)(2)(i)(E) should not be amended to include the reporting of "bills inserted into electronic devices" as a type of "cash in" transaction.