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TRIBAL ADVISORY COMMITTEE  
MEETING  
SUQUAMISH, WASHINGTON  
VOLUME I

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SUQUAMISH CLEARWATER CASINO RESORT  
15347 SUQUAMISH WAY NORTHEAST  
CHIEF KITSAP HALL  
DECEMBER 6, 2011  
8:12 A.M.

TRANSCRIBED BY: CHERYL L. O'HALECK

Job No. NJ366120

1 SUQUAMISH, WASHINGTON; DECEMBER 6, 2011

2 8:12 A.M.

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4  
5 MR. FISHER: Okay, let's start. So good  
6 morning, everybody. I'm going to just turn it over to  
7 Tracie.

8 CHAIRWOMAN STEVENS: Thanks, Robert. I  
9 wanted to, first of all, being a co-Salish person, I  
10 want to welcome everybody to the great Northwest. I  
11 hope everybody made it across the water, for you  
12 landlubbers, got across the water fine.

13 My grandfather was a member of the  
14 Suquamish Tribe. So part of my family is over here at  
15 Suquamish. The other part of my family is over at  
16 Tulalip. And I was hoping that Chairman Forsman of the  
17 Suquamish Tribe might be able to come and welcome us,  
18 but he's got a very busy schedule. So he might be able  
19 to stop by at some point today or at some point in the  
20 three days to welcome you all here in his way. But I  
21 want to welcome you at least generally to the Northwest.  
22 And it's a quiet spot. And I hope you all enjoy your  
23 stay here.

24 I want to go ahead and -- now, I know Dan  
25 has been working with everybody on the agenda. And I

1 want to just, you know, welcome everybody, and I'm glad  
2 you could make it.

3 ASSOCIATE COMMISSIONER LITTLE: Good  
4 morning, everybody. Thanks for coming out for another  
5 one of these events. I know it was a short break  
6 between the last one, and we really did our best to get  
7 the information out to you as quickly as we could.

8 It was a lot going back through all the  
9 notes and making sure that we covered all the areas  
10 where you guys said that you needed some additional  
11 information. We got you copies of the Tribal Gaming  
12 Working Group's document, and then I know Mike Hoenig  
13 and his staff and Rest West have been working on those  
14 comparison documents. I hope you all got those.

15 MR. FISHER: I think there may be some  
16 people that didn't get them. I'm not sure. We need to  
17 check.

18 ASSOCIATE COMMISSIONER LITTLE: Is the  
19 email not working?

20 MR. FISHER: For some reason, I sent it  
21 actually twice, once as a whole, all together on  
22 Thursday, and then when I -- I asked people to confirm  
23 back. Some people didn't confirm back. So I sent it  
24 again on Saturday, I think, in two parts. So I  
25 separated the attachments into two separate messages to

1 try to make it go through whatever filters were doing  
 2 it, but I think there may be still some people around  
 3 the table that didn't get it.

4 ASSOCIATE COMMISSIONER LITTLE: All  
 5 right. They're on the Web site, if you want to take a  
 6 look at them. We'll have to figure out a work-around  
 7 for this right now.

8 But in any event, I just want to thank  
 9 everybody for getting back here safely. And like the  
 10 Chairwoman said, this is just a wonderful place to be,  
 11 especially coming from the Northeast. This is just a  
 12 wonderful, wonderful great place, and I'm happy to be  
 13 here.

14 MR. FISHER: Okay. So the agenda for the  
 15 next three days was set up by our agenda planning group;  
 16 Mia, let's see if I remember, Mia, Christina, Leo,  
 17 Matthew, Dan. And it tracks pretty closely what was on  
 18 the meeting work plan document as a follow-up from how  
 19 far we got at the meeting in Rapid City. And then there  
 20 is an additional discussion on the agenda for this  
 21 morning around the concept of the risk-based approach to  
 22 regulations and compliance, which you can see that as  
 23 our first action of substantive discussion together.

24 We are scheduled to go tonight until  
 25 6:00. And we do have a group dinner listed on the

1 agenda, but we don't have anything planned for tonight.

2 ASSOCIATE COMMISSIONER LITTLE: Yeah, I  
3 was confused. I thought the one last night was tonight.

4 MR. FISHER: Yeah, it was on the agenda  
5 for tonight, but it ended up getting set up for  
6 yesterday, last night. So it's on the agenda, but we  
7 don't have anything scheduled, set up for tonight. So  
8 we can do something informally, if people want.

9 Okay. So any questions on the agenda,  
10 any -- maybe what we can do, in terms of the people --  
11 who didn't receive the documents? Let's just -- how  
12 many people?

13 Two. Okay. Maybe we should get copies.

14 ASSOCIATE COMMISSIONER LITTLE: Okay.

15 MR. FISHER: If somebody has a clean set,  
16 get copies.

17 ASSOCIATE COMMISSIONER LITTLE: Can we  
18 email them to you?

19 MR. FISHER: I can send them again, I can  
20 try to send them again, if that would help.

21 MS. THOMAS: I know Mia tried to send  
22 them to me again this morning.

23 MR. FISHER: It might be something on  
24 your security end. I can divide it up into smaller  
25 numbers and see if I can get it through in three

1 messages or four messages. As soon as we take a little  
2 break here, I'll do that for both of you. Okay? And  
3 then you can pull -- you can just pull it up on the  
4 screen. Yeah, they can pull them up on the screen.

5 CHAIRWOMAN STEVENS: They can pull them  
6 up right now, but I think we do need to figure out --  
7 you can check on your end what the problem is.

8 MR. FISHER: So, Mike, are you asking for  
9 their email addresses?

10 MR. HOENIG: Yeah, and I'll just send  
11 each document one at a time.

12 MR. FISHER: Okay. That will get squared  
13 away.

14 Where we were on our agenda, then, based  
15 on the request from the group at the last meeting, is to  
16 go off the record and go into a working session.

17 THE TRANSCRIPTIONIST: Off the record?

18 ASSOCIATE COMMISSIONER LITTLE: Yes.

19 (Working session off the record  
20 taken from 8:18 to 10:46 a.m.)

21 MR. FISHER: Back on the record.

22 So we're going to pick up on our agenda.  
23 We're at the topic of the discussion about the  
24 risk-based approach to regulation and compliance based  
25 on a question that came up about how would this work,

1 principally from the NIGC, about how would -- how would  
2 a risk-based approach work, and what's kind of the  
3 connection between the regulation and the guidance end,  
4 right? How much focus do we have to have on the  
5 guidance-related documents.

6 Okay. So how do you want to kick off  
7 this discussion?

8 ASSOCIATE COMMISSIONER LITTLE: I think  
9 we put together the questions as some general, like  
10 Tracie said, food for thought, questions to get you  
11 thinking of, you know, when we discussed this at the  
12 last meeting, you know, your logic and thinking.

13 So we got a chance to kind of think about  
14 it a little bit more, you know, what are the practical  
15 applications you feel would be necessary. One point  
16 that I came up with is how would the independent audits  
17 be done if each individual tribe has a unique set of  
18 regulations. You know, our auditors use checklists and  
19 they're pretty standard for any operation, where it  
20 seems like this would vary by operation to operation.  
21 How would that -- like how do you envision this taking  
22 place?

23 MR. MCGHEE: Dan McGhee.

24 I would like just to -- so I'm sure  
25 everybody at the table, we all are familiar and have

1 experience auditing, but as far as the -- anyone with  
2 experience as a specific auditor, you know, as a  
3 certified auditor or an accountant or someone that can  
4 maybe address how would an audit work, something like  
5 this, because the auditors go in places all the time  
6 without a preset checklist because they don't know, you  
7 know, until they get there, what their -- because  
8 everybody's rules are different. And I know you have  
9 some experience.

10 MR. WILSON: I can speak to that.

11 MR. MCGHEE: But is there anybody else in  
12 here that has that kind of certified auditing  
13 experience, professional whatever certification for it?

14 Then let's hear from Tom.

15 MR. WILSON: I do have those  
16 certifications.

17 So what an auditor does when you go into  
18 any entity, either a casino or business or anything, is  
19 assess the internal controls that are in place. So most  
20 organizations have documented internal controls, as  
21 casinos do, in whatever format they're in. And then  
22 essentially, you're applying a methodology to determine  
23 if those controls are working as they're designed to  
24 work. So for an auditor, it's pretty easy to come up  
25 with an audit plan about how you're going to test those



1 particular controls.

2 Now, it just so happens that a lot of  
3 controls look alike, so the things that you test for are  
4 not uncommonly different from one property to another,  
5 from one business to another. That's not a particularly  
6 onerous-type task.

7 And we saw this with Sarbanes-Oxley,  
8 where, clearly, every public company had to get  
9 certified in the country, and clearly you had many,  
10 many, many auditors from many different firms, public,  
11 private firms, internal auditors, that all had to assess  
12 the internal controls inherent in a particular  
13 organization.

14 So the guidelines that were established  
15 were done to universally kind of tell people here are  
16 the kind of things that you're looking for, but you as  
17 an auditor have to go in and design the test and  
18 actually test and conclude upon whether those controls  
19 are working or not.

20 MR. CALLAGHAN: Thomas, though, when  
21 we're talking about external auditors, we're talking  
22 about reasonable assurance, we're talking about  
23 financial statements, and we're talking about  
24 materiality. That risk is going to attach to  
25 materiality. Material -- most casinos are slot

1 machines. So unless there is something materially wrong  
2 with the financial statements with that, you're going to  
3 see a lot of the risk assessment is going to be at a  
4 much higher level.

5 And that's why I asked the question early  
6 on of NIGC, what is your dog in this fight? There is  
7 reasonable assurance from financial statement  
8 presentation, there is reasonable assurance from a  
9 regulatory compliance standpoint. And when you take a  
10 look again at the NIGC's mission, you take a look at  
11 they're going to go in there and see whether they do, in  
12 fact, have internal controls and whether they're being  
13 applied.

14 So again, that's why I mentioned before,  
15 there are different types of audits. There is financial  
16 audits, there is compliance audits, and I think there is  
17 functional audits.

18 So I think we're mixing metaphors here  
19 when we're dealing with risk, risk assessment, and how  
20 we would apply these to internal controls. I think we  
21 need to have established a firm set of internal  
22 controls, which is what we're about, we're establishing  
23 minimum internal controls, and from there auditors will  
24 come in and assess risk on top of that, based on each  
25 individual location.

1 MR. WILSON: Yes.

2 MR. CALLAGHAN: So to state from a global  
3 standpoint, yes, there should be some risk assessment,  
4 that's great, but I think that's not what we're handling  
5 here. That's why I mentioned to you before that I  
6 wanted to have a conversation relative to risk.

7 MR. WILSON: And I'm not advocating -- I  
8 mean, the question I'm answering is strictly how would  
9 you audit controls that are different than -- that might  
10 vary from organization to organization. And I think the  
11 important takeaway is that that happens all the time, it  
12 happens every day.

13 So to think -- you know, I don't want the  
14 Commission to think that every organization has adopted  
15 identical controls, and therefore they all look the same  
16 and there is one checklist that's used universally. You  
17 know, the checklist exists because it's an efficient  
18 means to take a standard that exists and say this is  
19 what we're going to audit to. But the components of  
20 controls are fairly universal.

21 And there is a document that I sent out  
22 to the group and I will send to you, as well, that I dug  
23 up this morning that sort of talks about this idea of  
24 the standards that exist, the risk that's associated  
25 with not achieving these standards, and then what you

1 would expect these controls to sort of look like in that  
2 environment.

3           So the -- you know, I don't want to get  
4 lost in the message that we're talking about this  
5 formalized risk assessment that has to happen to get to  
6 the controls. And as I mentioned before, the risks in  
7 gaming are well documented. So it's not as though we  
8 are trying to come up with what are the risks. I think  
9 that is a known fact out there. The key is what  
10 controls are you putting in place to mitigate and what  
11 do those controls look like.

12           To the extent that the standards might  
13 say that the controls have to include certain components  
14 is absolutely appropriate, but to define down to the  
15 absolute procedural level of what a control has to look  
16 like, I think that's where it is going to differ, under  
17 this scenario, from property to property.

18           MR. MCGHEE: Well, when you say that, I  
19 mean, the risks vary from property to property, too,  
20 right? So who makes the decision -- who determines  
21 what's the risk?

22           MR. WILSON: Well, I -- I can comment on  
23 that.

24           I think this is where I think that there  
25 is a little bit of fear in terms of this idea of who

1 decides what the risks are.

2           What I am advocating and what my tribe is  
3 advocating is that the NIGC's role in this process is to  
4 establish the control standards, if you will, that need  
5 to be in place to mitigate these risks.

6           The risks are fairly universal. There  
7 are things operationally that can change the dynamics of  
8 a risk and make one thing at one property riskier, if  
9 you will, than another property. But the standards of  
10 control are really what, it seems to me, the NIGC should  
11 be focusing on, establishing those standards of control.

12           And the risks, like I say, are already  
13 known. I think if you went around and asked anybody  
14 that's in gaming, they could probably articulate pretty  
15 well what are the general risks in this type of  
16 transaction and this type of game and this type of  
17 process.

18           So I don't know that there has to be a  
19 lot of focus on risk identification as much as there is  
20 focus on establishing the control standards that you,  
21 the NIGC, think need to be in place to mitigate the  
22 already recognized risks.

23           MR. MCGHEE: I think the document, what  
24 actually goes out should identify primarily the risk.  
25 It should state the risk and that it is the tribe's

1 responsibility to mitigate that risk.

2           So what we're doing here as a group,  
3 because everybody's risk is different, is to make sure  
4 Mia's risks and Jeff's risks are identified as something  
5 that needs to be controlled. Not how to control it, but  
6 that it needs to be controlled. And then when someone  
7 comes in, whatever they've decided to do, then if it  
8 would be your guys or whoever, would say, yes, I agree  
9 that what you've done here does mitigate that risk or  
10 fix that risk, you know, because what I'm trying -- what  
11 I'm feeling is maybe if we go this way, then what would  
12 NIGC's role be? Whereas it used to be they would come  
13 in and they had a checklist and they would check it off  
14 and they could say, well, they made all the checklists  
15 so we feel good about them, they're good. You know what  
16 I mean? If they did come in and didn't do an audit  
17 checklist, maybe there is a need for an in-depth audit.  
18 You know, it was kind of a tool for you guys.

19           If it goes this way, then it kind of  
20 reconditions your whole thought and your whole staff  
21 setup in a way to who do we need on board to regulate  
22 it. Are we going to have to have more auditors,  
23 actually, on board to go in first, or reviewers. I  
24 don't know how you hire them now.

25           And that's a concern you should have,

1 because if this were to go and the tribes bought into  
 2 it, then you're going to have a responsibility now to  
 3 figure out how to make it work. And it can work, but I  
 4 think we do have to have a frank decision about what  
 5 your role would be or what a tribe would expect your  
 6 role to be, you know? Like from my standpoint, and what  
 7 you would expect us to do us a tribe. You know what I  
 8 mean?

9 If you're going to say, and I'm not  
 10 advocating one way or another, but if you're going to  
 11 say, well, if this is the case, then you need to have a  
 12 risk analysis performed by whoever so we make sure you  
 13 did that. You know what I mean? Whether we liked it or  
 14 not or what not. But it would be better to know that  
 15 that's where -- because at the end of the day, Rest is  
 16 going to be the one in this. You know what I mean?

17 So what are your -- you know, what would  
 18 make you feel more comfortable if this passed? You know  
 19 what I mean? Whether it would be popular or not.

20 MR. FISHER: Rest, do you want to answer  
 21 that now or do you want to hear the rest of these --

22 MR. WEST: Well, they can go ahead.

23 MR. FISHER: Let's just do Brian, Michele  
 24 and Matthew.

25 MR. CALLAGHAN: We have auditors this

1 week that are out at my Hartford property. They're  
2 doing a MICS review. They're qualified to do that. I  
3 would think, then, that NIGC would be satisfied with a  
4 letter, similar to what they do in Nevada, they require  
5 outside CPA firms to sign off and submit that to the  
6 gaming control board. So CPA firms are also looking to  
7 mitigate risk, as well.

8 So I would think it would make the NIGC's  
9 job easier for those that can do that, and again, we're  
10 talking about different levels of financials and who  
11 must do what, you know, again, you need to stratify this  
12 into -- if we can submit a letter saying we did MICS  
13 testing and submit that to NIGC relative to our Class II  
14 operation, I think that should be satisfactory. Again,  
15 that's just my suggestion. And then you could  
16 concentrate on your risk relative to that, and that  
17 would be those that may not have the financial ability  
18 or infrastructure to be able to do that on their own.  
19 That's where Rest would be more beneficial, I think.

20 MR. MCGHEE: Which is required now,  
21 right? It's required if you have an external CPA come  
22 in and do a compliance review of the Minimum Internal  
23 Control Standard, which would be a different Minimum  
24 Internal Control Standard. I imagine the cost of what  
25 you're going to pay your outside auditor may go up as a



1 tribe, because now they don't have just this one little  
2 standard to go by, now they're going to have to actually  
3 look at the risk.

4 ASSOCIATE COMMISSIONER LITTLE: That's  
5 one of the points we were making, is does this add  
6 additional cost. And you guys can explain this to me  
7 better. I'm assuming there is a handful of independent  
8 auditors that go out there and they probably have a lot  
9 of experience and they go to multiple facilities and  
10 they know what to look for, where this would require  
11 that they create a specific plan for a property.  
12 Correct? I mean, that would actually pass that cost  
13 along to the tribe.

14 MR. FISHER: So we've got Michele and  
15 then Matthew and then Leo and then Jeff.

16 MS. STACONA: I just want to make sure  
17 that you know those OMB circulars were done for the  
18 federal agency. And we need to understand that we are  
19 all sovereign, independent tribal nations. And I hope  
20 we leave it at that and leave it to the tribal  
21 governments to accept these circulars out there or not.  
22 I think you're delving into a much bigger area than I  
23 think the NIGC has control over.

24 So I think some of this needs to just be  
25 decided upon by your tribal government. And I think

1 what's out there in the rules right now for NIGC is  
2 adequate enough. You get the requirements of submitting  
3 your financials and your comment from your auditors. I  
4 think that should suffice right now, and I think that's  
5 working. I don't think we need to put any more  
6 standards or anything more in there to make it more  
7 complicated. It works right now. Don't ruin it.

8 MR. FISHER: Matthew.

9 MR. MORGAN: I'm going to kind of tag on  
10 what Michele said.

11 The way IGRA was written -- and I think  
12 we all have to put that in the back of our minds, is  
13 we're operating off statute. Tribes are the primary  
14 regulator in Class II. NIGC, you can take a monitoring  
15 role.

16 The role for your auditors I really don't  
17 see changing, because it's still up to the tribe to  
18 decide how you do your internal, whether it's a function  
19 of your government, whether it's your regulatory body,  
20 whether you contract that service out to some other  
21 outside agency to do that. You still have external  
22 auditors coming in, they still have the ability to do  
23 agreed-upon procedures, they have the ability to do  
24 internal audit sampling when they come in. You still  
25 have NIGC auditors coming in and looking over it.

1           The difference will be you won't have one  
2 way to do it any more, you have the ability to actually  
3 design your internal controls that fit your operation  
4 better, which, in my mind, actually does a better job,  
5 because I don't have to fit into a broad,  
6 cookie-cutter-based approach that may or may not  
7 actually get to the risk at my property, but it is good  
8 enough for me to pass a cursory, standardized,  
9 high-level MICS audit.

10           And then I know we moved on to cost.  
11 One, there is an argument to be made that it's a cost  
12 associated with doing business, but you already have to  
13 pay for that, especially the auditors that come in.

14           And I think, as Tom pointed out, this is  
15 not a new concept in the auditing world. The auditors  
16 do this every day in every other industry. We're just  
17 trying to apply this to our Indian gaming industry on an  
18 approach of how that works within our paradigm. So  
19 shifting that responsibility to the tribe to come up  
20 with, I understand that right there is worrisome. It  
21 worries me as an Indian, it worries me as a regulator.

22           But that being said, that's one of the  
23 reasons we stress that you look at guidance along with  
24 that, because those guidance documents would serve as a  
25 safe harbor provision that says tribes, if you do it

1 this way, NIGC is okay with you doing it this way.  
2 We're just changing the focus to say if you want to do  
3 it some other way, you're able to. And then I'm  
4 replying upon those industry professionals to say is  
5 it -- have you mitigated your risk in a way that we feel  
6 comfortable. And that's both your internal, your  
7 external, and the NIGC auditors coming in who have that  
8 professional expertise.

9 MR. MCGHEE: Those guidance documents  
10 should come from NIGC.

11 MR. MORGAN: I think they should give an  
12 example of a safe harbor that they're good with.

13 ASSOCIATE COMMISSIONER LITTLE: And,  
14 Matt, I appreciate you bringing up the whole issue of  
15 the cost to the tribes, because we have to be cognizant  
16 of the fact that there are some tribes out there that,  
17 you know, they're under huge financial pressure. And  
18 gaming commissions are a target for cuts. I've seen it  
19 happen. They're an area.

20 So we don't want to do anything that's  
21 going to -- I mean, we always have to be very mindful of  
22 how does this affect the poorest tribe or the tribe  
23 that's just -- you know, they have a gaming operation  
24 that is making a few bucks. And if there is any  
25 additional cost, it's something we need to be wary of.

1           MR. MORGAN: But that's the importance of  
2 a guidance document, that you have a safe harbor. And  
3 that's the importance of having training and technical  
4 assistance from your agency to go out and make sure that  
5 tribes do possess those skills and, if they don't, have  
6 some resources out there to call upon them to make sure  
7 that they are meeting standards that are required.

8           MR. FISHER: Leo, Jeff, Tom.

9           MR. CULLOO: It seems to me sometimes we  
10 rely too much on a checklist as a way to validate  
11 compliance. To me, it's just one small tool, because  
12 any checklist I've ever seen from whatever regulatory  
13 body, there are always parts that aren't applicable.  
14 Sometimes that confuses the person doing the review,  
15 does this pertain to me or not.

16           I think the checks are there. We have  
17 our external audit. You're going to send them your  
18 internal controls ahead of time, they're going to review  
19 it, and they're going to come up with their own way of  
20 validating it with their own checklist.

21           Internally, at least from an operation  
22 point, my tribal gaming agency, they have their own  
23 checklist they use. They put together, based on risk,  
24 what are the important things.

25           To give you an example, the state, who

1 regulates Class III, they'll come in and do things like  
2 send an agent out to check incident reports, spend a  
3 whole day doing all that. And that's billable hours.  
4 What's the risk? Okay, so someone didn't write an  
5 incident report. So internally, I think, the regulatory  
6 agencies are better able to put together their own  
7 checklists.

8 And as far as cost, I don't see the  
9 additional cost to the tribe. External audits are  
10 required. That's not going to change. And I don't see  
11 internally where it's going to require a great deal more  
12 of personnel to put together checklists based on what  
13 you've developed internally and do your audits against  
14 those.

15 ASSOCIATE COMMISSIONER LITTLE: We can  
16 ask Rest, how do you feel this would affect, you know,  
17 your staff?

18 MR. CULLOO: Because that's the concern.  
19 How does a field agent come in from NIGC, how do they  
20 check compliance. Well, to me, they would have to go to  
21 the Tribal Gaming Regulator Agency and say, hey, let me  
22 see your -- what's your compliance program? How do you  
23 audit your compliance? Do you have a checklist? What's  
24 your methodology? And I think it's against that you  
25 would say is that reasonable and is that prudent, does

1 that meet the minimum standards that any rational person  
2 would do.

3 MR. FISHER: Do you want me keep going  
4 around? Do you want to think about it? Do you want to  
5 respond, or do you want to keep going around? They want  
6 feedback.

7 MR. WEST: Well, I'm still confused. You  
8 know, the TGWG presented a whole package. And we  
9 haven't seen the checklist part of it yet. In the  
10 July 28th, 2011 submission there was supposed to be a  
11 checklist to be provided pretty soon. So I'm still  
12 confused about what we're supposed to be looking at,  
13 whether it's the standards themselves, which is maybe  
14 that many pages (indicates), or does that include the  
15 guidance. I hear now that we're supposed to develop the  
16 guidance.

17 So I don't know what the benefit of -- I  
18 mean, you know, it seems like it's a package deal. In  
19 fact, I think if you look at the submission on  
20 July 28th, Vice-Chairwoman Bryan says this is a whole  
21 package. I forgot the wording. It's down here about  
22 the core of these documents or what they're submitting.  
23 So it's not just these little standards. The standards  
24 say you've got to develop -- you know, look at the risk  
25 and develop controls to mitigate those risks.

1 I have audited and been involved with  
2 many gaming operations and many tribal regulatory  
3 authorities from Florida to Washington state, from  
4 California to Connecticut, probably in excess of 75  
5 Tribal Gaming Regulatory Authorities. And I will  
6 honestly say, in my opinion, there is a significant  
7 number of those who are ineffective in their oversight  
8 of tribal gaming.

9 So to me, and that would be maybe, if you  
10 will, the target audience that this committee is trying  
11 to develop standards for, you should -- you know, to me,  
12 the committee should be developing standards that they  
13 can hand to those type of organizations for ineffective  
14 Tribal Gaming Regulatory Authorities and then they can  
15 take it from there.

16 Again, there are only Minimum Internal  
17 Control Standards. And those, the operations in here,  
18 some of them have a lot more expertise, they have  
19 developed these SOPs that are that thick (indicate) with  
20 all these operational procedures that the gaming  
21 operation should follow. But my concern is the smaller  
22 operations are those who are -- you know, I don't know  
23 what the level of background of the individuals here on  
24 committee are, but if you've only worked for one tribe,  
25 you've only been involved in one situation in tribal



1 gaming, some of you -- I don't know how much experience  
2 with various types of TGRAs these representative in the  
3 room have, but I can tell you there is -- you know,  
4 there is a lot of exposure out there to some of these  
5 operations who are, in my opinion, ineffectively  
6 regulated.

7 MR. FISHER: Okay. So where we are is  
8 Jeff, Tom, Robin, Matthew.

9 MR. WHEATLEY: I was just going to  
10 piggyback on what Matthew and Leo said regarding the  
11 costs incurred by tribes. I, too, don't see it as an  
12 additional cost. These audits by independent firms are  
13 already happening on a regular basis. I see reports  
14 where they're giving us guidance on strengthening our  
15 own system of internal controls, where they feel they  
16 see a risk and they're offering their expertise.

17 A lot of these firms, if they're a  
18 credible firm out there, they have a lot of gaming  
19 expertise themselves, so they're well versed in gaming  
20 operations. And I think they tailor their audits based  
21 on each individual property, based on our own operation.

22 So I don't see it as an additional cost,  
23 it's just a different set of regulations that they're  
24 going to be auditing, too, and ensuring that the systems  
25 that we have in place are strong enough to mitigate

1 those risks.

2 MR. FISHER: Tom.

3 MR. WILSON: I don't -- I don't disagree  
4 with your observation, but I think that same observation  
5 exists in any environment. We saw the same thing with  
6 Sarbanes-Oxley. And when you have to take thousands of  
7 companies in different businesses across the country,  
8 and indeed the world, and say, well, now you have to  
9 have -- you have to meet this new standard, clearly  
10 there were some companies that could invest millions of  
11 dollars to come up with something that they felt met the  
12 criteria, there were other companies that did not have  
13 millions of dollars. And whatever regulations derive  
14 have to be flexible enough to allow for the different  
15 types of organizations to meet the objective.

16 And you know, I think the -- the issue  
17 for me and our tribe has always been with the Minimum  
18 Internal Controls, that they are so rigid that they  
19 become obsolete and they require a standard -- they give  
20 a certainty of comfort that really doesn't exist by the  
21 Minimum Internal Controls.

22 So what happens when you come in and do a  
23 checklist audit of those Minimum Internal Controls and  
24 you say well, yes, you're in compliance, I can come in  
25 and do a risk assessment of that same organization and

1 come up with a totally different picture of what is at  
2 risk in that organization that never got touched upon by  
3 the Minimum Internal Controls.

4 And oftentimes what happens with the  
5 Minimum Internal Controls is that is the level that gets  
6 adopted and nothing more. And really, there is a whole  
7 aspect of the operation that never gets taken into  
8 account when we're talking about risk. So I think there  
9 is a false sense of security sometimes when we -- when  
10 we set up these minimum levels of control.

11 But the other point I want to make is  
12 that every organization deals with these issues of how  
13 do we manage our business. And casinos are businesses,  
14 no different than anything else. There are public  
15 casinos that have to comply with Sarbanes-Oxley.

16 So it's -- this is not an unknown in the  
17 casino world. It's an unknown in Indian gaming. And I  
18 think it's important that we keep that in context, that  
19 there is an educational aspect to all of this that NIGC  
20 could be incredibly helpful with to tribes, in terms of  
21 developing and strengthening internal controls.

22 Our issue has always been that if a  
23 Minimum Internal Control says I have to have three  
24 people do X, and if I know that I don't need to have  
25 three people to do X and, by creation of an automated

1 control and a manual control, you know, I'm down to now  
2 that I can have two people doing this, I don't want to  
3 have to be having the argument that all of the common  
4 sense goes out the window. And what we're arguing is  
5 the fact that the MICS says you have to have three  
6 people. We don't care whether that makes sense or not,  
7 or we don't care if you've figured out a better way to  
8 do it or a more efficient or effective way, you have to  
9 have three people, and if you don't have three people  
10 you're not in compliance.

11 That is my tribe's biggest complaint  
12 about Minimum Internal Controls, is the locking you into  
13 this control that may not be realistic or may be so  
14 outdated that you're past that.

15 So from my perspective and my tribe's  
16 perspective, it's really more about opening up a broader  
17 framework with which a tribe can grow as to the Minimum  
18 Internal Controls as they currently stand in the way  
19 that they are designed and what you have to go through  
20 to try and add on to those controls. There is really no  
21 incentive to take it any further than it is.

22 So those Minimum Internal Controls  
23 become, in my opinion, the maximum internal controls and  
24 nothing really evolves in Indian country beyond that.

25 And that would be, you know, the concern

1 that we would have in any regulatory scheme, even within  
2 our own tribe, that we do not develop a control  
3 structure or regulation structure that becomes  
4 unworkable or that the operators of our casino can't  
5 work within to achieve a control structure. And  
6 oftentimes, we allow them -- we set the standard, but we  
7 allow them to come up with the way in which they're  
8 going to achieve that. And then we audit that on the  
9 back end to ensure that the control objective is being  
10 met. And if it is, we're okay. We're less concerned  
11 about the you got to have three people. Why? Well,  
12 because it says you've got to have three people. We're  
13 concerned that the risk is being mitigated.

14 And if I can just diverge to one quick  
15 thing and give you one little flavor of this, there is a  
16 document that I sent everybody here. And as you know,  
17 I'm trying to come up with -- pull things out of  
18 industry to help talk about this concept of controls and  
19 risk.

20 But you know, in every business there are  
21 business cycles, things in the accounting world, what we  
22 call business cycles, processes. And guidance documents  
23 were created extensively for the Sarbanes-Oxley world to  
24 comply. And the overriding concept in Sarbanes-Oxley  
25 was that you have a standard of internal controls. So

1 I'm just going to read you a quick example, one that  
2 doesn't have to do specifically with gaming but it has  
3 to do with cash receipts.

4 And one of these standards that's listed  
5 is all cash receipts must be restrictively endorsed and  
6 secured immediately upon receipt. That's the standard  
7 that's in place out there.

8 Now, corresponding to that, there is an  
9 identification of a risk if that standard isn't met.  
10 And the risk is the cash receipts may be lost and/or  
11 misappropriated. Well, we would probably all agree with  
12 that.

13 What it doesn't say is here is what your  
14 control has to look like. That is what is left up to  
15 the individual entity to determine; well, how am I going  
16 to meet that standard? So in that same sense, what it  
17 appears to me that the tribal working group document is  
18 addressing is it is really outlining a whole bunch of  
19 standards.

20 The risk is inherent, but I think it  
21 could be more specifically stated, that here is the risk  
22 that can occur if you don't meet this standard. And  
23 then it's focusing on a broader contingency that the  
24 guidance document gives you different paths, things of  
25 how you can meet that internal control standard.

1                   So to the extent that in one of your  
2 questions that you had on the twelve-question document,  
3 the very first one dealing with -- you know, under IGRA,  
4 NIGC's authority that you have to develop standards, I  
5 guess from my perspective it would be that yes, you do  
6 need to develop the standards of internal controls. You  
7 do not need to develop the look and feel of the internal  
8 control.

9                   MR. FISHER: Robin, then Matthew.

10                  MS. LASH: With regard to the question  
11 where we are with the checklist, I apologize that those  
12 haven't been submitted. And I spoke with them last  
13 week, and they are working on the checklist. And I  
14 think it was promised as a package, you know, the  
15 regulations revised, then the guidance documents and the  
16 checklist. So they will be coming, and I apologize for  
17 the delay in that.

18                  And I think when you pointed out the  
19 small tribes specifically and the tribes without big  
20 budgets, those are the ones that really we were looking  
21 to when we prepared the guidance documents, as Matt  
22 mentioned, a safe harbor for the tribes that don't have  
23 the large employee staff to attempt that themselves. At  
24 least by following these minimum guidelines, they will  
25 be in compliance. And we will be submitting the

1 checklists.

2 MR. FISHER: Matthew?

3 MR. MORGAN: My point, it's probably a  
4 little bit higher level policy-wise, when we talked  
5 about, and kind of tagging on to Tom's a little bit,  
6 procedurally based on the current MICS, I always think  
7 of it you have to look at the role. And if we put a  
8 person in the room, you know, in the middle of this  
9 table right here, one side is the tribe and one side is  
10 your external CPAs and one side is NIGC. In the past,  
11 it seems like NIGC wanted to play everybody's role and  
12 make sure everybody was doing it the way they wanted to  
13 do it instead of relying upon the tribe or your external  
14 auditors and your NIGC agency to try to work together to  
15 make sure that all those risks were mitigated. And I  
16 know sometimes I question them, are you focused on your  
17 role?

18 Your role set forth in IGRA, and I had  
19 Kathi look it up, 2706(b)(10), you know, it says you're  
20 required to produce standards. And it goes back to your  
21 question one, promoting the federal standards, but it  
22 says and guidelines necessary to implement the statute.

23 IGRA thought about you being able to  
24 implement guidelines, they're not standards but  
25 guidelines, in your role to assist tribes. You know,



1 when Rest talked about, you know, that particular tribe,  
2 it seems to me that, you know, depending on what your  
3 role is, you create your environment, your culture. I  
4 would ask you to look at your staff, how many auditors,  
5 whether that's financial auditors, compliance auditors,  
6 IT auditors, you have on staff versus law enforcement,  
7 investigative folks. What type of culture are you  
8 putting out there and what does your allocation of  
9 resources say to people? What is your focus?

10                   Currently, the makeup to me doesn't say  
11 I'm focused on auditing risk based, I'm focused on  
12 providing technical assistance and training to help you  
13 meet that.

14                   That would be my question going back, if  
15 you say there are a significant number out there that  
16 are not up to whatever that line is, is that NIGC's  
17 opinion? Is that your opinion after you looked at what  
18 the tribe done and your CPA reports that we're required  
19 to give you through external audit? If that's still  
20 your opinion, what did you do that next step to help  
21 them achieve that standard? Was there a next step taken  
22 in that case to help them achieve a level that you feel  
23 like is meeting the norms to protect the assets of the  
24 tribe?

25                   And thirdly, if it's still an issue with

1 a particular tribe, you know, that is why the statute  
2 gives you that enforcement role after you went through  
3 all these steps.

4           When you re-allocate some of your  
5 resources and create a culture or an environment to say  
6 this is what we want to do, we want to make sure that  
7 tribes, primary regulator, it's your job to do. CPA,  
8 you're supposed to come in, external auditors help you.  
9 NIGC, we're supposed to come in and help you doing  
10 compliance audits and coming in performing technical  
11 assistance. And if all of those break down and fail,  
12 and there will be instances where that happens, you  
13 know, sometimes no matter what procedures or controls  
14 you put in place, you have failure sometime, you have to  
15 go back and reevaluate why you failed. But one of the  
16 tools in your bag that the statute gives you is that  
17 enforcement.

18           So instead of going out and trying to  
19 write a broad rule to try to fix an issue with a tribe,  
20 sometimes you do have to take that approach and say you  
21 know what? Maybe enforcement is proper here because  
22 we've tried to talk to you, we've tried to train you,  
23 we've tried to give you guidance documents. None of  
24 this has helped yet. This is where we're at. We think  
25 this rises to imminent harm and this meets the necessary

1 requirements.

2           And I know that's not where you want to  
3 get to. I don't think anybody wants to get there. But  
4 sometimes that is where we get to, is people are not  
5 meeting the standard that's required that you set forth.  
6 All we're asking is that you accept an approach where I  
7 get to decide what my risk is, but I still need buy-in  
8 from my CP and external operators, I need buy-in from my  
9 operation, and I still need buy-in from you guys. I  
10 just don't have to do it in the exact way that the NIGC  
11 MICS prescribes and, going back to Tom's point, that I  
12 need three people to do it.

13           MR. FISHER: Leo.

14           MR. CULLOO: Two points, first to Tom,  
15 what Matt just said, the requirement that you have to  
16 have X amount to do this.

17           You talk about costs to the tribes.  
18 Well, there is a direct cost on the regulatory side,  
19 where that has a direct impact on cost. And maybe there  
20 is a way to do it through automation or some type of  
21 system to reduce that cost.

22           The second point to Matt's thing is,  
23 Rest, earlier you said, I think your words, I may be  
24 wrong, there is a lot of tribes or quite a few tribes --

25           MR. WEST: A significant number I think

1 is what I said.

2 MR. CULLOO: But you already have rules,  
3 checklists. So if they're not adhering to them, this  
4 approach you're taking is really not going to have an  
5 impact on them anyway. So it sounds to me like it's  
6 enforcement or going in and giving them guidance and  
7 saying, look, you guys, your program is totally  
8 inadequate. We're going to take enforcement action  
9 unless you do something to tighten up your program.

10 So the fact that people aren't really  
11 adhering to them right now, it has nothing to do with  
12 what we're doing, because they're not adhering to the  
13 checklist you already have in place.

14 MR. FISHER: Go ahead, Brian.

15 MR. CALLAGHAN: I have to second what  
16 Matthew says. I've said this, I've said it to my only  
17 tribal council. I believe the NIGC should take a look  
18 at their mission or how they apply their mission,  
19 because I think what Matthew said is spot on.

20 Rest, no matter what we write here today,  
21 no matter how much guidance we provide, you're going to  
22 still end up, most likely, with the same scenario that  
23 you're looking at right now. Maybe some will do a  
24 little bit better.

25 And that's what I think, is when I take a

1 look at the field offices, you've got investigators.  
2 Well, what are they investigating? You've got auditors.  
3 What are they auditing?

4 I think more of an audit approach -- you  
5 know where your risk is. You've already done the risk  
6 assessment, Rest. You're there. Let us finish this  
7 out, maybe get some guidance documents and things like  
8 that.

9 And here is your opportunity, Daniel. I  
10 mean, you could very well put a great polish on a  
11 fabulous apple that's out there and we'll get you a  
12 statue or something. I don't know. It is seconded and  
13 thirdded. That's exactly what I've been trying to -- and  
14 I'm glad I've got an opportunity right now to make a  
15 record of that.

16 MR. FISHER: All right. So do you want  
17 to respond back to any of this?

18 MR. WEST: Yeah, I'll take a shot at it.  
19 There is so many comments, I'll probably miss half of  
20 them.

21 Back to SOX, those are public companies.  
22 And probably that works better for some of these casinos  
23 that have their 10-Ks and their auditing and they're a  
24 publically traded company. But again, I'm back to the  
25 small properties. And there is a lot of medium-sized

1 properties that I don't think are doing an effective  
2 job.

3 As far as the MICS being hard and fast,  
4 they're not. If there is a control in there that says  
5 it takes three people, you as the commissioner have the  
6 ability to grant a variance. Matthew Morgan was just  
7 granted a variance for a surveillance standard that he  
8 sent in. His compliance division, I don't know who it  
9 was, requested a variance from a certain standard.

10 I don't know where everybody thinks that  
11 the MICS are that hard and fast. There is alternative  
12 procedures, there is ways to develop alternative  
13 procedures and other options to get around this stuff.  
14 So this thing of three people doing this and three  
15 people doing this is totally -- you know, I don't think  
16 it's realistic when you look at MICS.

17 NIGC can go out there and audit, but we  
18 only have a limited staff. There is 300 and how many  
19 tribes? It's unreasonable to think we can go out there  
20 and take a look at all -- even the ones that may have,  
21 you know, a lower level of oversight, regulatory  
22 oversight. So I think that's pretty unrealistic, also.  
23 Maybe we could get started on it.

24 But when you don't have hard-and-fast  
25 rules, you're also going to get into kind of a

1 negotiation, a litigation situation with, well, we're  
2 doing this control, but we think we should be doing  
3 this. So I think what I'm just saying, there should be  
4 a basic minimum set of standards out there for those  
5 types of operations.

6 You know, again, this is not SOX  
7 companies. We're talking about small tribal gaming  
8 commissions. And if the tribal council changes  
9 tomorrow, your whole commission may change tomorrow. I  
10 mean, I think it's -- you know, I think it's unrealistic  
11 to apply this to some of these operations whose  
12 regulatory oversight is not what it should be.

13 Another thing I want to point out, it's  
14 probably bad to go on the record but I will --

15 ASSOCIATE COMMISSIONER LITTLE: Just to  
16 let you know that Rest is speaking as to his experience  
17 as an auditor, not the position of the Commission.

18 MR. WEST: Yeah, exactly. I will  
19 probably be without a job tomorrow.

20 You know, people -- you're talking about  
21 audits and whatever. There are several different types.  
22 You have your financial audit, you have your AUP, you go  
23 out and engage a CPA firm to do your AUP, which is your  
24 MICS. The financial auditors also look at the other  
25 parts of your operation; your payroll, your hotel or

1 whatever. They look at the risk. They did an internal  
2 control questionnaire, internal control checklist for  
3 all of the operations.

4 I always recommend to the Tribal Gaming  
5 Regulatory Authorities that once they get their gaming  
6 audits, you know, down, they need to start looking at  
7 payroll, they need to start looking at purchasing, they  
8 needed to start looking at other aspects. Not many of  
9 them do.

10 You know, part of the basis for my  
11 personal comment about the level of oversight is a lot  
12 of the Tribal Gaming Regulatory Authorities, their  
13 internal audit function is very suspect. A lot of them  
14 have to go out and hire outside firms to do their  
15 internal audit.

16 Another thing is don't rely on your CPA  
17 firms. They will tell you right up that they're not  
18 going to find all instances of fraud. They're not there  
19 doing a fraud audit. The same applies to your AUPs.  
20 They might miss something, they might miss some big  
21 things.

22 The level of professionalism in the CPA  
23 firms is very varied. There is some that do a very poor  
24 job, there is some that do a great job.

25 We even see differences between the



1 offices of Big Four firms, how good they do their job.  
2 We know that this office over here, typically, does a  
3 poorer job than the Vegas office, say, of a Big Four  
4 outfit. So don't sit back and rest on your CPA firm to  
5 disclose fraud, internal control violations, or  
6 whatever.

7 So again, MICS are not hard and fast.  
8 Anybody in here that is a tribal gaming authority can  
9 obtain a variance.

10 MR. FISHER: So we just have to do a  
11 little time check. I know there is cards up. By my  
12 clock, it's a little after 11:30. On our agenda at  
13 11:30 we are scheduled for public comment. I don't know  
14 if anybody has signed up for public comment. So do you  
15 want to -- and we're scheduled to break for lunch at  
16 noon. So do you want to check on the public comment  
17 right now or do you want to keep going?

18 MR. CALLAGHAN: I just want to make one  
19 statement for the record, as well.

20 Mr. West spoke openly and honestly, and  
21 it's greatly appreciated. And I think everything he  
22 said was factual and everything was objective out of  
23 him. And it was greatly appreciated. I support his  
24 opening up as he did.

25 MR. WEST: Well, good. Maybe you can

1 hire me when I get fired.

2 MR. MCGHEE: I want to hear his issues  
3 with it, because, like he says, when he goes back to the  
4 office, that's going to be his issue. So if we can  
5 somehow as a group figure out how to address that issue,  
6 which I take from NIGC's point of view he's going to be  
7 one of your guys, you know, so I need to know what he's  
8 worried about when it comes to, okay, if they did these  
9 and they go pass this like they are, I just have a real  
10 issue about how I'm going to do my job effectively and  
11 feel like I'm doing a good job.

12 That way, we have the opportunity to help  
13 him understand our position.

14 ASSOCIATE COMMISSIONER LITTLE: And  
15 that's one of the reasons why we want him here, is  
16 because, like Brian is saying, Rest can articulate very  
17 well some of the issues that are out there. It doesn't  
18 mean it's the standard, you know, we see everyday, but  
19 some of the challenges that are out there. So it's  
20 important that this group kind of understand those. And  
21 I do appreciate him raising those issues.

22 MR. WEST: I'm still confused about what  
23 the TAC committee is recommending. It goes from a  
24 complete package to just the standard. So I don't know  
25 how we can address what you're recommending if we're not

1 sure about what you're recommending.

2 MR. MCGHEE: Well, we put on the record  
3 we recommended this with guidance documents. That was  
4 put on record, public comment, that we only support the  
5 regs as they are written if accompanying, not these, but  
6 accompanying guidance documents were provided to support  
7 the regs. We didn't say they had to be these but they  
8 could be.

9 MR. FISHER: Okay. Let's take the cards  
10 that are up. I'm not sure who was first, Matthew or  
11 Tom.

12 MR. MORGAN: I was first.

13 MR. FISHER: You're up, then.

14 MR. MORGAN: I kind of want to address  
15 some of your thoughts. I agree with everything Brian  
16 said; I appreciate candor.

17 One of our ideas from the Tribal Gaming  
18 Work Group, not from TAC, but the Tribal Gaming Work  
19 Group perspective was we did want to shift your focus --  
20 you know, going through that process, I'm not for sure  
21 how, again, your job changes in a broad sense. Some of  
22 the details may change, but in a broad sense, your role  
23 is still your same role that you always played working  
24 in conjunction, again, with the external auditors, your  
25 internal auditors and the tribe. Just like I think Tom

1 said, you know, a lot of times these are not minimum,  
2 they turn out to be maximum, because whoever has that  
3 ability within your tribe to approve your TICS. You  
4 know, you get political pressure, you get operational  
5 pressure, you get pressure from the outside people. Why  
6 are you doing this because tribe B, C, D isn't doing  
7 that? Why do you want to do that?

8 That innovation is stymied. To shift  
9 that mindset to say yes, it is available to get a  
10 variance, but we really hope that you do this, A, B, C,  
11 D, E, because that's what your MICS said, this is what  
12 we want you to do. And if you step outside of it, we  
13 may bless it, we may not, but we're given you our  
14 thought on the subject of what it should be.

15 It changes your mindset of how you  
16 approach it, because suddenly you're not being a part of  
17 the group, you're being one of the minorities because  
18 I've asked for a variance. Why did I ask for a variance  
19 and Jeff's tribe didn't ask for a variance, Jason's  
20 tribe didn't ask for a variance. What made it  
21 different?

22 It's available, but there is a stigma out  
23 there that goes along with that big time. We're asking  
24 you to shift your approach and say you know what? We  
25 are stating from the Commission there is plenty of ways

1 to do that. If your guidance document that we're  
2 suggesting NIGC adopt on this, if it is very procedural  
3 in nature, prescriptive in nature and it goes back to  
4 being -- and that makes you guys feel comfortable and  
5 this is your safe harbor for tribes, that's where you  
6 guys are. And you can tell tribes out there, if you  
7 want to be in our good graces, you do it exactly like  
8 this.

9 I hope you don't do it that way, I hope  
10 there is some give-and-take on these guidance documents,  
11 but you do have that authority, that's where you feel  
12 comfortable. We're asking you to change your mindset to  
13 going from it's very procedurally based to why you can  
14 do it differently, change from we prefer you do it this  
15 way to one of there is many ways to do it and this is  
16 but one way to do it.

17 That allows tribes to be innovative, that  
18 allows tribes to take advantage of technology, and that  
19 encourages, that puts out there from I think the  
20 Commission itself's perspective that we encourage this,  
21 we want this industry to grow, get better and take  
22 advantage of some of these innovations out there that we  
23 can. And it does not have to be so prescriptive,  
24 because we welcome that idea.

25 Right now, that is not the thought that

1 goes out to Indian country, that variances are welcomed.  
2 That is not what I think, at least in Oklahoma, that I  
3 see, that people are welcome to do that.

4 MR. FISHER: Tom.

5 MR. WILSON: I would second that. And of  
6 course, I have to speak more from a Class III than a  
7 Class II, but I can say that, with absolute certainty,  
8 that in the state of Arizona, variances to the MICS,  
9 which Arizona has adopted the NIGC MICS as our  
10 (inaudible) the wording that you may adopt something as  
11 long as it is more stringent than the minimum is a real  
12 problem, because this idea of more stringent than is  
13 difficult to overcome.

14 And you know, the example that I continue  
15 to bring forth to this group is that in MICS, you know,  
16 there is a surveillance requirement that all activity  
17 must be logged. Well, maybe I don't really need to log  
18 all activity and I should be logging certain kinds of  
19 activity. But it's difficult for me to make the case  
20 that anything less than all is more stringent. And so,  
21 you know, we end up in these kinds of conversations.

22 The other thing, and I think that you  
23 point out, what I hear you saying, Rest, is that there  
24 are tribes out there that do a very poor job of meeting  
25 the current minimums or the proposed minimums, or

1 whatever we're operating under as the case may be. So  
2 how in the world, if they -- if they can't meet that,  
3 how is the expectation that they're going to meet  
4 something that's even viewed as less structured or  
5 controlled or rigid or what not?

6 And I think that's a valid -- a valid  
7 point. But I would get back to what -- I don't know if  
8 it was Matthew or whoever said that it doesn't speak  
9 well of the entire process right now if, in fact, there  
10 are tribes that aren't meeting the minimums. That's a  
11 bigger problem. But I don't know that, from an industry  
12 standpoint, that should determine the direction that you  
13 take in creating regulations. To me, you should be  
14 focusing on those exceptions and figuring out why that's  
15 the case.

16 You know, running a casino is a business.  
17 And I -- you know, when I bring up the SOX stuff, it's  
18 not to say that that should apply to Indian country. It  
19 should not. SOX was very expensive in this country and  
20 a lot of wasted effort was part of that. I'm merely  
21 just trying to address the questions of these things  
22 have been dealt with, they just haven't been dealt with  
23 in Indian country.

24 But I'm really most concerned about the  
25 fact that if there are tribes out there that aren't

1 meeting the minimums and NIGC is aware of that fact,  
2 then why is the focus not on correcting those tribes and  
3 getting them up to where they need to be as opposed to  
4 developing a regulatory structure that penalizes  
5 everybody because of the performance of, you know, a  
6 subset.

7           And you can speak more authoritatively  
8 than I on what that subset is or isn't. But it seems to  
9 me inherent in a tribe adopting gaming is the idea that  
10 they have to adopt a level of control to run a casino.  
11 And any operators will tell you that they do not operate  
12 a casino any different from, generally, one jurisdiction  
13 to another, that there are inherent controls that the  
14 operators understand and adopt in the process.

15           But it seems to me that if the regulatory  
16 side is flawed at a particular tribe, then that's --  
17 that focus clearly is within NIGC's jurisdiction to  
18 address that. And so my question would be more of why  
19 haven't we brought that tribe or tribes up to the level  
20 of the minimum as opposed to trying to make the  
21 regulations fit the lowest performer.

22           MR. FISHER: Brian.

23           MR. CALLAGHAN: You've got the pilot  
24 program. When people demonstrated that they could do  
25 the backgrounds, I think part of it was due to the fact



1 that you couldn't handle all the paper, be that as it  
2 may, but you do have a pilot program. That addresses  
3 those that have demonstrated the core competencies to be  
4 able to do the backgrounds.

5 So take it from what Tom is just saying,  
6 why don't we come up with a new pilot program? And  
7 then, if that works, expand it, expand it. Then you can  
8 deal with those that aren't doing the backgrounds  
9 correctly or not doing their audits correctly, a  
10 different methodology.

11 ASSOCIATE COMMISSIONER LITTLE: You want  
12 a ten-year pilot program, also? We're working on fixing  
13 that.

14 MR. FISHER: Jason.

15 MR. RAMOS: I think these ideas about  
16 risk analysis in tribal gaming as an industry aren't  
17 going away. I think that if it's not the NIGC, you will  
18 see it on the IRS. As a matter of fact, in California,  
19 that's what we're already seeing.

20 Originally in 2007, it was a single  
21 document with a checklist, and in 2009, when they did a  
22 whole series of audits, the checklist had grown to be 10  
23 to 15 pages. And before when they just wanted a  
24 framework of a risk analysis, now they're looking for,  
25 the next time they audit, a real risk analysis, a real

1 living document that you go and readdress every year.

2 So I think whether or not it happens on  
3 NIGC's side, risk analysis in tribal gaming is going to  
4 be a reality in the future.

5 MR. FISHER: All right. So Dan and Rest,  
6 do you have anything else?

7 MR. WEST: I mean, for the (inaudible)  
8 Nation, the Chickasaw, I think they would take minimum  
9 standards and do a risk-based analysis. They're going  
10 to expand their level of control ten times over what the  
11 MICS or I would expect them to.

12 I'm trying to advocate for the operations  
13 out there that are not effective in their oversight.  
14 And I'm sorry that -- I mean, I would -- I would think  
15 that some of the other members of the committee have  
16 these types of experiences. Maybe not. Maybe everybody  
17 is just working with one organization. But that's not  
18 been my experience.

19 MR. MCGHEE: Are they not effective  
20 because of lack of funds or are they not effective  
21 because they don't care?

22 MR. WEST: Funds, tribal politics.  
23 Anybody who has been around Indian gaming --

24 MR. MCGHEE: There are different reasons.

25 MR. WEST: -- knows there may be a

1 multitude of reasons.

2 MR. MCGHEE: There is no one reason, but  
3 I don't think any of those reasons are the regs. It's  
4 usually driven by something else. Either they don't  
5 have support, they don't have funds, but it's usually  
6 not because the regs are bad or good that they're  
7 ineffective. So whether it was these regs or other  
8 regs, it's probably not the same issues, because it's  
9 usually driven by something else, they don't have the  
10 support of the council or something.

11 MR. WEST: But when at least they had,  
12 say, the 542 regs, at least they had something to base  
13 their TICS on. Unfortunately, most of them, and  
14 probably several of them that are represented here, just  
15 did a wholesale adoption of the MICS as their TICS  
16 instead of developing, further expanding and developing  
17 a comprehensive set of TICS.

18 MR. WILSON: That's absolutely true,  
19 Rest. And what's interesting is that, from my  
20 perspective, you can take 542 and adopt that as your  
21 safe harbor, but just don't tie all of this into saying  
22 that's for us.

23 So I mean, the reality is that every  
24 tribe is complying with standards that currently exist  
25 out there. If you wanted to take and say that those

1 current standards are the safe harbor and as long as  
2 you're doing those you're fine, I certainly -- my tribe  
3 would have no problem with that, as long as we have  
4 flexibility to be -- greater flexibility than what  
5 currently is allowed to say okay, but we're approaching  
6 it from a different standpoint.

7 And if my path gets me to the same place  
8 that the safe harbor gets a tribe that, for whatever  
9 reason, can't -- you know, just doesn't have the  
10 resources, the capability, the expertise, whatever, to  
11 get there any other route other than through just  
12 adopting that safe harbor, I would think that that's  
13 what's important at the end of the day, not that this  
14 same standard, necessarily, has to be universally  
15 applied.

16 MR. FISHER: Matthew.

17 MR. MORGAN: I'm going to follow up on  
18 Daniel's point a little bit, on some of the reasons why  
19 that doesn't take place, and there are a multitude of  
20 reasons why.

21 My question would go to you guys is,  
22 again, going back to your role and your culture and your  
23 environment, do those tribes happily pick up the phone  
24 and say I do need some help, guys? Or are they going  
25 I'm going to call Jason, I'm going to call John, I'm

1 going to call anybody in the world except for you,  
2 because if you find out, I've got an NOV coming and I  
3 don't want those.

4 ASSOCIATE COMMISSIONER LITTLE: That is a  
5 good point. We have heard that. But it varies. It  
6 varies by tribe, it varies by region.

7 MR. MORGAN: I know I get called. And I  
8 know that in Oklahoma we have a regulatory-based group,  
9 I know they field calls. Nationally, we have a  
10 regulatory group, that they field calls. But us giving  
11 them what we do sometimes doesn't fit, because we don't  
12 know the ins and out of your organization. We're trying  
13 to, on a 15-minute call, help.

14 But I will tell you, they don't feel  
15 comfortable calling you guys, the majority of people,  
16 they're scared of what's going to happen to them,  
17 because that culture is not there to say you're going to  
18 give me assistance, you're going to provide me  
19 documents, you're going to give me what I need to do in  
20 order to meet that standard. Some of it may be  
21 embarrassment. They're new on the job, day one, and  
22 they hand in these documents, and on day two you guys  
23 are showing up for an audit. That's a little scary,  
24 that is very scary in situations.

25 ASSOCIATE COMMISSIONER LITTLE: Well, I

1 mean, you raise a good point, something we talked about  
2 earlier, about the whole training and technical  
3 assistance aspect of our responsibility. And that's one  
4 thing we're working on. I don't know if you've noticed,  
5 but we've got some positions posted out there, former  
6 enforcement staff, our field investigator staff, how  
7 they're compliance officers.

8 We're changing the focus on compliance,  
9 making a point that Brian made earlier, is that to some  
10 degree, it's our responsibility to make sure folks stay  
11 in compliance. And you know, as a Commissioner, I don't  
12 want to be issuing NOVs. That's kind of something that  
13 we're not doing our job if we're issuing NOVs. If we  
14 can provide the training and technical assistance to  
15 keep everybody in compliance, then I think everybody  
16 wins.

17 So we're working on that. And that will  
18 come with finding additional resources and staff for our  
19 training and technical assistance program.

20 Our staff when they're out there, and I  
21 know for a fact, you know, we have a lot of really good  
22 dedicated folks, that when they do see an issue, they  
23 are immediately providing technical assistance and  
24 they're immediately doing an ad hoc little training  
25 session with the TGRA, or whomever, to help fix the

1 issue before it becomes a potential violation.

2 But we do hear quite often, more often  
3 than not, that folks say, well, we don't want to call  
4 you guys because we're afraid you guys are going to nail  
5 us with an NOV. So we're working on that. I think  
6 that's a little bit of trust that we need to earn and  
7 that tribes need to provide to us, because we are here  
8 to not issue NOV's but to maintain compliance.

9 MR. FISHER: Were you done, Matt?

10 Okay, so --

11 MR. WEST: And if it's Class III, I would  
12 imagine some of the calls you're getting are non-MICS,  
13 because MICS is only a small part of it, and most of  
14 them are backgrounding and other issues we're  
15 discussing. In a Class III operation, you know, we  
16 don't go out and audit for MICS unless we're requested.

17 MR. MORGAN: I will say some of the  
18 questions I get is, in Oklahoma, the Oklahoma City  
19 region looks at it this way, Tulsa looks at it this way,  
20 but I talked to my buddy in California and they look at  
21 it that way. Where am I safe at? Because all three  
22 opinions of your regional offices do not line up. So  
23 how do I stay in compliance? That's the goal. I want  
24 to be in compliance. That's what everybody wants.

25 MR. WEST: When we get a MICS request

1 about the intent of a standard, we run it through  
2 everybody and then get a consensus of opinion. I'm  
3 hoping you're talking about a backgrounding or a -- some  
4 other issue. We don't have anybody in Oklahoma City, so  
5 there is no opinion coming out of Oklahoma City.

6 MR. FISHER: All right.

7 MR. MCGHEE: So of these 13 questions,  
8 did we touch on all of them?

9 MR. FISHER: We touched on some of them,  
10 I think.

11 Time-wise, we're at about ten of 12:00,  
12 scheduled to break for lunch. So maybe we should check  
13 to see if there is anybody in the audience that wants to  
14 provide public comment before we break for lunch.

15 MS. OGAS: Everything they said. They  
16 hit the nail on the head.

17 MR. FISHER: Okay, so there is one public  
18 comment.

19 All right. So the way that the committee  
20 works is to provide an opportunity for people in the  
21 audience to provide public comment to the group, if you  
22 so choose. And we usually ask people to sign up in  
23 advance, because we've got -- we worked in the closed  
24 session this morning.

25 So is there anybody in the audience that



1 wants to provide any direct comment to the committee, at  
2 this point?

3 Okay, so I would invite you --

4 MR. ARMSTRONG: James Armstrong,  
5 Suquamish Tribe, the host tribe, executive director.

6 I believe -- I believe we hit it all on  
7 the nail head here on the change in establishing the  
8 guidelines and rules. Basically, in 95 --

9 MR. FISHER: Can you just pause for one  
10 second? Cheryl here is asking for you to use a  
11 microphone. Just bear with us one second.

12 Also, Daniel, are you doing your timing  
13 thing here for us?

14 MR. ARMSTRONG: It's not going to be that  
15 long.

16 MR. FISHER: Okay.

17 MR. ARMSTRONG: In 1995, in working with  
18 NIGC and their agents, very easygoing, fast-paced  
19 environment of maintaining compliance.

20 Now, as the years have gone by, NIGC has  
21 now sort of went into a police state that makes the  
22 tribe feel very embarrassed and they don't want to come  
23 forward and ask them for help.

24 So basically, what we have here with the  
25 new regime of NIGC, working together in cooperation to

1 assist those lower tribes that can't afford it, bringing  
2 them up to compliance, I do agree that there should be a  
3 process in place for the ones that are out of compliance  
4 and need assistance, because those are the ones that  
5 need the help the most.

6 MR. FISHER: Okay, thank you.

7 And did you get his name?

8 THE TRANSCRIPTIONIST: James Armstrong.

9 MR. FISHER: Does anybody on the  
10 committee have any questions or follow-up for that?

11 Okay. Anybody else in the audience wish  
12 to give any comment directly to the committee?

13 Okay. So we're at five of 12:00. Do you  
14 want to keep going or do you want to break for lunch?

15 All right, so let's break for lunch. So  
16 on our schedule, we're scheduled to come back from  
17 lunch -- we gave one hour to do that. So we'll start up  
18 again at 1:00, a little bit longer than an hour.

19 (TAC meeting recessed at 11:55 to  
20 be resumed at 1:00 p.m.)

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AFTERNOON SESSION

1:14 P.M.

--oOo--

MR. FISHER: Okay. I don't know if anybody has any follow-up from the discussion before we broke for lunch. It occurred to me -- it occurred to me that we should have a little more discussion about the guidance documents and so figure out how we're going to talk about the guidance-related things, because that is going to become an integral discussion point for every section that we do in the MICS.

Go ahead, Leo.

MR. CULLOO: One more comment. When we talk about -- it seems like everything is driven by checklist to determine compliance and how good they are.

And I recall when I first got in this business, when I didn't have any knowledge, really, about that kind of stuff and going to peers for help, but a lot of times there is always a checklist provided, saying here is a checklist, this is to help you with your program. And I found myself at some point thinking, wow, I have all the yeses checked, I have a great compliance. I should be nominated for compliance manager of the year.

1           Then I started thinking that I'm training  
2 my staff to the list. And what that does is narrowing  
3 scope, your ability to really check what your risks are.

4           So to me a checklist should not be  
5 anything more than one small tool in a complete  
6 compliance program, because you don't want to train  
7 people to the list, because then that's all they look  
8 at. And I think that's what happened sometimes, is  
9 people get so focused on the list, I have this piece of  
10 paper, all the yeses, I'm good to go, I have a great  
11 program.

12           ASSOCIATE COMMISSIONER LITTLE: Yeah, I  
13 think one aspect of the way (inaudible) that you do your  
14 job there.

15           MR. FISHER: All right. So, Dan, what  
16 are you thinking about in terms of the discussion around  
17 the guidance?

18           ASSOCIATE COMMISSIONER LITTLE: Dan,  
19 Smokin' Dan I think brought up a really good -- he  
20 brought up a really good point about the guidance  
21 document. I think there was some confusion.

22           When we say we want to discuss the  
23 guidance document, we don't want to go, okay, Tab T, we  
24 don't want to do that. We just want to highlight the  
25 areas that we pointed out in the comparison documents.

1 So maybe that provides a little more ease for the group  
 2 and maybe eliminates the fear that we're going to go  
 3 line by line.

4 I think Rest and his staff did a pretty  
 5 good job at highlighting some areas that, you know,  
 6 whether or not they were removed from the regulation  
 7 altogether, whether they were taken from the regulation  
 8 and put into the guidance documents, just a little bit  
 9 of rationale or reasoning why did you do that. And I  
 10 think that would be really helpful overall to the  
 11 process there.

12 So that was -- I mean, what's the whole  
 13 point that we are trying to make. And I'm sorry there  
 14 was a little confusion there about we don't want to open  
 15 up the tab and go line by line, if that helps out  
 16 anybody.

17 Anybody have any comment on that? Okay.

18 MR. FISHER: So we're not trying to draft  
 19 the guidance, but there are questions that you have that  
 20 are in the comparison document about the guidance that  
 21 came along with the TGWG proposal.

22 ASSOCIATE COMMISSIONER LITTLE: Yes.

23 MR. FISHER: Okay. And that's what you  
 24 want to focus on?

25 ASSOCIATE COMMISSIONER LITTLE: Yes.

1 MR. FISHER: Okay. So is there anything  
2 more we need to talk about on either the risk-based  
3 approach or on your questions? Are there questions that  
4 NIGC sent out at the end of last week, before we turn to  
5 starting in on the MICS 543.1, which is the next subject  
6 on the agenda?

7 Okay. So then let's -- let's go to 543.1  
8 and that whole section in there, 543.1, 543.3, 543.4 and  
9 543.6. And I heard I think Matthew, you said this  
10 morning that it was important to understand those  
11 sections and how those sections fit into the rest of the  
12 proposal from the Tribal Gaming Working Group.

13 So does somebody who participated on the  
14 Tribal Gaming Working Group want to give any kind of  
15 overview or explanation of what that represents?

16 MS. HAMEL: I would be glad to.

17 I think more that 543.3 was really the  
18 key to the mission that the TGWG had in developing a  
19 MICS document that would only be successful if there  
20 were tribal internal controls as well as a system of  
21 internal controls developed and implemented by the  
22 operations.

23 And I think we tried to do a really good  
24 job in 543 and in our draft of identifying how those  
25 internal controls need to be implemented to make this

1 whole process of Minimum Internal Control Standards  
2 successful.

3           Also, in 542.3 and 543.3 proposed, there  
4 was all of this language about CPAs and CPA testing and  
5 all of these regulations and under GAAP and GASB and on  
6 and on and on. And those are really kind of an outcome  
7 of an external audit or some guidelines that we thought  
8 really should be in the audit section or accounting  
9 section as part of the annual audit. And I think the  
10 whole tone of all of 547 and 543 was that if there were  
11 other regulations that an operation or TGRA needed to  
12 make sure they were in compliance with that we didn't  
13 regurgitate what those regulations are, because they  
14 could indeed change and then you would have outdated  
15 information.

16           So we moved all the CPA language over to  
17 procedures, information in the accounting section under  
18 audit and accounting under an annual audit, and we used  
19 real generalizations of different regulations outside of  
20 NIGC regulations that could be referred to. And then  
21 we, in our guidance document, I think we also talked  
22 about responsibilities of the operations and the  
23 management of the operation to have enough information  
24 that they understood what their CPAs were supposed to be  
25 looking for in the agreed-upon procedures rather than

1 regurgitating what the agreed-upon procedures were.

2 I truly believe that that 543.3 is the  
3 foundation of every one of these regulations going  
4 forward.

5 MR. FISHER: You're nodding your head in  
6 agreement?

7 MR. MORGAN: Yes. I completely agree  
8 with all of Kathi's statement there. And that really --  
9 I personally will be looking to the NIGC as we go  
10 through these sections, seeing if you buy in, again, to  
11 that concept of how you implement that concept. If you  
12 buy into the concept that's set forth in 543.3, 543.4  
13 really is telling for the rest of the document to make  
14 sure that you understand at least how the Tribal Gaming  
15 Working Group looks at it and, so far in our  
16 discussions, I think how the majority of the folks are  
17 seeing the structure set up.

18 So hopefully, this will give everybody a  
19 good understanding. And either at that point we can,  
20 you know, talk about whether you agree with that concept  
21 or no, you don't agree with that concept. And maybe  
22 we're -- you know, what we talked about this morning,  
23 what the Chairwoman talked about, is that there may need  
24 to be specific issues from the guidance that you thought  
25 need to be back in there. And I'm going to look to you



1 guys to kind of bring those points up, that I'm not  
2 there yet, how do I get there. It's very important that  
3 we grasp the foundation of how this at least proposed  
4 standard was drafted.

5 ASSOCIATE COMMISSIONER LITTLE: I think  
6 for the underlying premises, and I know you've been  
7 pretty clear about wanting us to basically buy into the  
8 concept or not buy into the concept, and that's just  
9 something we can't do right now. I think we're  
10 comfortable with you helping us understand how you came  
11 to these conclusions, and I guess working off the  
12 premise that if, I guess, all this could be accepted,  
13 how did you come to these conclusions? All right? Not  
14 putting us in a, say, a box that yes, okay, we're agreed  
15 that we support this philosophy but, you know, don't  
16 work -- you know, working off this draft, explain to us  
17 how you came to some of these conclusions.

18 You know, I think for 543.3, you know, we  
19 had some points we were hoping to get clarified. There  
20 isn't any guidance documents, but, you know, as far as  
21 like time frames, the independent certified public  
22 accountant audit report, some of those types of things  
23 would be helpful to help us understand.

24 That's why, Dan, when you were out, I was  
25 talking about the conversation that we had about, you

1 know, we don't necessarily want to look through all the  
 2 guidance documents and go line by line, we're just  
 3 trying to touch upon these comparison documents that we  
 4 highlighted that we'd like a little more information on.

5 If there is other areas of the guidance  
 6 documents, and I do understand some of these sections  
 7 have guidance documents, some don't, if there is other  
 8 areas that the group feels it's important to talk about,  
 9 even amongst yourselves, I mean, that's fine, also. But  
 10 these are the areas that we raised and we thought were  
 11 worthwhile to discuss a little bit further.

12 MR. MCGHEE: So for 543.3, for instance,  
 13 you're really only -- you have two, well, questions  
 14 about two sections, (a)(2) and (b)(2), okay?

15 ASSOCIATE COMMISSIONER LITTLE: Yeah.

16 MR. MCGHEE: I'm looking at the NIGC  
 17 comments to proposed regulations.

18 ASSOCIATE COMMISSIONER LITTLE: Right.

19 MR. MCGHEE: Right?

20 ASSOCIATE COMMISSIONER LITTLE: Exactly,  
 21 yeah. And I think the -- I think, Kathi, you might have  
 22 answered the CPA testing request on the last page that  
 23 we talked about. Is that being moved to another  
 24 section?

25 MS. HAMEL: Yes. It's under audit and

1 accounting, 19.

2 ASSOCIATE COMMISSIONER LITTLE: Okay, I  
3 see that.

4 MR. MORGAN: I know you made available  
5 some of the Tribal Gaming Working Group documents and  
6 some of the memos in there that I think are actually  
7 under Tab O. That does set forth some of those  
8 concepts, especially when we talk about the Tribal  
9 Gaming Working Group worked hard not to delete, we  
10 worked very hard to move things by subject matter into  
11 sections and group them similarly with those other  
12 subject matters.

13 So a lot of times when you look at  
14 something and it looks to delete this section, it's just  
15 because it's been moved to another section. We thought  
16 it worked better for frontline folks to find it more  
17 conveniently.

18 ASSOCIATE COMMISSIONER LITTLE: And I'm  
19 not sure -- I don't think we got a redline copy of the  
20 actual whole -- we had a difficult time, in some  
21 instances, of trying to piece together where some things  
22 went and, you know, some areas you created, you know,  
23 new sections, and trying to find a reference, whether it  
24 be in the 2008 regs in the 2010 draft, or I think in  
25 some instances we even had to reference the Part 542.

1           So we'd appreciate your kind of helping  
2 us explain these things, how you got there.

3           MR. WEST: So did you move these -- any  
4 of these standards in total over or were there some  
5 deletions taken out?

6           MS. HAMEL: There were some deletions  
7 taken out. We tried to focus it on the objective and  
8 not the details of whether (inaudible) under the annual  
9 audits.

10          MR. FISHER: Just bear with us one  
11 second. That's a good reference.

12          MS. HAMEL: It's (g), it's this entire  
13 annual audit section.

14          MR. WEST: It's really not an audit,  
15 though.

16          MR. FISHER: In what sense?

17          MR. WEST: An AUP is not an audit.

18           I think that's what I was touching on  
19 earlier, there is a lot of different terminology that's  
20 floating around. Your agreed-upon procedures is not an  
21 audit. So it's not a good terminology for the function.

22          MR. MORGAN: Could I ask you to explain,  
23 in your thought process, what an AUP would be if not an  
24 audit?

25          MR. WEST: An audit, generally, a CPA

1 renders an opinion on the financial statements of an  
2 entity. In this case, there is -- they're given a  
3 testation agreement. So it's different than an audit.  
4 It's probably easier to say it's at a lower level than  
5 an audit.

6 MR. MORGAN: But the function is  
7 performed by whom?

8 MR. WEST: External audit CPA firm.

9 MR. MORGAN: I asked that question  
10 because of my idea on the subject matter, when you're  
11 talking about audits, we gave different names to  
12 different types of audits, but we still found that that  
13 subject matter fell into auditing. It may not rise to  
14 the level of what, Rest, you're saying, and I don't know  
15 what the correct term -- you said audit. I don't know  
16 if there is a better word to distinguish between an  
17 agreed-upon procedures type of an audit and a full-blown  
18 MICS compliance audit or a --

19 MR. WEST: They're entirely separate.

20 MS. TAHDOOAHNIPPAH: Well, is statements  
21 on standards for a testation engagement, isn't that a  
22 financial audit?

23 MR. WEST: No. The financial audit is  
24 entirely different from the AUP, from the agreed-upon  
25 procedures. Financial audit, every tribe is required to

1 do that, submit it to the NIGC. And it's -- the purpose  
2 of the audit is for the CPA to render an opinion on the  
3 financial statements. It is not to go in and look at  
4 the MICS. That's a completely separate thing that's  
5 required.

6 MS. HAMEL: But doesn't that fall under  
7 571?

8 MR. MORGAN: 25 CFR Part 571.

9 MR. WEST: I don't think so. What's 571  
10 about?

11 MS. HAMEL: Audited financial statements.

12 MR. WEST: Their requirement is each  
13 gaming operation should have an annual audit conducted  
14 by an external CPA firm and submit a copy of the  
15 financial audit to NIGC within 120 days at the end of  
16 the fiscal year. Also, an overlook requirement is the  
17 management letter should be submitted, also. Is that  
18 1715?

19 MS. HAMEL: 571 is the reference in the  
20 proposed 543.

21 MR. WILSON: Kathi, what reference are  
22 you saying?

23 MS. HAMEL: He just pulled this reference  
24 to 571 right here.

25 MR. MORGAN: She's looking at

1 543.19(g)(2).

2 MR. WILSON: Do I understand correctly  
3 that the issue is that the Tribal Gaming Working Group  
4 used the term "audit" to include both a financial audit  
5 as well as a MICS controls audit? Is that what you're  
6 saying?

7 MR. WEST: That's not what I'm saying.  
8 I'm saying that the heading of (j), annual audits, under  
9 this audit and accounting, probably needs to be changed.

10 MR. MCGHEE: It's just a matter of it  
11 being moved to the auditing section, is what he's  
12 talking about, not that it shouldn't be done, but is it  
13 in the right section when we moved it.

14 MR. FISHER: So just to be clear, Rest,  
15 your reference to section -- which part were you  
16 referring to? 543.3?

17 MR. WILSON: No, 543.19, I think.

18 MR. WEST: This is just a point of  
19 clarification.

20 MR. MCGHEE: Agreed-upon procedures,  
21 should it be under the section annual audits if it's not  
22 an actual audit, is what he's talking about. Am I  
23 right? Not that it's not important, but should it be  
24 under the statement annual audits or should it be back  
25 where it was or be titled with something else.

1                   ASSOCIATE COMMISSIONER LITTLE: Does that  
2 make sense?

3                   MR. WEST: The annual audit is not a MICS  
4 requirement, it's a Commission regulation. It's an IGRA  
5 requirement.

6                   MR. FISHER: Oh, so that's why it's  
7 sitting here in 571.

8                   MS. HAMEL: Right.

9                   MR. MORGAN: Right.

10                  MS. TAHDOOAHNIPPAH: I took it as saying  
11 now that it's -- you're going to have -- your annual  
12 audit is going to include AUPs and financial.

13                  MR. WEST: Well, I don't think financials  
14 should be addressed in this document, in 543, because  
15 you might conflict with something in IGRA.

16                  MR. FISHER: Okay. So what are we --  
17 what question are we trying to figure out?

18                  ASSOCIATE COMMISSIONER LITTLE: We're  
19 just explaining to them the issues that we see, and then  
20 the group can adjust accordingly and make some  
21 recommendations, or if you feel that it's fine, you  
22 think it's clear enough --

23                  MR. MORGAN: So in a previous MICS, I  
24 don't want to use that "previous" with all of its  
25 misnomers out there, in at least the redline version,



1 the syntax we got says the agreed-upon procedures may be  
2 performed in conjunction with the annual audit.

3 So I mean, that statement was in  
4 something that was marked out. The Tribal Gaming  
5 Working Group put that language -- moved it, because it  
6 all dealt with the subject matter we felt of audits,  
7 moved it over, put it in 543.19(g) under annual audits.

8 And the only thing I'm trying to figure  
9 out is if we still -- because it does say "may." You  
10 know, the agreed-upon procedures, do we require it? So  
11 now we have to do an annual audit and an AUP, or is it  
12 you may do it in conjunction with your annual audit?  
13 Because to me, at least in my mind, when your auditors  
14 come in, no matter what function they're performing,  
15 that's -- you're all talking about auditing.

16 Because one of the things we did, and I  
17 hate to jump forward like this, I promise, because if  
18 I'm causing confusion, just tell me to shut up, because  
19 we tried to turn them into the annual audits, an  
20 internal audit and an operational audit, trying to make  
21 sure you understood who was supposed to be performing  
22 the audit and the subject matter covered, but it was all  
23 covered under the umbrella audits.

24 I took it from Rest that he didn't think  
25 it fell under audits. I wanted to make sure the group

1 understood that it may not fall under audits. But in my  
2 mind, it's still an audit but it may not be one of those  
3 audits. And if not, maybe we need to adjust and have a  
4 separate section under audits that we discuss  
5 agreed-upon procedures. But if the point is it  
6 shouldn't be there, then my question is, well, if it's  
7 not there, then where do you think it should be?

8 MR. FISHER: And the "there" is in  
9 543.19(g)?

10 MR. MORGAN: Yes.

11 MR. FISHER: Thank you.

12 ASSOCIATE COMMISSIONER LITTLE: Will that  
13 work?

14 MR. WEST: My point to begin the whole  
15 thing is it's typically not known as an audit. So the  
16 heading for that section needs to be changed, because  
17 the confusion here is whether you're talking about a  
18 financial audit or MICS audit.

19 MR. WILSON: And clearly, there is -- I  
20 mean, a financial audit is distinct and separate. So  
21 the agreed-upon procedures are really to address this  
22 other component that, for efficiency's sake and cost,  
23 makes sense, particularly in concert with when your  
24 financial audit is being done, most firms will also do  
25 the agreed-upon procedures audit or the MICS audit,

1 whatever you want to call it, at the same time because  
2 it makes sense to do so.

3 But one is not directly tied to the  
4 other. You can do a financial audit independent without  
5 doing the other one, or vice versa.

6 MS. HAMEL: But it must be done annually.

7 MR. WILSON: Yes.

8 MR. MORGAN: Well, that's what I think  
9 our term was, annual.

10 MR. FISHER: Oh, I see. So is it a  
11 heading change or is there a substantive change? Is  
12 this a nomenclature change?

13 MR. WEST: A heading. Because as I was  
14 speaking before lunch, there is a lot of confusion as to  
15 all the audits and different types of things that are  
16 done by whether it's internal auditors or external  
17 auditors or whatever.

18 MR. MORGAN: Well, I think at least from  
19 the working group, that's one of the reasons we tried to  
20 bring it all into one place. And if we failed to  
21 distinguish something there -- because the way we were  
22 looking at it was while IGRA does require an annual  
23 audit, annually you also have to do an AUP. So we're  
24 just going to put it under the general heading of annual  
25 audit. Maybe we need to split those two things up in

1 the audit.

2 MR. WEST: My point is the financial  
3 audit shouldn't even be discussed in this document,  
4 unless you're saying you can do it in conjunction with  
5 it or something. I don't think you do. I think you  
6 just discuss --

7 MS. HAMEL: That's what we said, we just  
8 said it could be in conjunction, as required.

9 MR. FISHER: Where? What section are you  
10 referring to?

11 MR. MORGAN: 543.19(g).

12 MS. HAMEL: (g)(2).

13 MR. MCGHEE: But in that paragraph, it  
14 does say it must be submitted with the annual financial  
15 audit versus it may be.

16 MR. FISHER: Okay. Everybody keeping  
17 track with where we are?

18 MR. WILSON: I mean, (g) says annual  
19 audits. And really what you're pointing out is there  
20 are required audits that need to be done.

21 MS. HAMEL: Annual.

22 MR. WILSON: Forget annual, just say  
23 there are required audits, and then you can identify the  
24 required audits and their frequency.

25 MR. WEST: I'm saying get away from

1 audit.

2 MR. MCGHEE: Should it be review?  
3 Reporting procedure?

4 MR. FISHER: So don't call the AUP an  
5 audit?

6 MR. WEST: No.

7 MR. MORGAN: Even though it's done by an  
8 auditor?

9 MR. WEST: They don't give an opinion on  
10 it. If they have findings, they list them, but they  
11 don't -- we were not engaged to and did not perform an  
12 examination objective (inaudible) expression of opinion  
13 on internal control structures as a whole. Further, we  
14 do not express such an opinion.

15 I mean, that's typical language in all  
16 your AUPs, if you were to pull them up and take a look  
17 at them, see what your CPA firm said on your last AUP  
18 that you received.

19 MR. MCGHEE: In the internal controls, is  
20 that the only place where they say a CPA must do this in  
21 the 543 as a whole? Is that the only place?

22 MR. WEST: I think so.

23 MR. MCGHEE: So could that just be the  
24 only place you mention that a CPA has to be -- instead  
25 of calling it an annual audit, just say CPA requirement

1 or something?

2 MR. WEST: I think it says CPA testing in  
3 the 543.

4 MR. CALLAGHAN: Rather than calling it an  
5 audit, what if we called it an engagement?

6 MR. FISHER: It's 543 -- the existing  
7 543.3(f) labeled CPA testing. And then it says an  
8 independent certified public accountant must be engaged  
9 to perform the AUP.

10 MR. MCGHEE: Why don't we just call (g)  
11 CPA -- what did you say? Reporting?

12 MR. FISHER: Testing.

13 MR. MCGHEE: CPA testing.

14 MR. WEST: We're not even on 19 yet.

15 MR. MCGHEE: But it's a question that  
16 first we can fix it now.

17 (Simultaneous discussion.)

18 MR. MORGAN: If I could bring up one  
19 thing, and I'm trying to regurgitate, again, back to  
20 conversations from the work group, is that the worry  
21 was, again, we're talking about like a new commission,  
22 if you walk in and you say what am I supposed to do, we  
23 tried to set forth in one section, saying this is what  
24 you have to do on this subject matter.

25 We may not have got there. That's my

1 only worry about just calling it AUP there. Maybe it  
2 needs a different section somewhere else. Because if  
3 you're just reading your MICS and somehow you forget to  
4 go back to 571 and remember, oh, yeah, I need an annual  
5 audit, it doesn't show up in --

6 MR. MCGHEE: But you can still leave it  
7 under 19 under those kind of requirements, just a  
8 different name.

9 MR. MORGAN: That's kind of a separate  
10 issue. I want to make sure that, if our goal is to help  
11 smaller or new commissions, you don't forget something.  
12 Where would be the best place to put that reminder? And  
13 maybe it's not in the Class II, it may not be, but  
14 somewhere where you say, hey, guys, don't forget about  
15 this requirement, too, over here. Because otherwise I  
16 think we've talked about things -- in my world, I'm not  
17 an auditor, when I hear audits, you told me everything  
18 in that one section, everything that I need to do there.  
19 And if I take something out from there, then I want to,  
20 you know, from my perspective, I want a pointer  
21 somewhere saying, oh, yeah, don't forget about this  
22 thing that you have hanging out here that you have to  
23 do, as well.

24 MS. THOMAS: I think if you just change  
25 it to the CPA testing (inaudible) it would be fine, not

1 change that paragraph that points to it.

2 MR. MORGAN: I'm just regurgitating the  
3 conversation we had. You don't have to convince me.  
4 Sorry, Christina.

5 MR. FISHER: If I understand Christina,  
6 you're still -- the Tribal Gaming Working Group wanted  
7 to consolidate all of those things in one place, you  
8 moved it out of various places, put it in 543.19,  
9 particularly (g) here. And if you're okay with that  
10 concept of consolidating all of it, then it's just a --  
11 then it's just a name change. But if you have a problem  
12 with consolidating it, then we need to be talking about  
13 that.

14 Rest?

15 MR. WEST: It's more logical for me to  
16 leave it in 543.3. But then you talk about such things  
17 as determination to your level, gaming operation moved  
18 from one tier to the other, it's in this tribal  
19 governments comply with this (inaudible). It seems  
20 logical to me to leave it in that part of the MICS. The  
21 TGRA should ensure that the TICS are established and  
22 implemented that (inaudible), evaluation TICS. So it  
23 seems to follow logically in 543.3.

24 MR. FISHER: That's what you were just  
25 reading from, 543.3?



1 MR. WEST: Yes.

2 MS. HAMEL: Operationally, if it doesn't  
3 get assigned to a department, it's very likely it can be  
4 missed. If it isn't owned by accounting or if it isn't  
5 owned by bingo or if it isn't owned by the cage, it will  
6 fall through the cracks.

7 MR. FISHER: So that was part of the  
8 reason for taking it out of subsection (3)?

9 MR. MORGAN: I can see that, because when  
10 we started talking, we went straight from the technical  
11 standards right into bingo and we just went right by it  
12 because it wasn't a subject matter jumping out at us.

13 MR. CALLAGHAN: That makes sense.

14 MR. FISHER: What makes sense, Brian?

15 MR. CALLAGHAN: We recommend it.

16 (Simultaneous discussion.)

17 MR. MCGHEE: Made sense to them that it  
18 be over here. That's where they were going.

19 MR. FISHER: Let's have one conversation  
20 going at a time, if we could.

21 Okay. Brian, tell us, does it make  
22 sense?

23 MR. CALLAGHAN: I'm sorry. What I was  
24 rudely saying was just change that section from control  
25 standards for auditing, make it auditing, accounting and

1 attestation, and then you've got your all-inclusive  
2 section, and then you've got the nomenclature that you  
3 may be more --

4 MR. WEST: But this is the responsibility  
5 of the TGRA to make sure this is performed. And the  
6 rest of the discussion of 543.3 is the same. I mean,  
7 it's one of the -- it's not a specialized area of the  
8 gaming operation like internal audit or whatever that  
9 needs to be, to me. Well, I mean, I'm --

10 MR. CALLAGHAN: The very first section  
11 there, internal controls subject to the approval and  
12 oversight of the TGRA, this has to do with internal  
13 control procedures. We could make it part of TGRA's  
14 ownership.

15 MR. WILSON: Well, that's an interesting  
16 question, because in --

17 MR. FISHER: What's an interesting  
18 question?

19 MR. WILSON: Well, this idea of who has  
20 ownership of the annual audit.

21 In our operation, the casino has  
22 ownership of that. And in fact, they select the public  
23 accounting firm as approved by the tribal council. Our  
24 role is merely to ensure that it's being done but not --  
25 we aren't really -- we actually aren't involved at all

1 in that audit, per se. I don't know if it's the same  
2 with other folks.

3 MR. FISHER: So I see people nodding  
4 their head around the table, that that's the way it  
5 works in other tribes, as well, other situations.

6 MR. MORGAN: Because that's the reason  
7 the question has been directed to the tribe to decide.  
8 The tribal government decides who owns it, in a way.  
9 And if it does sit at a council level, while you're  
10 required to make sure they get it done, sometimes it's  
11 hard to tell political leaders you need to get to that.  
12 Sometimes you remind them of the risk associated with  
13 not, but I do agree with your statement earlier, having  
14 somebody own that and making sure that it's their  
15 responsibility.

16 MR. WILSON: It's our responsibility, we  
17 are the ones who actually send the report to NIGC once  
18 it's completed, but we don't have a lot of active  
19 involvement in that audit. We're a part of the audit.

20 MS. HAMEL: Because what the TGRA's TICS  
21 look like in comparison to the MICS are evaluated by the  
22 external auditors (inaudible).

23 MS. TAHDOOAHNIPPAH: We own, as a  
24 commission, we own our internal audit, so we take  
25 ownership of that and perform that function. And we

1 provide those to our external auditors.

2 MR. MCGHEE: I'm not married to it either  
3 way. If it were in this section or in this section, it  
4 still has to be done at the end of the day. So I think  
5 it's more about what it says to do is more important  
6 than where it is.

7 So I could see your point. I could see  
8 the other side of it, too. But if you're trying to say  
9 that -- and maybe, like you said, if you look at this,  
10 people take ownership of these sections. So basically,  
11 the auditing -- my accounting and my auditing people at  
12 the operation are going to look to that section and  
13 they're going to see that, and then they may claim, oh,  
14 that's my responsibility to do that, when really it  
15 doesn't matter whose responsibility it is, it's just  
16 that the tribal government has to make sure that it's  
17 done.

18 So I'm not opposed to it being back in  
19 543.3. It's a matter of what it says.

20 MR. WEST: So do you now have internal  
21 audit in 543.19?

22 MS. HAMEL: Yes.

23 MR. WEST: That's not the responsibility  
24 of your accounting department. Why wouldn't that be  
25 separated out?

1 MR. MORGAN: Accounting and auditing is  
2 in that section.

3 MR. WEST: It's not a part of that gaming  
4 operation's responsibility, it's a TGRA function or  
5 whoever does your internal audit. Why would it not be  
6 in a separate section?

7 MS. TAHDOOAHNIPPAH: But it could be.

8 MR. WEST: Sometimes the tribal  
9 government does the internal audit, sometimes the TGRA  
10 does it, sometimes it's contracted out.

11 MR. MORGAN: Where the NIGC decides to  
12 put it, it's a requirement, it's really you all's call  
13 where it goes. I'm just trying to explain from the work  
14 group why we put it there. We thought accounting and  
15 auditing kind of went hand in hand. If I'm an  
16 accountant or I'm an auditor and I see my name up there,  
17 I need to go through and figure out who does that.  
18 Whether I'm located in the tribal government, whether  
19 I'm located in the gaming commission, whether I'm  
20 located externally, if I know my job is to audit, I go  
21 look through that section. I don't have to look through  
22 543.3, 543.7, 543.19, I know I can go to that section  
23 and say that's what I need to do. That was our thought  
24 process.

25 MR. MCGHEE: Any kind of audit, any kind

1 of review, anything of that kind in that section that  
 2 has to be done by somebody, that's that concept.

3 Whether you stick with that or change that --

4 ASSOCIATE COMMISSIONER LITTLE: Any  
 5 recommendations?

6 MR. WEST: I mean, the original intent  
 7 when this section was developed through, I don't know,  
 8 one of the committees, they had expanded the auditing --  
 9 the revenue auditing is what I call it, expanded the  
 10 revenue audit to the standards. And then some members  
 11 of the committee decided they were going to take all the  
 12 revenue audit standards and move them to this one  
 13 section, this 543.50.

14 So I think that's where the -- this whole  
 15 idea or thought process was. But it's just for what you  
 16 call operational auditing and what I call revenue  
 17 auditing. So the revenue auditors would have this one  
 18 section and know what to do. But in 543.19, you have  
 19 internal audit in there, too, and also the AUP, which  
 20 are entirely separate from the operational auditing  
 21 function.

22 MR. FISHER: So you weren't trying to  
 23 combine them on the ground, you were just trying to put  
 24 in one place in the regulation all the similar kinds of  
 25 provisions. And I see it says operational audit,

1 formerly a revenue audit, in 19.

2 ASSOCIATE COMMISSIONER LITTLE: All  
3 right. I think we've beat this issue.

4 MR. FISHER: Yes. So --

5 ASSOCIATE COMMISSIONER LITTLE: So I  
6 understand it now.

7 MR. MORGAN: That's what we wanted, you  
8 to understand it.

9 MR. FISHER: We beat it enough we  
10 actually get it. All right. So --

11 MR. WEST: So that's something to think  
12 about when we get to 543.19, I guess.

13 MR. MCGHEE: But it answers the question  
14 you had for 543.3, right?

15 ASSOCIATE COMMISSIONER LITTLE: Right.

16 MR. FISHER: He's looking at the comments  
17 on the comparison document.

18 MR. WILSON: For 543.3?

19 MR. FISHER: Yes, 543.3. The first NIGC  
20 comment was on section (a)(2), the date of the  
21 independent CPA audit report.

22 MS. TAHDOOAHNIPPAH: I read it to be the  
23 date of the opinion.

24 ASSOCIATE COMMISSIONER LITTLE: What was  
25 that, date of the what?

1 MS. TAHDOOAHNIPPAH: Date of the opinion,  
2 the way I interpreted it.

3 MR. FISHER: Was that what was intended?

4 MR. MORGAN: I think the previous one  
5 said you had six months to come into compliance.

6 ASSOCIATE COMMISSIONER LITTLE: And now  
7 it's nine, right?

8 MR. MORGAN: And then if you want an  
9 extension, you will get another six months. And the  
10 work group said, well, we think you should have nine  
11 months to come into compliance, and you still get that  
12 extra six months.

13 And the reason we did that, if you notice  
14 that gives you more than a year, that next question  
15 talks about it I think, the year, because sometimes with  
16 new regulations -- like my office, I'm annually  
17 budgeted. So I know in October -- actually, I know in  
18 June, prior to October, what my budget is going to be.  
19 If you come up with a new rule in December and I'm  
20 required to implement that within that fiscal year and I  
21 didn't get budgeted for it, that presents me with a huge  
22 problem.

23 So that was to give you some type of  
24 overlap, something longer than a twelve-month period, if  
25 you're in that situation, so you're not required to meet



1 a standard within a budget year that you already have  
 2 been budgeted for.

3 ASSOCIATE COMMISSIONER LITTLE: I thought  
 4 we went over this. You said there was no added cost for  
 5 compliance. Sorry, I had to.

6 MR. MORGAN: Because you reserve the  
 7 right to do something later. I don't know what you want  
 8 to do, I have to build in that. But that's the worry  
 9 sometimes.

10 But again, going back to smaller, going  
 11 back to newer, just going back into that wasn't in my  
 12 priorities for this budgeted year. I don't know how I'm  
 13 going to take care of that now without going back to  
 14 tribal council. And you're going to have arguments of  
 15 how come you're putting demands on tribal council to put  
 16 something in gaming that's not there.

17 MR. WEST: The regulations usually have a  
 18 lot of lead time before their compliance is required,  
 19 don't they?

20 MR. MORGAN: Rest, I would give you an  
 21 example of this Class II. It was published in 08  
 22 originally. We spent lots of time and efforts gearing  
 23 up for it, trying to implement it, and then you pushed  
 24 it back and you pushed it back.

25 So sometimes it doesn't pay to be ahead

1 of the curve, because you put in time, and effort and  
2 two years down the line we weren't there. Sometimes it  
3 does serve you best to wait until the implementation to  
4 say yes, this is what I'm going to do and it's going to  
5 be in this form when it's finally published in the  
6 Federal Register, because that's the requirements that I  
7 have to meet.

8 ASSOCIATE COMMISSIONER LITTLE: Yeah,  
9 we're going through that process for the regs that we're  
10 promulgating right now, for the proposed rules that are  
11 out there, is how can we basically work them into the  
12 flow and folks comply with it and be on time. And  
13 obviously, you make a good point about making sure that  
14 tribes are budgeted for these types of things, because  
15 there are issues there.

16 MR. MORGAN: I'm not tied to the dates,  
17 I'm just saying the reason why they extended it beyond  
18 twelve months, was that was the concern from some folks  
19 in the room.

20 MR. WEST: So back to the first question,  
21 the date of the report --

22 MR. FISHER: Okay. Everybody see where  
23 we are? We're on page nine of the comparison document.

24 MR. WEST: And actually, you go back to  
25 the first page, it's paragraph (a)(2), gaming operations

1 moving from one tier to another shall have nine months  
2 from the date of the independent certified public  
3 accountant's audit report (inaudible).

4 So what is the date? What date is that  
5 referring to?

6 MR. FISHER: It starts the date of the  
7 opinion letter or the date of the fiscal year?

8 MR. MCGHEE: It says the certified public  
9 accountant's audit report.

10 MR. WEST: Is that the date of his  
11 opinion or the date of the fiscal year?

12 MR. FISHER: Because the opinion relates  
13 to a specific fiscal year. That's the question, right?

14 So Mr. CPA, what should it be?

15 MR. WILSON: I'm not a CPA and I don't  
16 play one on TV, but they're certifying for a period in  
17 time. So the date, in my mind, would be -- because the  
18 firm has what, 120 -- however long they have before they  
19 have to issue their report. But if you go from the date  
20 of issuance of their report, that's going to be -- could  
21 be potentially a variable, whereas the end of the fiscal  
22 year that they're reviewing is a definitive date that  
23 would be absolute for everybody.

24 ASSOCIATE COMMISSIONER LITTLE: But  
25 isn't -- I'm sorry, is the report, when it's all done,

1 is that what's going to then all of a sudden say now you  
2 have moved it to tier B, whoever gets that report  
3 doesn't know that until they get this report. So if  
4 they issue a report 120 days after the year ends, that's  
5 when they have to start their timeline of coming into  
6 compliance, is what I know about it. So it's not the  
7 year that it was done, it's when they actually get a  
8 report saying, hey, you're in tier B now or you're in  
9 tier C now. Now you have 120 days to get into  
10 compliance.

11 MR. WILSON: Your financials, I mean, at  
12 the end of the fiscal year you know your financials.  
13 And if you've reached a new threshold --

14 MR. MCGHEE: Not necessarily does your  
15 TGRA know you've reached a new threshold without getting  
16 something.

17 MR. WEST: Don't you get annual --  
18 monthly financials from the gaming operation?

19 MR. MCGHEE: Yeah, but I don't track them  
20 to see --

21 (Simultaneous discussion.)

22 MR. WILSON: I mean, personally, I can  
23 tell you, I wouldn't -- for me, the trigger of the  
24 external accountant's report as the definitive now it  
25 clicks in wouldn't make sense to me. The event has

1 already happened. So those financials -- if you've  
2 reached that revenue threshold at the end of the year,  
3 that's easily determined to trigger that, oh, we're  
4 going to be in a new tier now, from that standpoint.

5 I mean, if -- the only thing that  
6 possibly could change would be that if you were so close  
7 on the line and the audited financials, through their  
8 process, discovered some error in accounting that caused  
9 that number to change, then yes, that would  
10 retroactively say okay, now you're no longer required to  
11 do that. But there would have to be a pretty  
12 significant material issue that I would think would  
13 likely cause that scenario to come into play.

14 MR. MCGHEE: Isn't there some point where  
15 everybody gets this information notification at the same  
16 time? Your commission knows, operation knows, everybody  
17 knows we're now at tier B. And what triggers that  
18 notification to all parties?

19 MR. WILSON: Well, I would say it's TGRA  
20 who ultimately makes that formalization that you're now  
21 at a different tier. I mean, the financials serve as  
22 the support to say you have reached this thing, but it  
23 would be the TGRA's responsibility, then, to ensure,  
24 then, that the establishment now and that the MICS, that  
25 everything is now compliant to whatever that new tier is

1 that you have rolled into.

2 MR. WEST: Another thing, I mean, the  
3 opinion may come out more than 120 days after the fiscal  
4 year end. And we've had a lot of operations -- well,  
5 some operations have had issues with their various and  
6 sundry things, and it may be six months before the  
7 opinion gets issued. So there is a lot of variables.

8 MR. MCGHEE: So should that now be, what  
9 I'm hearing, is from the fiscal year -- I mean  
10 whatever -- whatever your tribe is operating on is what  
11 that should be -- the language should be changed to.

12 MR. WILSON: Yeah, and I would think that  
13 in part of the guidance documents would be that a TGRA  
14 needs to at least annually make that assessment if that  
15 tier level has changed, based on the --

16 MR. WHEATLEY: Before they see the audit  
17 report.

18 MR. WILSON: Uh-huh.

19 MR. MCGHEE: So the answer to the  
20 question is change it. I mean, that's what I'm getting  
21 at, change it, without us coming up with the language.  
22 Because it could be a fiscal year, it could be a  
23 calendar year.

24 MS. TAHDOOAHNIPPAH: I think it should be  
25 up to the TGRA to determine.

1 MR. CULLOO: On whether it's fiscal or  
2 calendar?

3 MS. TAHDOOAHNIPPAH: No, on what the date  
4 is.

5 MR. MCGHEE: We can agree that it's  
6 confusing.

7 MR. MORGAN: So then I just want to make  
8 sure, my concern has to deal with crossing over a budget  
9 year. Whether you tie it to the end of your fiscal year  
10 or to the date, it's not so relevant for my position, as  
11 long as you -- to me, it's more significant I get nine  
12 months plus an additional six, if it's deemed relevant,  
13 as opposed to six and six. That's more my issue.

14 ASSOCIATE COMMISSIONER LITTLE: And that  
15 wouldn't cause any gaps in compliance or performing --

16 MR. MORGAN: Not that I can think of.

17 MR. WEST: So you're saying 15 months  
18 after they become -- well, we're not sure about the date  
19 yet, but say it is fiscal year, so you're saying you're  
20 going to allow 15 minutes to come into compliance?

21 MR. MORGAN: Not necessarily, because,  
22 again, I have to do nine months and then what the reg  
23 says is you can apply to your regulatory body for a  
24 six-month extension. I think that's subject to your  
25 individual regulatory body granting that. I don't think

1 it's a foregone conclusion you're going to get it. At  
2 least in my world, you have to show me something that  
3 you've been doing in order to meet that standard and  
4 there has to be some type of justification of why you  
5 didn't meet that nine months. If it's deemed relevant,  
6 I may grant it, but it's not a foregone conclusion  
7 you're going to get that nine months. You have nine  
8 months instead of six months is where I start out at  
9 when I'm trying to evaluate some of those requests.

10 But back to your question, you know,  
11 potentially, yes, you would have 15 months instead of  
12 the 12 months to come into compliance, potentially.

13 MR. FISHER: Because that initial nine  
14 months is important to you, instead of six. Nine plus  
15 six rather than six plus six.

16 MR. MORGAN: Because if I got  
17 surveillance and suddenly you do a pixel requirement and  
18 I got to upgrade something, that's \$7 million I didn't  
19 budget, I'm going to push that upgrade maybe at the end  
20 of this fiscal year into the next fiscal year so I come  
21 in compliance with that requirement on surveillance, as  
22 opposed to trying to tackle that in one fiscal year.

23 (Simultaneous discussion.)

24 MR. MORGAN: That's where I find that  
25 leeway helpful in those instances.



1 MR. FISHER: Tom?

2 MR. WILSON: Well --

3 ASSOCIATE COMMISSIONER LITTLE: We'll go  
4 with that.

5 MR. WILSON: Okay, then I have nothing.

6 MR. FISHER: Very wise.

7 So where did we come out on the question  
8 on the date?

9 MR. MCGHEE: That it would be not from  
10 the report but from the actual -- from your year end  
11 until you changed over to a new tier.

12 ASSOCIATE COMMISSIONER LITTLE: I think  
13 we're asking if you could just clarify that a little bit  
14 better, it would be helpful.

15 MR. MORGAN: So we need a recommendation  
16 for your recordkeeping?

17 MR. MCGHEE: I think a recommendation to  
18 specify a specific time, not so much the language.

19 MR. MORGAN: But if you want to tie it to  
20 the end of the fiscal year, just say we tie it to the  
21 fiscal year, not from the date of the opinion. Because  
22 that's the concept, right?

23 MR. MCGHEE: Yeah. I accept that  
24 recommendation.

25 MR. MORGAN: Nine and six months instead

1 of the six and six.

2 MR. FISHER: He's trying to get some  
3 traction there.

4 MR. MCGHEE: Are we typing this  
5 recommendation?

6 MR. FISHER: We're going to have to type  
7 it if it actually is a recommendation. So here is one  
8 way to do it, is to say -- let's see if this will work.  
9 We might have to wake it up again.

10 So where I am on the screen is at the  
11 very end of 543.3. If I scrolled up, you would see it.  
12 So if we were doing just the specific thing that we did  
13 here, you could say -- I'm at the end of 543.3. And so  
14 one question is whether you're recommending the -- we  
15 haven't talked about the whole section. The first is  
16 whether you're recommending that TGWG version of 543.3  
17 and then are you recommending -- and then with these --  
18 with whatever changes we're doing. The nine plus six is  
19 in the TGWG version, right?

20 So you could say this. So I don't know  
21 whether that captures it or not. You have to tell me.

22 So what it says is the recommendation  
23 would be the TG -- does that help? TGWG version of  
24 543.3 clarifying that the date in (a)(2) is from the end  
25 of the fiscal year. So you could say that, if you

1 wanted to be specific, the date of the -- it's actually  
2 (a)(2), yes.

3 The operation's fiscal year. So it could  
4 also be that -- you know, we had a long discussion about  
5 the accounting provisions in 543.19(g) and whether those  
6 should be back here or not, but for right now, you could  
7 postpone that discussion and say the things that in  
8 543.3, based on what the TGWG has proposed, is what  
9 you'd like to see with this one change.

10 Tom, were you going to say something?

11 MR. WILSON: Just recalling our  
12 conversation with the reporting group that we had last  
13 week, are we working out of the version of the document  
14 that we --

15 MR. FISHER: Yes. So we're working out  
16 of the version that is in Tab A of what's in the  
17 notebook.

18 MS. HAMEL: So you're not just going to  
19 run on with the change?

20 MR. MCGHEE: We don't have the change,  
21 just a recommendation.

22 MR. FISHER: Well, two things. So  
23 redline the change means -- what I heard was a  
24 conceptual recommendation, not a language suggestion.  
25 So we can, if you want to do language changes, then I

1 can -- I can do that.

2 This version of the document, also,  
3 currently, this contains everything that we did in Rapid  
4 City, also. So it's already one version beyond what's  
5 in Tab A. But it is the document that the drafting  
6 group -- the starting point for the document on the  
7 screen was what the drafting group did. I probably  
8 should have clarified that.

9 MS. HAMEL: So are we taking those notes  
10 and then going back and redlining?

11 MR. FISHER: So what I -- the question is  
12 whether you're making a conceptual recommendation, which  
13 is accept the TGWG change with this clarification, or  
14 whether you're presenting to them the actual revised  
15 language. That's the question.

16 MR. MCGHEE: You would redline if it was  
17 actually -- we knew exactly what we wanted them to say,  
18 we would fix it right there now in redline. Since we  
19 don't, we just conceptually know we want them to do  
20 this.

21 MR. FISHER: Right. So it's up to you,  
22 whether you want to do what we did in Rapid City, where  
23 we actually made the changes. Well, I'm actually not a  
24 redline guy.

25 MR. MCGHEE: What did you say?

1 MR. FISHER: I said I'm not a redline  
2 guy. I really don't use redlining. But I can explain  
3 that when we get there.

4 ASSOCIATE COMMISSIONER LITTLE: Wasn't  
5 there some confusion in the TGWG document that we had  
6 posted online, there was actually some changes to that  
7 section that were redlined but then they were accepted  
8 and they're not? So it probably would be easier if we  
9 just do this instead of trying to actually edit the  
10 text.

11 MS. HAMEL: Right.

12 ASSOCIATE COMMISSIONER LITTLE: And this  
13 is just a concept. So I would prefer that.

14 MR. FISHER: Well, of the drafting group,  
15 so which was Leo -- I mean Tom and Kathi and Daniel, had  
16 a discussion after the Rapid City meeting about which  
17 documents to work from and what's the way to present the  
18 information in the summary. And so on the MICS part, we  
19 opted to start from what's in Tab A in the notebook that  
20 got distributed, because that encompasses everything up  
21 to the last minute of all the changes from the TGWG.

22 All right. And so we can -- this is up  
23 to you, if you're comfortable doing this, to do a  
24 conceptual recommendation here. And if you want to come  
25 back later and actually change the language, we can do

1 that, or if there are other sections that you want to  
2 change the language on.

3 So again, what this says is that you  
4 recommend the TGWG version of 543.3, clarifying that the  
5 date in (a)(2) is from the end of the operation's fiscal  
6 year, okay? Everybody understand that?

7 So do you want to -- so let's test it.  
8 If you're in agreement with that recommendation, please  
9 raise your hand.

10 Okay, that would be unanimous.

11 (Simultaneous discussion.)

12 MR. FISHER: So is there anything more we  
13 need to do in 543.3?

14 MS. HAMEL: Yes.

15 MR. FISHER: Okay. Kathi?

16 ASSOCIATE COMMISSIONER LITTLE: I'm  
17 sorry, go ahead. I'll wait until after you're done.

18 MS. HAMEL: There was a question for the  
19 NIGC about the twelve-month compliance date which was --

20 MR. FISHER: I thought we got through  
21 that, because we made it 15.

22 ASSOCIATE COMMISSIONER LITTLE: Just a  
23 clarification.

24 MS. HAMEL: Well, (a)(2) is determination  
25 of tiers. (b) is when the TICS have to be implemented.

1 MR. MORGAN: Right.

2 MS. HAMEL: So there is two different  
3 subjects. So I didn't want there to be any confusion  
4 between (a)(2) and the compliance date in (b)(2).

5 MR. MCGHEE: Is that the 15 months that  
6 you talked about?

7 MR. MORGAN: No. You had 15 months to  
8 come into compliance when you change tiers. (b)(2)  
9 actually talks about how long you have to come into  
10 compliance with the Class II MICS. So it's two  
11 different compliance dates.

12 MR. WILSON: So the initial compliance  
13 for everybody?

14 MR. MORGAN: If you move tiers, you have  
15 potentially 15 months to come into compliance when you  
16 change tiers. That's (a)(2). (b)(2) is how long do you  
17 have to come into compliance once the MICS are  
18 promulgated.

19 MS. HAMEL: And the comment on page nine  
20 was that twelve months appears to be an excessively long  
21 time to develop TICS.

22 MR. MORGAN: You have 15 months to come  
23 into compliance with the tier change, you have  
24 potentially 18 months to come into compliance once the  
25 TICS are promulgated. The comment was is that too long,

1 the initial requirement that you come into compliance.

2 Previously, again, the compliance with  
3 any federal regulations, normally you do the six months,  
4 you have six months to come into compliance. If you  
5 don't, the TGRA will give you an additional six months,  
6 which, again, goes back to the fiscal year question I  
7 had before.

8 So on this particular question on  
9 compliance with the MICS, 18 months instead of twelve  
10 months.

11 MR. FISHER: So it's this section right  
12 here?

13 MR. MORGAN: Yes. And whether the group  
14 is comfortable with those dates I think is Kathi's  
15 concern, to make sure that we understand they are two  
16 different compliance dates.

17 MR. FISHER: So are you asking the group  
18 or are you asking NIGC? Because what I understood the  
19 group to do was do a recommendation on the whole 543.3.  
20 So if I got that wrong, you need to tell me.

21 MS. HAMEL: We didn't discuss the NIGC's  
22 concern.

23 MR. MCGHEE: We want to -- your concern  
24 was (b)(2), not to be confused with what we discussed in  
25 the earlier time frame-wise.



1 MR. WEST: Well, the draft regs give a  
2 period of six months and then an additional six months  
3 can be provided. Now the TGWG is saying twelve months  
4 and possibly another six, although these are standards  
5 that have been in the Federal Register for -- you know,  
6 I don't know how long for compliance, typically, I mean  
7 before the effective date.

8 MR. WILSON: So how long, when they're  
9 published in the register, typically, they're published  
10 before the effective date?

11 ASSOCIATE COMMISSIONER LITTLE: We can  
12 determine that at our discretion.

13 MR. CULLOO: What is typical?

14 ASSOCIATE COMMISSIONER LITTLE: Mike?

15 MR. HOENIG: Yes?

16 ASSOCIATE COMMISSIONER LITTLE: Implement  
17 ation dates, they vary by whatever the issue is. And  
18 clearly, what we're looking to see is how the issue  
19 would comply or how they would be able to comply, but  
20 there is no set requirement that a rule be implemented  
21 at some particular time frame once it's been --

22 MR. HOENIG: After the notice of a  
23 proposed rule or after a final rule?

24 ASSOCIATE COMMISSIONER LITTLE: After a  
25 final rule.

1 MR. HOENIG: So there is a minimum amount  
2 of time it has to stay before it can go into effect. It  
3 can be longer than that, it just can't be shorter.  
4 It's either 30 or 60 days, depending on the kind of rule  
5 it is. You have either a minimum 30 days or 60 days.  
6 But if you want to expand it beyond that, as we have  
7 with some of the rules that haven't gone into effect  
8 yet, then that's an option that the commission could do.

9 ASSOCIATE COMMISSIONER LITTLE: All  
10 right. Thank you.

11 MR. WEST: Actually, I would vote for  
12 the -- I would prefer the twelve months because of all  
13 the delay and everything in getting this out.

14 ASSOCIATE COMMISSIONER LITTLE: So the  
15 twelve months plus the six months?

16 MR. WEST: Yeah.

17 MR. MCGHEE: Which is what's proposed.

18 MS. LASH: Robert, can you magnify that?  
19 It's hard to see back here.

20 MR. FISHER: Is that better?

21 MS. LASH: Yes, thank you.

22 MR. FISHER: Okay. So that's already  
23 contained in the TGWG 543.3 version. So that means we  
24 don't have to do anything else with it?

25 Go ahead, Rest.

1 MR. WEST: I do have one question,  
2 though, since we're really operating under no MICS, I  
3 guess at this point -- what are we operating in?

4 MR. FISHER: Who are you asking?

5 MR. MCGHEE: The second paragraph?

6 MR. WEST: What is in effect right now as  
7 far as --

8 ASSOCIATE COMMISSIONER LITTLE: 2008.

9 MR. WEST: But it's been extended.

10 ASSOCIATE COMMISSIONER LITTLE: Oh, I'm  
11 sorry. What was that document? 2006?

12 (Simultaneous discussion)

13 MR. MORGAN: This is a stretch. You did  
14 543.3 for Class II for 2006.

15 ASSOCIATE COMMISSIONER LITTLE: In 2006.

16 MR. MORGAN: I don't think it ever become  
17 effective. You proposed new ones that have been  
18 postponed. So we still operate under 543.3.

19 MS. HAMEL: 542.

20 MR. MORGAN: 542, I'm sorry, for class  
21 purposes as far as what would be --

22 MR. WEST: But after I stated --

23 MS. TAHDOOAHNIPPAH: June 27, 2002.

24 MR. HOENIG: So the 2008 is in a final  
25 reg but it's never been implemented, it doesn't go into

1 effect.

2 MR. WEST: My idea was does the  
3 committee -- this is something for the committee to  
4 think about. Do you want to try to get the regs out  
5 quicker? Because it's -- there is a lot of, I don't  
6 know, confusion as to what's --

7 MR. MORGAN: My worry is I think somehow,  
8 you, again, agency, has to -- has to somehow give some  
9 thought process of how does 542.3 and 542.2 mesh  
10 together for people that have both Class II and  
11 Class III on the floor? Because that was the issue we  
12 ran into last time, is you proposed a 543.3, and you  
13 tried to make those mesh what was already in effect as  
14 542.2. And the operation on the floor made it very  
15 difficult. You had to pick one or the other that didn't  
16 quite mesh.

17 So for me, it's not a question of do you  
18 go fast or do you go slow, it's can you somehow publish  
19 something in conjunction so that your Class III MICS  
20 line up with your Class II MICS, if you're going to do  
21 Class III MICS. I shouldn't assume that's what you're  
22 going to do. If you do something, it needs to be a  
23 standard that is workable at a front line level. That  
24 is my concern for the MICS issue.

25 MR. WEST: What about an entirely

1 Class II operation? I mean, because they're kind of  
 2 operating in limbo right now, I guess. That was just a  
 3 thought.

4 (Simultaneous discussion.)

5 MR. WEST: You're not operating in limbo  
 6 but --

7 MR. MORGAN: That is a concern, because I  
 8 know there are several operations out there that are  
 9 Class II only. I don't know. What do they do about  
 10 that?

11 MR. MCGHEE: What are we following?

12 MR. MORGAN: Well, you guys, you guys,  
 13 and I know the Salish Kootenai, as well, and a few other  
 14 operations are purely Class II.

15 MS. HAMEL: We use 542 as our basis and  
 16 do the best we can to match up Class II against a  
 17 Class III regulation.

18 MR. MCGHEE: We do the same thing. We  
 19 use the same ones everybody has been using since 2004,  
 20 because when they tried to put out some that were just  
 21 for bingo, it became more confusing to us. (Inaudible.)  
 22 So we do that and we take out any section that applies  
 23 and doesn't apply and piece it together.

24 MR. MORGAN: Daniel, from your agency's  
 25 perspective, how do you all view Class II operations

1 right now when you all go out and perform an audit or  
2 have a compliance officer go and check on them? I mean,  
3 what are you comparing them to, if anything?

4 ASSOCIATE COMMISSIONER LITTLE: A  
5 checklist?

6 MR. MCGHEE: They don't do the electronic  
7 gaming section, because it became more complicated. If  
8 they did an internal audit, it was way too confusing,  
9 you know. We do our internal audit.

10 ASSOCIATE COMMISSIONER LITTLE: Well,  
11 Dan, I think your question is it varies by operation and  
12 what they've adopted for their TICS.

13 MR. MORGAN: So right now, NIGC field  
14 investigative staff go in, look at the operation and  
15 what they're doing and audit based on what they're  
16 doing.

17 ASSOCIATE COMMISSIONER LITTLE: Well, not  
18 the field investigators, the auditors.

19 MR. MORGAN: The auditors, very similar  
20 to the same approach that we're advocating right now  
21 that you do.

22 ASSOCIATE COMMISSIONER LITTLE: Touche.

23 MR. MORGAN: I got mine in, too.

24 MR. WILSON: You guys are there and you  
25 didn't even know it.

1           ASSOCIATE COMMISSIONER LITTLE: One of  
2 the other reasons why this is so important we get  
3 through this process.

4           MR. WEST: So my point was for the  
5 Class II operation, would it be better to try to -- I  
6 guess you could look at what the final product is and  
7 see if you wanted to go ahead and adopt it in advance,  
8 or whatever, or before the effective date or the  
9 compliance date or whatever. I was just trying to think  
10 about that when we were talking about compliance days.

11           MS. HAMEL: I think the biggest  
12 difference is terminology. And that will take some time  
13 to go look at your TICS and your system of internal  
14 controls to make sure they mirror the language in the  
15 MICS. So it's just a process and a fine review.

16           Those of us that have been on TGWG  
17 forever understand what a financial instrument is.  
18 Those that haven't are going to have to then interpret  
19 that and how does that apply to their operations. So  
20 that's going to take a little longer than, in my  
21 opinion, six months.

22           MR. FISHER: Okay. Do we need to do  
23 anything more on 543.3 for now?

24           MR. MCGHEE: The last sentence is  
25 confusing as it relates to the implementation. It does

1 not indicate whether the TICS or the SICS are the  
2 documents being changed.

3 MR. FISHER: Where are you looking at?

4 MR. MCGHEE: At your NIGC comments.

5 MS. TAHDOOAHNIPPAH: Page nine.

6 MS. HAMEL: (b) of that section is  
7 referring to TICS.

8 ASSOCIATE COMMISSIONER LITTLE: Is that  
9 what you're saying, it's referring to TICS?

10 MR. MCGHEE: Yeah, it says come into  
11 compliance with the TICS. You all's question is does it  
12 indicate whether it's the TICS or the SICS?

13 MR. CULLOO: (2)(b) is TICS and (2)(c) is  
14 SICS.

15 MS. TAHDOOAHNIPPAH: I'd like to say that  
16 all changes necessary (inaudible) with this part,  
17 meaning this part, and the part also includes (c). So  
18 your TICS would have to come into compliance and then  
19 your systems of internal controls would also have to  
20 come into compliance within that time frame.

21 MR. FISHER: Okay. So is there anything  
22 here that needs to be clarified or revised? Some people  
23 have specific ideas about where it should go, but I  
24 thought we would do that when we got to section 19,  
25 unless you want to go there now. But we don't have a



1 comparison document for 19 yet.

2 All right. So anything more on 543.3?

3 So, Kathi, when you started the  
4 explanation of those sections, you said 543.3 was an  
5 important one, kind of skipped over 543.1. So do you  
6 want to go back to 543.1 or --

7 MS. HAMEL: Sure.

8 MR. FISHER: -- or do you want to move  
9 on?

10 MS. HAMEL: No, we can start with one. I  
11 think in 543.1 we just took out any reference to 542.

12 MR. FISHER: So is there any discussion?  
13 I know there is no comment or question --

14 ASSOCIATE COMMISSIONER LITTLE: Yeah, we  
15 didn't have any comment, just cleanup.

16 MR. FISHER: So that means -- are we  
17 doing a recommendation here on 543.1 or not?

18 MR. WILSON: Recommendation about --

19 MS. HAMEL: Can I just bring up one  
20 question? Should we assume that if there aren't any  
21 comments from the NIGC that NIGC is comfortable with the  
22 other language?

23 ASSOCIATE COMMISSIONER LITTLE: In 543.1,  
24 yeah, we didn't have any comments on that.

25 MR. FISHER: So I would really caution

1 against making assumptions. I think you need to check  
2 with them.

3 MR. MCGHEE: Well, if we just said, okay,  
4 we're all good with 543.3 because we only addressed the  
5 concerns you had in those two questions, it makes it,  
6 like you said, an assumption that they must be okay with  
7 the rest of it because they didn't have a comment about  
8 it.

9 So to make a blanket statement to accept  
10 the whole section without actually looking at the  
11 changes TGWG made to the original could be premature.  
12 We could only say basically what we discussed. If we  
13 went and seen all the changes -- of course, we didn't do  
14 that with this, we just kind of discussed their  
15 (inaudible). And if we only want to do that, then I  
16 assume they have no concerns with the rest.

17 MR. FISHER: Right. So the question is  
18 back to you, Dan, about --

19 ASSOCIATE COMMISSIONER LITTLE: 543.1 is  
20 one sentence.

21 MR. FISHER: So that's an easy one.

22 MR. MCGHEE: I'm talking about (3) now,  
23 because we only discussed a few issues about the whole  
24 section. It makes it seem as though those were the only  
25 concerns you would have had with those changes.

1           ASSOCIATE COMMISSIONER LITTLE: Yes, yes.  
2     And that I think was -- we talked about it earlier, was  
3     that -- and I think there was some confusion that we  
4     wanted to go line by line through the guidance. I know  
5     these aren't guidance questions, these are more on the  
6     regulation, but let's work off the comparison and the  
7     question that we raised there.

8           MR. MCGHEE: So what I'm getting is if we  
9     go to a section and we discuss the issues you have  
10    written down there and we address those issues as a  
11    group and give our opinion or advice on that, the rest  
12    of the document you don't want advice on it or you don't  
13    need advice unless we just wanted to add to it, correct?

14           ASSOCIATE COMMISSIONER LITTLE: Right, or  
15    there -- I'm assuming everybody is agreed to the  
16    documents and maybe other members might have some  
17    questions that they want to raise.

18           MR. MCGHEE: If they have a concern.

19           MR. FISHER: Right. Otherwise, if we do  
20    the whole section, then --

21           MR. MCGHEE: We assume they're okay, it's  
22    okay to assume they didn't have any -- you didn't need  
23    our opinion on it?

24           ASSOCIATE COMMISSIONER LITTLE: Right.

25           MR. FISHER: Okay. So what are we doing

1 about 543.1? Is there a vote?

2 MS. LASH: Test it.

3 MR. FISHER: So if you agree with the  
4 change, that one sentence that was proposed by the TGWG,  
5 raise your hand, please.

6 Voila.

7 MR. MCGHEE: Now do we ask about .3 as a  
8 whole?

9 MR. FISHER: We did.

10 MR. MCGHEE: I thought you said one.

11 MR. FISHER: We just went out of order  
12 because Kathi focused in on 543.3.

13 MR. MCGHEE: We did that as a whole, we  
14 accepted the whole section?

15 MR. FISHER: Yes.

16 MR. MCGHEE: I just wanted to be sure.

17 MR. FISHER: Okay. So now we're going to  
18 section 543.4.

19 MR. CULLOO: Don't we have to test 543.3?

20 MR. FISHER: We want to test it again?

21 MR. CULLOO: No, that's all right.

22 MR. MCGHEE: I know we tested our little  
23 recommendation of the line but --

24 MR. FISHER: So what I put up here was I  
25 heard that the recommendation was the entire 543.3

1 section. And so that's what that says. But if  
2 people --

3 MS. LASH: We did already right vote,  
4 right?

5 MR. FISHER: Yes. So we're up to four,  
6 543.4.

7 MR. WILSON: 543.4, it references the  
8 Technical Standards, is that correct? Because this  
9 looks like it was narrated -- was left reserved in 2008  
10 and that the TGWG has inserted this (inaudible). But  
11 I'm just curious why Technical Standards is there when  
12 we're in the MICS.

13 MS. TAHDOOAHNIPPAH: Can you repeat that,  
14 please?

15 MR. WILSON: So in 543.4, the addition  
16 that the TGWG, or at least that's in this version, says  
17 the TGRA may establish and implement additional  
18 Technical Standards. But my guess is --

19 MS. HAMEL: I think that's a typo.

20 MS. TAHDOOAHNIPPAH: I think that's a  
21 mistake.

22 MS. LASH: My guess is that's a typo. We  
23 should delete that.

24 MR. WILSON: It should just say  
25 additional standards?

1 MS. LASH: Right.

2 MR. WILSON: So this is something we need  
3 to redline, then.

4 ASSOCIATE COMMISSIONER LITTLE: So just  
5 the word "technical"?

6 MS. TAHDOOAHNIPPAH: Yes.

7 MR. WILSON: We need to redline the blue  
8 line.

9 MR. FISHER: So if you actually want me  
10 to take it out, I will.

11 MS. LASH: Yes, but we should probably  
12 redline it.

13 MR. MCGHEE: You have to redline it.

14 MS. TAHDOOAHNIPPAH: Maybe you could do  
15 purple or pink.

16 MR. FISHER: Actually, I will redline it,  
17 if you want to, but usually the way that I -- that I  
18 track these documents is because then you get redlines  
19 on top of redlines and all kinds of strange colors, so  
20 if you do a comparison document instead of a redline  
21 document, it will show all the changes but it keeps all  
22 the redlining in codes out of it. So for instance --

23 MS. TAHDOOAHNIPPAH: What about comments?

24 MS. LASH: Is there a bubble off to the  
25 side, then, or just nothing?

1 MR. FISHER: Well, I did this here, so --

2 MS. LASH: Oh, I see, down there.

3 MR. FISHER: Right.

4 MS. LASH: Oh, okay. And so when it  
5 comes up in the comparison document, when you see the  
6 summary, it will show that it's been -- it will be  
7 actually -- we'll see the deletion up there on the side  
8 in a bubble. And it's -- then you have a clean document  
9 that has all the changes in it and then you have one  
10 that shows what the changes are to the TGWG document.

11 So I can -- we will see if this system  
12 will work. If not, then I'll go back and redline the  
13 documents.

14 All right. Is there anything more in  
15 543.4?

16 MR. WILSON: I have another comment, if I  
17 may.

18 This wording, and I talked about this our  
19 last time, about as stringent or more stringent, and we  
20 talked about the concept of mitigating the risk for  
21 something. So I would have that same question here,  
22 that depending on what -- well, to be consistent I guess  
23 with what we are saying in the preamble --

24 MS. TAHDOOAHNIPPAH: I think we were  
25 going to add those to all the other sections.

1 MR. WILSON: That's what I'm pointing  
2 out, that it's not really here. And so just to avoid  
3 confusion --

4 MR. MCGHEE: You made this recommendation  
5 in the Technical Standards. It's the same language.  
6 You want to copy that over to this recommendation?

7 MR. WILSON: Yes.

8 MR. FISHER: It's this language here, if  
9 I got this right. So it's the language that we added in  
10 the Technical Standards?

11 MR. MCGHEE: 557.5 is where it is in the  
12 Technical Standards.

13 MR. WILSON: Yeah, I'm not bringing it up  
14 to debate it again, I just wanted to point it out.

15 MS. TAHDOOAHNIPPAH: We did it in bingo.

16 MR. FISHER: Yeah, it's in bingo.

17 MR. WILSON: I thought that's what we  
18 agreed on.

19 MR. FISHER: Yeah. See, it's right  
20 there, actually. So this is the working draft of the  
21 summary from the Rapid City meeting.

22 MS. TAHDOOAHNIPPAH: Can you make it  
23 bigger?

24 MR. FISHER: I'm trying to get there, I'm  
25 trying.



1                   So the language that we added is that  
2 language right there in blue. Can you see that?

3                   ASSOCIATE COMMISSIONER LITTLE: Can you  
4 make it bigger?

5                   MR. FISHER: How is that?

6                   ASSOCIATE COMMISSIONER LITTLE: There you  
7 go.

8                   MR. FISHER: Okay. Can you see it now?  
9 Okay, let me just go up. There is one other section  
10 where we did that, right? And then there is that note  
11 that we did that recommendation that said you have to  
12 put this in all other provisions in 543.

13                   So where would that go in? So hold on a  
14 second. I'm sorry I'm moving so slowly.

15                   So it's this thing, it's really necessary  
16 to mitigate the identified risks. Is that what you're  
17 saying? So in place of this, in place of that?

18                   MR. WILSON: In place of the stringent.

19                   MR. FISHER: The as stringent or more  
20 stringent than language?

21                   MR. WILSON: Yes. Robert, if you could  
22 just read it with the change.

23                   MR. FISHER: Yeah, I'll blow it up and  
24 make it bigger in one second.

25                   So it says here TGRA may establish and

1 implement additional standards that are necessary to  
2 mitigate the risks identified in this part. And I'm  
3 pretty sure that tracks that language necessary to  
4 mitigate the risks identified by the standards of this  
5 section, is what we said in the other one. Right?

6 MR. WILSON: And I would just point out  
7 that the term "risk," I mean, it might end up being a  
8 term that is adopted, you know, in the control standards  
9 or whatever, but we're talking about that same concept.

10 And I wonder if I could get just get a  
11 quick feedback from NIGC on this. I'm not sure that  
12 it's clear, at least from my perspective, this term  
13 stringent or more stringent.

14 Why my tribe feels that that wording is  
15 problematic, because we have that discussion currently  
16 with our regulators at the state level about this  
17 stringent. And the reason this falls back, in my mind,  
18 to NIGC is because in our compact, the Class III MICS  
19 were adopted as regulated by the NIGC. So that language  
20 is important. Whereas you guys might be okay to grant a  
21 variance even though you don't regulate Class III in  
22 that sense, but because you created the Class III MICS  
23 that have been adopted, our state is not open to that  
24 kind of interpretation.

25 So that's why it's important to me that

1 what -- how it's worded here in Class II I think can  
 2 ultimately have a carryover effect in Class III. So  
 3 this idea of stringency seems to be a difficult concept  
 4 to prove.

5 ASSOCIATE COMMISSIONER LITTLE: It  
 6 doesn't appear to be a problem for me. I'm not sure if  
 7 Rest has any maybe issue with performing his function,  
 8 but --

9 MR. WEST: I think in some places it's  
 10 described as a level of control or -- does that also  
 11 cause issues with the state?

12 MR. WILSON: Yeah, because what happens  
 13 is we end up going back to the words, and then it  
 14 becomes very interpretational about, well, is this  
 15 really an improved level of control or less of a  
 16 control? And we just don't have success in that.

17 And if I were arguing that I'm mitigating  
 18 the risk, I can argue that. But that's not an argument  
 19 that can come into play under the current wording in the  
 20 MICS. So I'm precluded from making the point that I  
 21 think I can make by virtue of the words.

22 MR. FISHER: Okay. Anybody else have  
 23 anything else on 543.4?

24 Okay. So then why don't we just see  
 25 what -- let's test whether people agree with the TGWG

1 version with these changes.

2 So if you're in agreement with that  
3 section 543.4 with those two changes that we've talked  
4 about, which I can read them again if you want, raise  
5 your hand.

6 Okay, that would be unanimous. You  
7 wouldn't believe how important it was to actually have  
8 this stuff highlighted that you agreed to when I went  
9 back through this.

10 And I'm counting on you double checking  
11 this.

12 All right. So, well, we're at ten of  
13 3:00. So do you want to move to .6 or do you want to  
14 take a break?

15 ASSOCIATE COMMISSIONER LITTLE: I  
16 think .6 we can get done pretty quick.

17 MR. WILSON: Yeah, let's finish .6.

18 MR. FISHER: All right, .6. Let me just  
19 drop down here.

20 ASSOCIATE COMMISSIONER LITTLE: It seems  
21 like it's just cleanup.

22 MS. HAMEL: I think it was a typo.

23 ASSOCIATE COMMISSIONER LITTLE: Yeah, the  
24 gasb.gov doesn't exist.

25 MS. HAMEL: Yeah, and I think we took it

1 out of one section and we need to take it out of the  
2 other. That should just come out.

3 MR. FISHER: So we're taking out dot.gov.  
4 So do you want to start there?

5 MR. MCGHEE: The only question is why  
6 they want GASB to be -- what discussion of it, where,  
7 what.

8 MR. WEST: Well, GASB stands for the  
9 Governmental Accounting Standards Boards, and it applies  
10 to tribal gaming operations. And in fact, probably a  
11 lot of the entities here, their financial statements are  
12 on GASB format.

13 So I just wanted to point that out, that  
14 there may be some GASB requirements, I'm not familiar  
15 with any, but GASB may have some effect on those.

16 MS. HAMEL: Isn't the difference mostly  
17 just reporting? I'm not aware of any accounting  
18 principles.

19 MR. WEST: I mean, generally accepted  
20 accounting principles is the main principal to be in  
21 compliance with.

22 MR. FISHER: So what is it that we need  
23 to -- that you want to talk about? Is it whether it  
24 should be deleted or what does it provide or is --

25 MR. WEST: I just want to bring up for

1 discussion if anyone knew of any GASB requirements that  
2 would apply to this section. I don't really know of  
3 any, either, but I thought there might be some.

4 MR. MCGHEE: So the recommendation would  
5 be that we don't see the need for GASB to be mentioned  
6 in this section as far as a recommendation and that we  
7 agree with the change.

8 MR. FISHER: Well, because you already  
9 took it out of yours, right?

10 MR. MCGHEE: It was never there.

11 MS. THOMAS: Well, it was removed out of  
12 one section and left in another. So for consistency on  
13 the second one, it should be removed.

14 MR. MCGHEE: The Internet.

15 MR. FISHER: So that we got rid of the  
16 Internet.

17 MS. HAMEL: I would delete the whole  
18 sentence, for more information.

19 MR. FISHER: So you would delete the  
20 whole sentence?

21 MS. HAMEL: Yes.

22 MR. FISHER: So I'm sorry, I'm lagging  
23 behind here in terms of what you guys are doing. So you  
24 want to test the TGWG version of 543.6 with that change,  
25 right? Even though that's not quite right. So that

1 deletes the whole sentence, I just deleted the whole  
2 sentence out of there.

3 MR. MCGHEE: The second recommendation  
4 was that we saw no need for GASB to be mentioned in this  
5 area, which was a concern.

6 MR. FISHER: Okay, I got it. That would  
7 be it, those three things? Can you see that?

8 MR. MCGHEE: Just the whole version as  
9 is.

10 MR. FISHER: Yes, the whole version as is  
11 with these changes, with the change in number one and no  
12 mention of GASB.

13 MR. MCGHEE: What is number three, what  
14 is the purpose of your number three you have?

15 MR. FISHER: It's to say that you took  
16 the whole rest of it. It's the way to track, because  
17 there is multiple sections in there. So it's really --  
18 it's really that with this -- with the changes in number  
19 two, right? It's the version proposed by the TGWG with  
20 that deletion, no mention of GASB.

21 Okay, everybody with it?

22 MR. WEST: Is that consistent with what  
23 you've done on 543.1 and 543.3?

24 MR. MCGHEE: We only put down what we  
25 did. Like that number one wouldn't need to be there.

1 MR. CULLOO: We've never done it on any  
2 other one.

3 MR. FISHER: I've been doing it the whole  
4 time.

5 MR. WEST: I wasn't watching.

6 MR. FISHER: So seriously, if you're not  
7 recommending the whole thing of the TGWG, then I'm  
8 confused.

9 MS. TAHDOOAHNIPPAH: He's saying we're  
10 doing three things. We're approving the whole section,  
11 we're approving the sentence to be deleted from four,  
12 and then no mention of GASB, like the comment.

13 MR. WEST: Okay.

14 MR. MAGEE: Don't you usually highlight  
15 it in yellow?

16 MR. FISHER: Yes, that's what you  
17 actually do. See, that's the way I've been tracking,  
18 because anything highlighted in yellow is a consensus  
19 recommendation. So yes.

20 So should we test it?

21 MR. WHEATLEY: Yes.

22 MR. FISHER: Okay. So if you're in  
23 agreement with 543.6 with those changes and the  
24 recommendation, please raise your hand.

25 Okay, that's it. Good to go.



1                   Okay. Now it's 3:00. Let's take a  
2 break.

3                   (Recess taken.)

4                   MR. FISHER: Okay. What do you say we  
5 start again?

6                   I made it bigger up on the screen. How  
7 is that?

8                   MS. TAHDOOAHNIPPAH: Much better.

9                   MR. FISHER: You might even be able to  
10 read it from the audience, too.

11                   So next on our agenda is, if I have that  
12 right, is card games.

13                   ASSOCIATE COMMISSIONER LITTLE: We're  
14 skipping to --

15                   MR. FISHER: No, card games is next on  
16 the list, because card games was what had been on the  
17 list at the end of Rapid City. So then we moved it over  
18 here.

19                   Okay, so we're going to do card games.

20                   Robin?

21                   MS. LASH: I just wanted to mention, I,  
22 per my electronic equipment here, I got an update on the  
23 checklist. Apparently, the main communicator between  
24 the TGWG and the NIGC spoke about the checklist, and the  
25 Tribal Gaming Working Group was told that there was no

1 rush on the checklist because the checklist may change  
2 according to the document, how it unfolds through these  
3 meetings.

4 But we do have a significant number of  
5 checklists already completed and those are being sent to  
6 me. And I'll go ahead and print those out and hand them  
7 out to everybody tomorrow. So just an update on that.

8 MR. WEST: Wouldn't electronic be better  
9 and just save the paper?

10 ASSOCIATE COMMISSIONER LITTLE: Because  
11 we want to put it online on our Web site.

12 MR. FISHER: Send them over to me and  
13 I'll distribute them, assuming they can be received.

14 Maybe the way to do it is, Robin, why  
15 don't you send it to me and send it to, I guess, to Rita  
16 or -- so they can get posted so people can access it  
17 okay, send it to me and I'll just forward it on. Okay.  
18 Thanks for that.

19 All right. So we're moving into card  
20 games. And we should have -- everybody should have a  
21 revised version of the comparison document. So one was  
22 handed out for Rapid City, and then a new one was  
23 provided in the set that went out last week. So it  
24 should have a date on it of November 30th. And this, I  
25 guess, is also the first place where there is

1 guidance-related things that we're going to need to talk  
2 about.

3 So do you want to start with the TGWG  
4 overview of this section or is it -- is it kind of  
5 self-exploratory and we should just go to your questions  
6 and comments?

7 ASSOCIATE COMMISSIONER LITTLE: Remember,  
8 we didn't compare (a) and (b), because those were  
9 standard throughout the whole section. So --  
10 although -- we're at nine.

11 MR. FISHER: We're out of sequence in the  
12 regulation because that's the way the work plan got set  
13 up.

14 MS. HAMEL: I think we wanted to wait for  
15 our pull tab expert, too.

16 MR. WHEATLEY: She couldn't make it.

17 MR. FISHER: So we could go to pull tabs  
18 instead of card games. It's just up to you. On the  
19 agenda, it's card games.

20 ASSOCIATE COMMISSIONER LITTLE: We're  
21 here, right?

22 MS. HAMEL: It doesn't matter.

23 ASSOCIATE COMMISSIONER LITTLE: We're  
24 here at nine, right? Let's do nine.

25 MR. FISHER: Okay. I got my computer

1 open to nine, 543.9.

2 ASSOCIATE COMMISSIONER LITTLE: I think  
3 the first on our comparison document, we highlight old,  
4 I guess, in the 2010 draft, 543.9(b), which has I guess  
5 been replaced with computer applications. But I just  
6 wanted to talk about count (inaudible) and what was the  
7 reasoning behind moving that or --

8 MR. FISHER: You have to go to that  
9 comparison document.

10 ASSOCIATE COMMISSIONER LITTLE: We're  
11 just trying to understand what was the reasoning behind  
12 the movement of that section. If it was moved, was it  
13 moved to another section or was it incorporated into  
14 something else?

15 MR. WHEATLEY: It looks like it was moved  
16 to 21.

17 MR. MORGAN: From recollection, Dan,  
18 following our thought process at the work group, it was  
19 because if you work in drop and count, you don't really  
20 care so much if you go in what the card inventory is.  
21 You have a specific job function in mind.

22 And so that was the purpose, we moved it  
23 to 21 to cover all the drop and count issues. Whether  
24 you're dropping an electronic game or dropping a card  
25 game, you're still worried about the same controls and

1 risks, and to try to make sure that if you're on the  
2 floor, you're looking at one section.

3 ASSOCIATE COMMISSIONER LITTLE: Okay. So  
4 you just moved it to streamline to make it clearer for  
5 the TGRA?

6 MS. HAMEL: Yes.

7 MR. FISHER: Where did it go?

8 MS. HAMEL: Dot 21.

9 MR. MORGAN: 543.21.

10 MR. FISHER: Okay. So was there any  
11 other kind of overview that anybody wanted to present,  
12 or do you want to just keep going? I'll just go down  
13 and start with 543.9(g).

14 ASSOCIATE COMMISSIONER LITTLE: (g).

15 MR. WEST: The comment is the draft  
16 standard is silent as to exchange of cash and cash  
17 equivalent and (inaudible). So we're just wondering why  
18 those were deleted. Because typically, card games don't  
19 have a card room bank located in the card room.

20 ASSOCIATE COMMISSIONER LITTLE: It does  
21 appear it's addressed in the guidance, isn't it?

22 MS. HAMEL: It is addressed in the  
23 guidance (inaudible). We didn't name all the banks, but  
24 any cash or cash equivalents or their exchanges were  
25 identified in the guidance document. And then 543.14

1 talks about cash or cash equivalents in all areas, not  
2 just in the cage. So those transactions that would be  
3 involved in other areas.

4 MR. WEST: And then down under the  
5 guidance, the comment was controls related to counting  
6 and (inaudible) once per shift don't appear to be  
7 addressed.

8 MR. FISHER: So in other words, it  
9 doesn't say anything in the guidance about counting once  
10 per shift?

11 ASSOCIATE COMMISSIONER LITTLE: Does it  
12 say it in 543.14? Is that what you're saying, Kathi?

13 MS. HAMEL: It's addressed in 543.14.  
14 And if you issue a bank and return a bank, there is a  
15 count.

16 MR. WEST: But this is within the card  
17 room. I mean, would it be more effective to have the  
18 standard in the card room, card games section?

19 MS. HAMEL: Isn't that what (g) says,  
20 that you have controls for cash and cash equivalents?

21 MR. WEST: I'm sorry?

22 MS. HAMEL: That's what (g) says, cash or  
23 cash equivalents must be controlled in a manner designed  
24 to prevent, 543.9(g).

25 MR. FISHER: It's right up here on the

1 screen, for those of you looking at the screen.

2 MR. WEST: Yeah, it's guidance as far as  
3 the accounting and the bank. It's a general statement  
4 about cash and cash equivalents throughout the MICS.  
5 But even the guidance is silent as far as that issue.

6 MR. FISHER: So is the problem that it's  
7 in a different section or is the problem about what it  
8 says here?

9 MR. MORGAN: That was going to be my  
10 question. Does the guidance for this section or does  
11 the guidance for 543.14 cover that adequately or not?

12 MR. WEST: .9.

13 MR. MORGAN: .9(g) points to 543.14,  
14 which has its own guidance documents, as well, that  
15 support it.

16 MR. WEST: I thought part of the intent  
17 of the committee was to have, you know, the controls  
18 within that section. There is a difference between the  
19 cage, typically, and the tables (inaudible).

20 MR. MORGAN: And sort of a shift, I think  
21 maybe this is where we placed it at, may be an issue.  
22 Before the MICS, you talked about like the bingo game,  
23 you tried to address everything associated with bingo  
24 within bingo, and then you may have addressed it  
25 somewhere else generally, which would require the reader

1 to go in and read the bingo section, if you were talking  
2 about drop and count, to read the drop and count, too.  
3 Because there may be something about dropping and  
4 counting over there, and there may be something about  
5 surveillance in bingo, and it may be in the surveillance  
6 section, too.

7 So we tried to move it, generally, to a  
8 location. So whether cash and cash equivalents, we  
9 didn't really try to capture it around the activity that  
10 was taking place, we were generally trying to address  
11 how you would control cash and cash equivalents. It  
12 doesn't make any difference what activity is taking  
13 place, these are the controls that need to be, I guess,  
14 implemented.

15 ASSOCIATE COMMISSIONER LITTLE: So we  
16 understand that part, you're obviously still attempting  
17 to organize things in a morphological fashion that are  
18 common areas. So we just need to just figure out if  
19 that's something that would be better addressed through  
20 actually putting some particulars in this regulation.

21 MR. CULLOO: It also seems to be  
22 repeating the same standards over and over and over.

23 MS. HAMEL: We're saying it differently  
24 in a different standard. So if I'm at a card games  
25 bank, do I count it differently there than I do in bingo



1 or pull tabs or in the cage?

2 ASSOCIATE COMMISSIONER LITTLE: And  
3 you're saying it should be counted the same regardless?

4 MS. HAMEL: It should be the same.

5 ASSOCIATE COMMISSIONER LITTLE: Okay.

6 MR. MORGAN: And tell me if I'm reading  
7 this wrong, this is not my area, but on 543.14(g)(2), we  
8 do have a statement there saying the cage involved  
9 inventories, including coins and (inaudible) vault,  
10 should be counted by at least two agents, attested by  
11 signature and recorded (inaudible) at the end of each  
12 shift during which the activity took place. And there  
13 is similar language in the guidance documents, which, at  
14 least in my mind, talks about your controls related to  
15 counting the card room bank once per shift.

16 While we don't reference the card room  
17 bank specifically. We do say if there is some changes  
18 in a cage or vault, generally, this is what you're  
19 supposed to do, no matter if it's the card room bank or  
20 whatever, if it's your main bank. That's at least how  
21 we approached it.

22 ASSOCIATE COMMISSIONER LITTLE: All  
23 right. I'm fine with that. Do you have anything else?

24 MR. WEST: I'm still -- my sense is it  
25 belongs in card games.

1 MS. TAHDOOAHNIPPAH: (Inaudible.)

2 ASSOCIATE COMMISSIONER LITTLE: Page

3 nine?

4 MS. TAHDOOAHNIPPAH: (k).

5 MR. WEST: My perspective is take it from  
6 an internal auditor's perspective. You're an internal  
7 auditor and you go in and do the internal audit for card  
8 games. And if you're using the standards in the  
9 guidance documents, you would go through this and  
10 possibly not know that the main card room banks are even  
11 being counted down. So to me, it's logical to have the  
12 function in the appropriate section.

13 MS. HAMEL: But it's in the guidance  
14 document, open, close and count.

15 MR. WEST: Of what section?

16 MS. HAMEL: It's page three in the  
17 guidance document for 543.9.

18 MR. WEST: It talks about the table  
19 inventories there, at least the thing I'm looking at.

20 MS. HAMEL: Oh, right.

21 MR. WEST: It doesn't speak to the  
22 (inaudible).

23 MR. WILSON: Does that language need to  
24 be added?

25 MR. RAMOS: When you say main card room

1 bank, do you mean in the cage?

2 MR. WEST: No, in the card room.

3 Typically, like the card room here, I don't know if they  
4 do or not, but a lot of them has an imprest bank, you  
5 know, where they check out the table banks and stuff.  
6 And there could be a lot of -- there is coins, there is  
7 chips.

8 MR. MORGAN: Rest, what if you don't  
9 follow the typical? What if your main vault or your  
10 imprest bank, when you're operating off that, and if you  
11 unnecessarily prescribe a procedure that you have to  
12 have something, you therefore limited those innovation  
13 options that you may want to do based upon your  
14 operation and whether you deem that a material risk or  
15 not.

16 Is there some concern there? I mean, I  
17 understand how typically it is performed, but is that  
18 your -- I mean, is that a concern you have, as well?

19 MR. WEST: I'm not -- can you repeat your  
20 question?

21 MR. MORGAN: You said typically you have  
22 an imprest bank for your card room, but it's not  
23 required.

24 MR. WEST: Right.

25 MR. MORGAN: Is what you're requiring on

1 the counting of card rooms once per shift in the card  
2 room, does that unnecessarily detail out what is a  
3 typical situation?

4 MR. WEST: No. You can -- anything in  
5 the MICS can be nonapplicable. I mean, that's another  
6 thing I think people get bogged down in. There is N/As  
7 on whole portions of sections. There is nothing being  
8 required as far as operating the structure of the casino  
9 in the MICS, that I know of. I mean, especially in this  
10 instance.

11 If you have a main card room bank, it  
12 should be counted down each shift. If you don't have  
13 one, it's N/A, you go forward.

14 MR. CALLAGHAN: We did away with our  
15 satellite and we use the main bank.

16 MR. MORGAN: No, I agree, and that's why  
17 I'm wondering is it a -- do you think you have to have  
18 them in the card section as opposed to the 543.3  
19 section? I'm trying to figure out is it we agree upon  
20 the language and it's okay and it's just a matter of  
21 where the language is placed?

22 MR. WEST: No. My concern is it should  
23 be in the appropriate section. If you're talking about  
24 a card room bank, it should be in the card room section.

25 MR. MORGAN: But if you take that one

1 step higher and you say I'm talking about a bank, a  
2 vault, a cage, I'm not allocating it to the card room.

3 MR. WEST: Then that's covered in 543.14,  
4 is my understanding from Kathi.

5 MR. MORGAN: Right. But I'm trying to  
6 see it from your -- but you don't think it is covered if  
7 it's a card room bank?

8 MR. CULLOO: What's the definition of a  
9 bank? A bank is a bank whether it's in a card room or a  
10 cage.

11 MR. WILSON: It seems to me that what  
12 Rest is saying is that there is a risk that that bank  
13 might not get included in a review if it isn't  
14 identified somewhere that that -- if somebody just takes  
15 it literally and, remember, you preface it by saying,  
16 well, if I'm coming in as an auditor or somebody to do  
17 this review, I need to know that you're using that -- if  
18 you're using a card room bank that that's being counted  
19 down.

20 So the issue is that there is a risk that  
21 something might be missed, I guess, if it's not spelled  
22 out.

23 MS. HAMEL: With that title?

24 MR. WILSON: Yes.

25 MR. MORGAN: My only comment would be if

1 I'm coming in auditing and it truly says if it's cash or  
2 cash equivalent it has to be controlled or established  
3 in sub part 543.14, I'm, as an auditor, pointed there to  
4 go look.

5 MR. FISHER: So this is a similar issue  
6 to what we talked about in terms of the AUP and putting  
7 all the accounting and auditing things in one section.  
8 It's a different organizing structure than what you're  
9 saying, because if I'm understanding you correctly,  
10 they're lumping things that apply to multiple sections  
11 in one section and then saying in the individual  
12 sections to go look at -- this other section applies to  
13 this, go look in that other section.

14 And so instead of -- and so part of the  
15 work that you did, if I understand it correctly, is to  
16 take the things out of all the individual sections and  
17 create an overall section and then point people to that  
18 overall section.

19 So the question would be -- I hear you  
20 saying you'd rather see it in the individual sections,  
21 that's the way it is right now. Is there -- can you  
22 imagine a way that it could work and still cover the  
23 things that you're saying are important if you have  
24 this -- use this other organizing system?

25 MR. WEST: My issue is practicality of

1 having an internal auditor come in. Maybe it's your  
2 in-house internal auditor, maybe you hired it out and  
3 they come in, and in this six-month period card games is  
4 part of the audit they're going to do. Maybe they're  
5 going to do 543.19 down the road.

6 Typically, these situations have an  
7 imprest amount of money. If you're going to count the  
8 tables down, you should count the main room bank down,  
9 and that might equal \$10,000, if the card game is  
10 (inaudible). To do half, to just do the tables is not  
11 logical to me. I think it should (inaudible.)

12 And also, if I've got a poker supervisor,  
13 I want to hand him this section here and say you need to  
14 read these controls and see if you have any issues with  
15 them, if you've got -- developed your own operating  
16 procedures. Because they need to develop operating  
17 procedures for counting down these tables or dropping  
18 them in a drop box, counting the card room bank,  
19 whatever else that's covered in the section.

20 So to me it's better for your external  
21 auditors, your internal auditors, possibly your  
22 operations personnel, to have everything that's  
23 logically placed in the same section.

24 MR. CULLOO: I've never seen an operation  
25 in a card room where they didn't know they had to do

1 openers and closers and fills and credits. And they  
2 would know to go to that spot, if it tells them to go  
3 there. I mean, that's an industry norm, that you never  
4 do it any way but that. The shift comes on, you open  
5 the table, you've got two people independently count  
6 down the opener. And then at the end of the shift, when  
7 you close, you have two people independently counting  
8 down as closer. Open imprest banks, you're doing, you  
9 know, imprest from the bank to the tables, an even  
10 exchange. I mean, and at the end of the shift they  
11 count down the imprest bank.

12 It's a fixed amount, where on the tables  
13 it's a floater, because you're buying off the table and  
14 all that. So what you want to do is look at your fills,  
15 your credits and your open inventories. Everyone knows  
16 that. I don't see how anyone could come to a situation  
17 at the table and not realize that. And that simply  
18 tells them go there if you don't understand it.

19 MR. WILSON: I think I have to stand up  
20 with my fellow auditor over here and say, just so that  
21 everybody is understanding, I don't think you're fully  
22 maybe getting what Rest is saying.

23 Typically in an audit, you know, you  
24 break out work programs or things by components. So  
25 what happens is, you know, when we're talking about



1 cash, well, there is cash throughout the casino. And  
2 all of those different components make up what I'll call  
3 the cash cycle, or whatever you want to call it. And  
4 usually to effectively audit that, you would look at the  
5 entire cycle, which means you're counting banks here,  
6 you're counting banks here, this entire piece, or you're  
7 splitting that up.

8 I believe, Rest, and correct me if I'm  
9 wrong, his concern is that in auditing, when you break  
10 up these work programs and do things, that a component  
11 of that cycle may get missed if it's not all inclusive  
12 in where you would typically expect the cash cycle or  
13 the revenue cycle, whatever, you know, the term is to  
14 be.

15 So I think that's -- that's what he's  
16 saying, is that from an audit perspective, not from an  
17 operational perspective, but from an audit perspective,  
18 it can get lost when you're trying to -- unless you  
19 audit the entire thing 100 percent, but if you split it  
20 out into sections and say, you know, we're going to  
21 audit this section of the MICS today, but if there is a  
22 component of that section of the MICS in another section  
23 of the MICS, either it has to be very clear that you  
24 always have to reference that core piece or you ensure  
25 that all the components that make up that cycle are in

1 one section of the MICS.

2 And I don't know that there is an easy  
3 answer to this, because we struggle with this now with  
4 the MICS. You know, you're looking at one section but  
5 then there is another section in the MICS that might  
6 also deal with this or, in the case of, in our state, we  
7 have these various appendices that we have to reference,  
8 as well.

9 But I think to the extent that however  
10 your documentation is designed, if it allows people to  
11 segment it out and audit off of that is an important  
12 consideration, you know, from the auditing perspective.

13 So I mean, he's exactly right that even  
14 with the external auditors, you know, audit is time and  
15 money. So the less that the auditor has to figure out  
16 in terms of piecing together the picture of what they're  
17 trying to audit, the more efficient that audit is going  
18 to be.

19 MR. CULLOO: I think that it's written  
20 there, it's clear for the auditor what it includes. And  
21 I don't think it adds any time or any confusion. I  
22 mean, it's a simple -- especially an auditor, they ought  
23 to understand, they ought to read a document real  
24 clearly and understand what needs to be done.

25 MR. FISHER: Let's just take a pause for

1 a moment.

2 So let's go to Kathi.

3 THE WITNESS: Well, I think the general  
4 statement about controlling cash and cash equivalents in  
5 card games is very specific in 543.9(g). You've got to  
6 control it. Your TICS would say what kind of banks you  
7 would have. And you may not call it a main card room  
8 bank, you may call it a satellite bank, you may call it  
9 a podium bank, you may call it whatever. But the intent  
10 of (g) is to control that cash or cash equivalent, and  
11 your TICS and your system internal controls tell you  
12 that those banks exist. And then your checklist,  
13 whether it be an internal auditor or an external  
14 auditor, would include are they counting the bank as  
15 their proper documentation, are there transfers,  
16 et cetera. I believe that was the intent of (g).

17 MR. WEST: But you provide specific  
18 guidance in the guidance documents on your table counts  
19 but you don't on the main card room bank.

20 MS. HAMEL: We do under cash and cash  
21 equivalents.

22 MR. WEST: And this could be a large  
23 amount of money in your bank and all of it has to  
24 balance out, depending on how many tables you have open,  
25 because all of it typically adds up to a big imprest

1 amount.

2 And also on another point, you don't have  
3 fills and credits. This is card games. So you have  
4 imprest tables, typically.

5 MS. HAMEL: Right.

6 MR. WEST: This is not table games, this  
7 is card games. So there is not a lot of flow. If the  
8 poker room is charged with maybe \$10,000 imprest that  
9 they should have out there, then that's what they should  
10 have, at a point in time.

11 MR. MORGAN: So, Rest, could you take  
12 language from 543.14 and move it over and that would  
13 satisfy your concern there, because the information  
14 would be addressed there? Because, you know, while our  
15 group may have thought it was redundant and didn't need  
16 to, there may be areas that you didn't find necessarily  
17 redundant and it makes you rest easier. Again, we're  
18 not arguing about language, it's about placement of  
19 where the language is. We don't need to be going around  
20 in a circle for no reason. If we've addressed it  
21 somewhere else, then we can just pick it up and move it.

22 MR. FISHER: So that would mean looking  
23 at section 14 and seeing -- 543.14 and seeing whether  
24 the way it was laid out there could be moved or repeated  
25 or restated in some way in 543.9, whether you're fixing

1 the guidance or whether you're changing the regulation.

2 MS. HAMEL: And I'd like to bring up one  
3 other point, is when the TGWG worked through each one of  
4 these sections, the reference to managing or controlling  
5 cash and cash equivalents was different in every single  
6 section.

7 And so the risk is, when you go put it  
8 back in each section, the control, most likely, will be  
9 different. And the way you control it is different in  
10 bingo than card games, than cage, than pull tabs. And  
11 that's why we pulled it out and put it in where we did  
12 and said develop controls that are the same. They  
13 shouldn't be any different depending on where the money  
14 is located.

15 MR. WILSON: Does 543.14, Rest, does --  
16 within that section, does it address the concern you  
17 have about the table banks?

18 MR. WEST: I don't have concern about the  
19 table bank. And again, this is guidance, we're talking  
20 about the guidance.

21 Where are you looking in 543.14?

22 MR. WILSON: I'm just saying in general  
23 in that document. I just want to establish first that  
24 the risk that you're concerned about is addressed in the  
25 guidance document.

1 Do you know, Kathi? Is this specific  
2 concern in --

3 MS. HAMEL: If the word "counting" is  
4 missing, then that's a significant change. But the  
5 guidance document says there has to be controls for bank  
6 issuance and return and there has to be exchanges. So  
7 if the word "counting" needs to be added --

8 MR. WHEATLEY: I mean, I think you can  
9 easily take a section of that and insert it in the  
10 guidance under the card room section. And I don't think  
11 that would be an issue at all, if that's the guidance  
12 that you wanted to offer up in those documents.

13 MR. FISHER: Well, you heard the  
14 concerns. And there is some suggestions for how to  
15 address the concerns. Do you want to -- how do you want  
16 to do this? Do you want to ask whether those -- whether  
17 those things would meet the concerns or whether you want  
18 to address -- just put a specific recommendation to the  
19 NIGC with respect to how to fix it?

20 Michele?

21 MS. STACONA: I've got a question. In  
22 talking about imprest banks or however you do your card  
23 room at your property, talking about Rest's concern  
24 about being counted each shift or whatever, you're  
25 including that in, I believe, in (g)(2), right, which

1 talks about your cage and vault inventories, which  
2 imprest being one of them, correct?

3 MR. WEST: Typically, that wouldn't be  
4 covered on your -- I mean, it could be covered under  
5 your cage inventory sheet. But since it's not  
6 (inaudible) responsibility, generally, of cage  
7 inventory, I don't think a cage supervisor would be  
8 signing the document that they're attesting to the --  
9 that that \$10,000 is part of their inventory, because  
10 they don't have responsibility for it.

11 MR. WHEATLEY: Unless for some reason it  
12 returns to the cage at the end of the --

13 MS. STACONA: Yeah, in our property it  
14 returns to the cage, so it shows up on your main bank.

15 So it depends on how each property does  
16 it where this is going to fall into. And everybody's  
17 concern about cage and vault may be something different  
18 to -- you know, may not include imprest, where at my  
19 property it does.

20 So you may have some issues here.  
21 Because if this went out like that, if you say cage and  
22 vault, to me it's not going to mean -- it may not mean  
23 imprest to some people in everything that's included in  
24 there.

25 MR. FISHER: Okay. Where are we?

1           ASSOCIATE COMMISSIONER LITTLE: I think  
2 we've raised an issue. And however the group wants to  
3 address it, take it into consideration and move on or --

4           MR. FISHER: Maybe we need to empower the  
5 group to -- I mean, put it aside for now and empower  
6 some smaller group to talk about different ways to  
7 address the concerns and come back with a proposal to  
8 the TAC.

9           MR. WILSON: May I just have one second  
10 here?

11          MR. CULLOO: So you agree that an imprest  
12 bank would be a satellite window?

13          MR. WEST: It depends. I mean, every  
14 operation is different. Typically, it would be covered  
15 under the poker room responsibility for accountability.

16          MR. CULLOO: But you probably can't  
17 identify what it's called in every property.

18          MR. WEST: Well, I don't think we should  
19 say that. I just said a typical main card room bank is  
20 a pretty generic term in the gaming industry.

21          MR. CULLOO: So if that said cage, vault,  
22 card room inventory and satellite windows --

23          MR. WEST: No, that's -- that's getting  
24 away from my point of trying to get as much guidance as  
25 possible in each -- in the appropriate section.



1           And again, if I handed this section off  
 2 to an internal auditor, they would probably go through  
 3 this. They could miss the whole point of counting --  
 4 verifying the (inaudible).

5           MR. CULLOO: If I told them to go to that  
 6 section and they missed that, then they're not a very  
 7 good auditor.

8           MR. WEST: Well, you would be surprised.

9           MS. TAHDOOAHNIPPAH: If I was an auditor  
 10 and I was doing 543.9 on (g), you know, it refers to  
 11 543.14. I think that would tell me that I should look  
 12 there and that this section also is -- you know, this  
 13 section needs to be looked at when you're doing this  
 14 audit.

15           MR. FISHER: Okay. So let's just -- let  
 16 me just try this again and see if this works, because  
 17 people still need some time to move through this.

18           I mean, you can either make the  
 19 recommendation the way it is, and you've heard what the  
 20 concerns are, or you can -- we can do some work,  
 21 continue to do some work here around the full table or  
 22 in a smaller group to try to figure out how to address  
 23 the concerns that have been raised.

24           So what's your preference?

25           MR. WILSON: Well, I mean, speaking for

1 me, I don't know that this requires a subgroup to -- I  
2 mean, I sense that we're all understanding that there is  
3 a potential piece here that could get overlooked if  
4 there isn't direct reference. I would put a caveat with  
5 that, though, that typically, in any internal audit or  
6 external audit, we perform a walk-through of any process  
7 to make sure that your understanding of the process is,  
8 in fact, in line with how it's actually operating before  
9 you conduct the audit.

10 And so in that regard, a good  
11 walk-through would normally trigger the here is what we  
12 have, here is the type of banks that we have, here is --  
13 you know, just what our operation looks like or what we  
14 have.

15 So I guess the more fundamental question  
16 for me is do we have to make the document to such an  
17 extent that, you know, for lack of a better term, it  
18 idiot proofs the document so that an auditor who only  
19 has six months of experience versus somebody that has  
20 ten years -- I guess I'm not sure. Is the onus on the  
21 regulation to account for that or is the onus on the  
22 auditor to do what they should be doing?

23 So I hear the concern. My issue, though,  
24 is that I'm afraid we're going to run into this same  
25 theme over and over and over in this type of what's

1 being proposed here. And one has to come to the  
2 conclusion in their own mind, who are we making the  
3 regulation for in that regard? And I would just be  
4 concerned that, just like we don't necessarily want to  
5 create regulations for the poorest performer in the  
6 country, I don't know that we can make these so specific  
7 as to, you know, idiot proof them because there are -- I  
8 don't know. So I'm not sure -- I just think that the  
9 same theme is going to exist in this type of  
10 documentation.

11 ASSOCIATE COMMISSIONER LITTLE: I agree  
12 with you, Tom. I think this is just an area that you  
13 take under consideration. These are the areas that  
14 we've expressed, and proceed however you guys deem  
15 appropriate.

16 MR. FISHER: Well, this provision is in  
17 every -- basically, in every section. So it's -- it's a  
18 fundamental way in which the document and the structure  
19 is proposed. And so people have said various times it  
20 points in this direction, it does this. And what I keep  
21 hearing from this side of the table is it doesn't --  
22 there is still concerns, it doesn't work, it doesn't fit  
23 in the way it is.

24 And so the question is, right, you have  
25 to take this -- you have to figure out how to deal with

1 this not just for this section but throughout. It may  
2 be that this is just the place where it's most  
3 highlighted because of the way the guidance is written.  
4 I don't know.

5 So are we ready to move on to the next  
6 section in here or do you want to consider this more or  
7 what's the -- what do you want to do?

8 ASSOCIATE COMMISSIONER LITTLE: We  
9 highlighted our issues.

10 MR. CALLAGHAN: Is 14 on our radar?

11 MR. FISHER: Eventually.

12 ASSOCIATE COMMISSIONER LITTLE: It will  
13 be. Not today.

14 MR. FISHER: Okay, because there are  
15 other things in this -- this is an 18-page comparison  
16 document. All right. So we're done with (g), or is  
17 there anything else in (g) before we move to (e)?

18 ASSOCIATE COMMISSIONER LITTLE: They  
19 don't go in order.

20 MR. FISHER: No, I can see that.

21 ASSOCIATE COMMISSIONER LITTLE: Inventory  
22 of playing cards.

23 MR. FISHER: Okay, we're moving on to  
24 543.9(e). I see the guidance document is really long,  
25 though. So the NIGC comments are on page six, if I got

1 that right.

2 ASSOCIATE COMMISSIONER LITTLE: Page  
3 four, top of page four.

4 MR. FISHER: Oh, I see. I went ahead to  
5 the guidance and you're still in the regulation  
6 language.

7 Robin?

8 MS. LASH: With the last section we were  
9 discussing, can we test it? Because I don't think we  
10 can just leave the section. We've gone through every  
11 one that we've discussed, if we're comfortable with the  
12 TGWG version, and then we go to the next section. So --

13 MR. FISHER: It's up to you.

14 MS. LASH: So leaving this one without  
15 any formal recommendation, how do we want to handle  
16 that? Or are we coming back to it or what?

17 MR. FISHER: You want to test the whole  
18 543.9 or do you want to test individual subsections?  
19 It's up to you.

20 MS. THOMAS: I'm fine with the whole  
21 section.

22 MS. HAMEL: We did subsections for bingo,  
23 so --

24 MR. FISHER: Okay. So you want to  
25 test --

1           ASSOCIATE COMMISSIONER LITTLE: Well, you  
2 have to go back, then -- okay, that wasn't included.

3           MR. FISHER: Okay. So you want to test  
4 that 543.9(g), the one that's highlighted up on the  
5 board there?

6           MS. HAMEL: I have a question, because I  
7 can't remember. What did we do with all the sections in  
8 between that were not on the comparison document from  
9 NIGC?

10          MS. LASH: (Inaudible).

11          MS. HAMEL: So if there is no discussion  
12 in (a), (b), (c), (d) --

13          ASSOCIATE COMMISSIONER LITTLE: (a) and  
14 (b), we standardized those for all the sections. So at  
15 the last meeting, you told us we didn't have to do a  
16 comparison because they were all the same.

17          MS. HAMEL: (a) and (b) were the same  
18 language in most of the documents.

19          ASSOCIATE COMMISSIONER LITTLE: Exactly.  
20 And you're right, if we didn't address it, then we  
21 didn't have any issues.

22          MR. FISHER: Okay. Are we going to test  
23 this section (g)? Yes?

24          MS. LASH: I think so.

25          MR. FISHER: Okay. So if you're --

1 MS. TAHDOOAHNIPPAH: Did we change  
2 something?

3 MR. FISHER: No.

4 So what's highlighted up on the screen is  
5 the TGWG version of subsection (g) in the card games  
6 section. So it's 543.9(g). And so if you are in --

7 MS. TAHDOOAHNIPPAH: (Inaudible.)

8 MR. FISHER: Say again?

9 MS. TAHDOOAHNIPPAH: What about (e) and  
10 (f)?

11 MR. FISHER: The comparison document is  
12 backwards. I mean, it just moves around. So do you  
13 want to do them in order? I'm trying to figure out what  
14 you want to do.

15 MR. WHEATLEY: Well, it's not that  
16 they're going backwards, it's the way that the Tribal  
17 Gaming Working Group renumbered things.

18 MR. FISHER: Right.

19 MR. WHEATLEY: So the NIGC went in the  
20 order of (a), (b) and (c) of the current reg.

21 MR. FISHER: Right, which has the effect  
22 of taking us backwards.

23 MR. WHEATLEY: Yes. Not backwards, but  
24 back in an earlier part.

25 MR. CULLOO: Well, we discussed (g), so

1 that's probably where we should vote.

2 MR. FISHER: Right, so we focused on (g).  
3 The question is are you ready to make a recommendation  
4 in favor of the TGWG proposal on section (g)? So if you  
5 are, do you want to just test it and see what happens?

6 So if you're in favor of doing it that  
7 way, raise your hand.

8 ASSOCIATE COMMISSIONER LITTLE: I just  
9 have a question when you're done.

10 MR. FISHER: Okay. So it means we didn't  
11 get everybody.

12 ASSOCIATE COMMISSIONER LITTLE: May I ask  
13 you a question? What about the sections that we don't  
14 cover? Are you going to have a vote on section (a),  
15 internal control procedures, and then in (b), computer  
16 applications, (c), variances? I'm just trying to  
17 understand, by going section by section, that's what  
18 you're going to require yourself to do. If you'd rather  
19 just wait, go through the document, through the section  
20 and make the changes and do it all in one batch, I'm  
21 just saying it might be an easier approach, or maybe  
22 address when you have specific issues or specific  
23 recommendations, address those and then do the whole  
24 section.

25 MR. WILSON: Well, you know, it would



1 seem like -- the problem I have with stopping to vote at  
 2 each section is that it disrupts the flow of discussion.  
 3 And if we -- I think at our last meeting we discussed  
 4 that, barring somebody bringing up an issue to the  
 5 table, the default position is that if nobody brings up  
 6 an issue about a particular section or thing, then  
 7 that's deemed that we're okay with it.

8           So it would seem that if we can continue  
 9 with our discussion of each section and then vote on the  
 10 total package at the end, it should cover that we don't  
 11 have to vote on each section because we're discussing  
 12 it, unless we can't seem to come to resolution about  
 13 each section.

14           Did that make sense?

15           ASSOCIATE COMMISSIONER LITTLE: It made  
 16 sense.

17           MR. CULLOO: Why didn't we do that in  
 18 bingo?

19           MR. WHEATLEY: We've evolved.

20           MR. WILSON: We put our big boy pants on  
 21 and we discovered that we can actually talk about --

22           MR. FISHER: Do I hear music? Okay.

23           ASSOCIATE COMMISSIONER LITTLE: So what's  
 24 your plan?

25           MR. RAMOS: I thought I knew it.

1 MR. FISHER: That's what I thought, I  
2 thought I knew it.

3 ASSOCIATE COMMISSIONER LITTLE: Could I  
4 then respectively request that you just move on to the  
5 next section and then do these at the end, one vote,  
6 which I think the next one would be inventory?

7 MR. WHEATLEY: I'll second your  
8 respectful request.

9 MR. WILSON: Well, that's a valid point.

10 MR. CULLOO: The problem is if we go on  
11 this section by section, if there is only one section  
12 hanging us up, then it means the whole section is not --

13 ASSOCIATE COMMISSIONER LITTLE: A good  
14 point, right.

15 MR. MCGHEE: That's why last time we did  
16 it section by section.

17 MR. FISHER: All right. So what's the  
18 answer? Are we doing it section by section or -- I  
19 mean, individual sections or the whole section as a  
20 whole?

21 MS. LASH: Well, I think the reason I  
22 suggested a vote on this individual section is because  
23 there may be concerns in the group, because we've just  
24 spent so much time on it. So for those that are not  
25 comfortable with approving this, I think the next

1 question we would ask is what would make you feel more  
2 comfortable with it. Because this is a new concept  
3 where the information is in one section and may point to  
4 something else instead of spelling it out in every  
5 section. That's part of this new concept.

6 MR. FISHER: Okay. So if I have this  
7 right, Michele, so what's your -- what stopped you from  
8 saying okay to this section, or what concern do you  
9 have?

10 MS. STACONA: I guess in 543.14, I'm  
11 going to come back to the only way this will work is  
12 everybody's got to know what flows through their main  
13 bank, what's listed on there, including imprest.

14 So maybe if we can add some language in  
15 here -- because you talk about including card rooms and  
16 vaults in (g)(2). I think you've got to give some other  
17 examples there to make sure you don't miss some items  
18 out there.

19 MR. WEST: Are we voting on the standard  
20 or the guidance?

21 MR. FISHER: Standards.

22 MR. WEST: It seems like you're testing  
23 the standard, and that's a guidance issue.

24 MR. WHEATLEY: My thought is that if  
25 there is an issue regarding controls of cash within the

1 card game area that appropriate guidance documents would  
2 be drafted. And NIGC staff, whatever safe harbor plan  
3 that they decide to adopt with guidance documents and  
4 maybe a portion of what the Tribal Gaming Working Group  
5 has done or some type of hybrid of that, where they've  
6 added additional, that they'll take care of that and  
7 address specific card room issues, while any other  
8 property that's going to develop their own and not take  
9 the guidance that's proposed by the NIGC will adopt  
10 whatever controls that they need specific to their area.  
11 So in that instance where they have a satellite bank  
12 within the card game area, that they'll address those  
13 cash equivalent controls and how they handle those  
14 controls within that section of their system of internal  
15 controls. That's how I view it.

16 ASSOCIATE COMMISSIONER LITTLE: It sounds  
17 like a recommendation to me.

18 MR. FISHER: Could be.

19 Robin?

20 MS. LASH: But isn't what you just  
21 referenced? It's a regulation, 543.14. Is that what  
22 you were saying was the --

23 MS. STACONA: With the new TGWG.

24 MS. LASH: Right, 543.14(f). So that is  
25 not a guidance, that is a regulation that she's

1 uncomfortable with. So if we added language there in  
2 that regulation --

3 MR. FISHER: Right here?

4 MS. LASH: -- then I think we would be  
5 okay.

6 MR. FISHER: So how would we change it?  
7 Kathi?

8 MS. HAMEL: Could we just make a note to  
9 be sure to address card room banks?

10 MS. STACONA: Or imprest banks or  
11 something to that effect.

12 MR. FISHER: So make a note right here  
13 when we come back to this section?

14 MS. HAMEL: Because there may be other  
15 banks that we talk about in pull tabs, bingo.

16 MR. FISHER: Okay. So that's the note.  
17 So when we get to that section we can go back. And I  
18 thought it was easier to use the track changes, even  
19 though they're not really track changes, so that people  
20 can actually see it on the screen, you can see what I'm  
21 doing.

22 MR. MORGAN: Before you leave it, do we  
23 want to make sure that Michele is okay with it?

24 MS. STACONA: Yes.

25 (Simultaneous discussion.)

1 MR. FISHER: So I want to go back,  
2 because Jeff also had a suggestion.

3 Christina, what section are you in?

4 MS. THOMAS: Just reading the cash and  
5 cash equivalent controls underneath 543.9, that's  
6 pointing to 543.14.

7 MR. FISHER: Right.

8 MS. THOMAS: So my thought process would  
9 be to go to the cash and cash equivalent controls of  
10 543.14 and not the entire section of 543.14, as  
11 applicable. I would only look at that particular  
12 provision, because I would actually read the cage and  
13 vault accountability as specifically a cage and vault  
14 function and not really controls for cash and cash  
15 equivalents, because the section of 543.9 is  
16 specifically cash and cash equivalent controls. Then I  
17 would go to 543.14 and specifically read those  
18 provisions. Reading it outside of that skews the whole  
19 regulation.

20 MR. FISHER: So you would do this?

21 MR. WHEATLEY: It should be (e).

22 MR. FISHER: (b)?

23 MR. WHEATLEY: (e), Edward.

24 MS. THOMAS: That's what I would do,  
25 yeah.

1 MR. FISHER: Does that get at what you  
2 were saying, Rest? I know we don't need to, but --

3 ASSOCIATE COMMISSIONER LITTLE: I think  
4 what we would say would be helpful is what Jeff was  
5 saying, this could be addressed in guidance.

6 MR. WHEATLEY: If it's not enough for the  
7 NIGC, then they would establish guidance documents  
8 within the card game section that basically mirrored  
9 543.14, basically, on how you would go about counting.  
10 And it would be more, actually, procedural since it's  
11 guidance documents.

12 MR. FISHER: So what would you say?

13 MR. WHEATLEY: That they could establish  
14 guidance documents to handle card room bank inventories  
15 consistent with 543.14.

16 ASSOCIATE COMMISSIONER LITTLE: I think  
17 that would be a recommendation, too, right?

18 MR. FISHER: Yes. The notes to NIGC in  
19 this thing become a recommendation. So we can test  
20 that, as well.

21 ASSOCIATE COMMISSIONER LITTLE: All  
22 right.

23 MR. FISHER: So do you want to test that  
24 whole thing, or do you want to test the section and then  
25 test the note separately? Let's try the whole thing,

1 see if that works.

2 Okay. So if you're in favor of this  
3 provision as we've changed it, please raise your hand.

4 That got everybody.

5 So now we're going back to (e).

6 ASSOCIATE COMMISSIONER LITTLE: Inventory  
7 of playing cards.

8 MR. FISHER: Right. And now we're at the  
9 top of page four, right?

10 ASSOCIATE COMMISSIONER LITTLE: Yes.

11 MR. FISHER: Top of page four of the  
12 comparison. That's the place where it talks about it.

13 Kathi?

14 MS. HAMEL: Well, I can explain that  
15 543.9(e) came from the May document, not the July  
16 document. We corrected the reference to tabs in the  
17 July document. If you go to A, page 11 of 34, there is  
18 no reference to tabs, it's cards.

19 ASSOCIATE COMMISSIONER LITTLE: The word  
20 "tabs" should be deleted, that was deleted?

21 MS. HAMEL: Well, it was changed to say  
22 such controls shall address cards exchanged between  
23 agents.

24 MR. FISHER: Yeah, you can see that right  
25 there.



1 So does that take care of your --

2 ASSOCIATE COMMISSIONER LITTLE: Between  
3 agents, not to agents, right? That also was changed?

4 MR. FISHER: Right.

5 ASSOCIATE COMMISSIONER LITTLE: I think  
6 the issue that we had raised was canceling of cards.  
7 Oh, okay, I see where it says it right there.

8 MS. HAMEL: It's in the guidance  
9 document.

10 MR. FISHER: Okay. So did you have  
11 anything else, Dan, on the regulation?

12 ASSOCIATE COMMISSIONER LITTLE: No.

13 MR. FISHER: So we're going to move to  
14 questions on the guidance, which are on the top of page  
15 six in the comparison document.

16 MS. HAMEL: I can comment on dice and  
17 tiles.

18 MR. FISHER: Good, because that's  
19 the first part.

20 MS. HAMEL: We do have dice and tiles in  
21 a player-banked game that we control in the same fashion  
22 that we control cards.

23 MR. WEST: You have dice -- I'm sorry?

24 MS. HAMEL: Dice and tiles in a  
25 player-banked game that we control in the same fashion

1 that we do playing cards. We purchase them, we count  
2 them, we issue them, and we cancel them.

3 MR. WEST: Is that a Class III game?

4 MS. HAMEL: No, it's a player-banked  
5 game, Class II game.

6 MR. WEST: All right.

7 MR. RAMOS: Kind of like California  
8 craps?

9 ASSOCIATE COMMISSIONER LITTLE: Where the  
10 player rolls the dice and then the dealer turns over  
11 some cards?

12 MR. RAMOS: Yes.

13 MR. FISHER: So we're checking that off?

14 ASSOCIATE COMMISSIONER LITTLE: Yeah,  
15 that was just a statement anyway.

16 MS. HAMEL: Maybe typically is true, but  
17 it does exist.

18 MR. WEST: So the second comment is just  
19 an addition to the guidance documents for decreases to  
20 the card (inaudible), which I don't think is addressed  
21 in four (inaudible).

22 MS. HAMEL: Issuance of inventory?  
23 That's a repeat.

24 MR. WEST: I'm sorry?

25 MS. HAMEL: I guess issuance of inventory

1 is a decrease, I guess we just used the word decrease in  
2 the guidance document, six.

3 MR. WILSON: In number 10(d), it talks  
4 about card inventory being received (inaudible) issued,  
5 removed (inaudible).

6 MR. WEST: The next comment is on the  
7 plastic cards.

8 MR. WILSON: What was the next --

9 MR. FISHER: The next comment, the  
10 paragraph that starts assuming the use of inventory  
11 refers to the use of plastic cards.

12 MS. HAMEL: It may not, you may have your  
13 card control in such a fashion that the cards always  
14 leave the card room, and then we turn to this main card  
15 inventory before they're destroyed even though they were  
16 used. So it could be either way. You could go -- be  
17 received into the inventory and issued to the room, and  
18 then the procedure is that once they're a used card  
19 they're sent directly to destruction. Then your  
20 inventory tracking would take place from the card room  
21 or podium, potentially, to destruction, or it may go  
22 back through your overall inventory. It's just two  
23 different fashions of controlling those cards.

24 MR. WEST: And I think the main focus of  
25 this comment is there is nothing to address plastic

1 cards as far as washing, inspection or -- washing and  
2 inspection, or washing and cleaning. It's not a big  
3 point --

4 MR. CULLOO: So is it your thought cards  
5 should only be used so many times before they have to be  
6 washed?

7 MR. WHEATLEY: No. The overall life  
8 cycle of the cards, regular maintenance of washing. But  
9 that can't stretch for longer than three months,  
10 typically.

11 MS. TAHDOOAHNIPPAH: Kathi, do you  
12 remember why in the working group there wasn't anything  
13 about washing cards?

14 MS. HAMEL: No. I don't even remember us  
15 talking about it. We have all kinds of cards, so --

16 MR. WILSON: I was going to say, do you  
17 use plastic cards?

18 MS. TAHDOOAHNIPPAH: We do.

19 MR. WHEATLEY: Yeah, poker.

20 MR. CULLOO: Well, the whole purpose of  
21 using them is because after a while your dealers would  
22 make mistakes and not shuffle them and (inaudible).

23 MR. WILSON: So this brings up an  
24 interesting question in my mind. And Jeff, as you said,  
25 well, typically not more than three months. So is

1 washing of cards a standard or is it a guidance?

2 MS. HAMEL: We're in the guidance.

3 MR. WILSON: The question that I'm asking  
4 is is washing of your cards something that should be  
5 part of a standard and --

6 MS. HAMEL: It's a procedure.

7 MR. WILSON: It's a procedure, though,  
8 that one can choose to do or not do?

9 MS. HAMEL: You can throw them away.

10 MR. CALLAGHAN: Which is inventory  
11 reconciliation.

12 MR. WILSON: I guess the question I'm  
13 asking is -- I only bring this up because in the  
14 Class III world, we have a requirement about washing  
15 cards. And so that's where I'm just saying is this  
16 something -- what if somebody does it? Is that okay?  
17 That's the question I'm asking, is it okay if somebody  
18 chooses not to wash cards?

19 MS. HAMEL: I don't know what the risk is  
20 as long as you've inspected them.

21 (Simultaneous discussion.)

22 MR. WHEATLEY: Well, if you're employing  
23 a shuffler and you have dirty cards, you could alter the  
24 effectiveness of the shuffle by not maintaining your  
25 cards properly, thus altering the game.

1 MR. WEST: And do they typically inspect  
2 them for people bending corners and stuff?

3 MR. WHEATLEY: Yeah, yeah. And the  
4 plastic cards are typically a little more difficult to  
5 do that with than the standard paper cards.

6 MR. CULLOO: They last longer, more  
7 durable, and you can't bend them and crease them.

8 MR. WILSON: And again, I only bring that  
9 up just because in the guidance, the guidance is  
10 guidance. So if it doesn't talk about that -- and  
11 again, this is that whole thing of how much do you have  
12 to say, and that's why I throw out the question. Is it  
13 inherent that washing the cards is, in fact, a critical  
14 component or not. And it sounds like it could be. And  
15 if it is, then it probably needs to be specific in the  
16 guidance for part of a standard.

17 MR. WHEATLEY: It makes no mention of  
18 maintaining cards within the standard. So I mean, an  
19 operation could formulate guidance documents on how you  
20 handle that procedurally, but yeah, there is no  
21 reference to ensure that they do do that.

22 MS. HAMEL: I would suggest it's a  
23 suggested guidance procedure rather than a standard.

24 MR. WHEATLEY: But what's -- if there is  
25 nothing stated in the standard that says a TGRA needs to

1 ensure that there is controls ensuring that this is  
2 handled, what's to say that it doesn't get overlooked?  
3 And I guess, and maybe the same thing, too, now that I  
4 think about it, is -- or maybe it's addressed somewhere  
5 else, but maintenance of shufflers.

6 (Simultaneous discussion.)

7 MS. HAMEL: The standard says that there  
8 has to be controls to prevent unauthorized access,  
9 misappropriation, forgery, theft or fraud. So one  
10 fashion of doing that would be cleaning cards, right?

11 MR. WHEATLEY: Broadly, I think yeah,  
12 very broadly, because the section, yeah, it's more  
13 talking about the inventory rather than the physical  
14 upkeep.

15 MS. HAMEL: Well, there is an inspection  
16 in the guidance document.

17 MS. TAHDOOAHNIPPAH: So one way to  
18 prevent fraud is to make sure that you're taking care of  
19 your cards.

20 MR. WILSON: Mia, I couldn't hear you.  
21 Could you speak up?

22 MS. TAHDOOAHNIPPAH: You know, fraud does  
23 mean, you know, how you maintain your cards.

24 MR. FISHER: Okay. So we've had some  
25 question raised about whether guidance or whether there

1 is a broader thing going on with washing cards that  
2 turns out to be maintenance-related stuff. So where are  
3 you? Do you need to say anything about this or are you  
4 comfortable the way it is?

5 MR. WHEATLEY: What's NIGC's standpoint?

6 MR. WILSON: For me, this is under the  
7 section of inventory of playing cards. So I'll say  
8 again, if maintenance is important, then that -- if  
9 that's a critical component, then I think it needs to  
10 say so somewhere, from that standpoint.

11 MR. CULLOO: Where else in the controls  
12 is there anything about maintenance of other gaming  
13 equipment other than cards?

14 (Simultaneous discussion.)

15 MR. WHEATLEY: Didn't we touch on repair  
16 and maintenance of electronic equipment in the Technical  
17 Standards?

18 MR. CULLOO: Electronic.

19 MR. WHEATLEY: Which would cover  
20 shufflers.

21 I don't have an issue with adding a small  
22 make it (j), just if plastic cards are in use, adequate  
23 controls will be in place to ensure that the integrity  
24 of those cards is maintained.

25 MR. MORGAN: Added to the standard or



1 added to the guidance document?

2 MR. FISHER: I heard him say guidance  
3 document. Isn't that where you're focusing, the  
4 guidance document?

5 MR. WHEATLEY: Well, I think Thomas and I  
6 referenced this a little bit earlier, if it's not in a  
7 standard, then what's to say that TGRA is going to  
8 actually ensure that it's in there? I'm not saying that  
9 there shouldn't be a procedure in the standard, but a  
10 reference to plastic cards may be important.

11 MS. TAHDOOAHNIPPAH: I think it better  
12 fits in the guidance section.

13 MR. FISHER: Okay. So you could put  
14 plastic cards in this list, right, or you could say put  
15 something in the guidance on washing plastic cards?  
16 What's your suggestion? What would you like the group  
17 to consider?

18 MR. WHEATLEY: I don't think it fits in  
19 inventory.

20 MR. WILSON: I didn't hear that, Jeff.

21 MR. WHEATLEY: I don't think it fits in  
22 inventory.

23 MR. FISHER: So you would not put it  
24 there?

25 MR. CULLOO: Under (f), playing cards, to

1 ensure the integrity of the card game, cards should be  
2 cleaned --

3 MR. WHEATLEY: Where are you?

4 MR. CULLOO: Right under (f) in the  
5 guidance, where it addresses playing cards, to ensure  
6 the integrity of the card game, cards should be cleaned,  
7 controls must be established. I mean --

8 MS. LASH: Maintenance?

9 MR. CULLOO: Yeah, maybe maintenance  
10 would be better.

11 MS. TAHDOOAHNIPPAH: Also, in (f),  
12 playing cards, (f)(3), making sure that they have not  
13 been marked, altered or otherwise manipulated, I mean, I  
14 think that it's kind of referencing washing. It's not  
15 saying it.

16 MR. WHEATLEY: But when we're talking  
17 about guidance documents, we're talking about this is a  
18 set of documents that a tribe who doesn't have much  
19 experience in gaming can take and use as a safe harbor  
20 provision.

21 At no point are we being detailed enough  
22 on when you wash cards, what the cycle of washing cards  
23 is, how long those cards can be in play even though they  
24 have regular washing cycles, the log that goes along  
25 with washing cards. All the physical controls that goes

1 along with washing cards we're not even referencing.

2 So if it's got to go in guidance, I think  
3 it's going to be more detailed.

4 MR. CULLOO: You would have to tell them  
5 how to wash cards, too, because some people may not know  
6 what that means.

7 (Simultaneous discussion.)

8 MR. MORGAN: I still haven't -- getting  
9 back to your concern, Jeff, where you're talking --  
10 lawyers, you start with you can't do anything in a  
11 guidance that's somehow not pointed to by your  
12 regulation, and you can't do anything in your regulation  
13 somehow you don't have authorized by your statute. I  
14 mean, it all has to move up in an orderly sequence. So  
15 I'm not for sure how we got there in guidance.

16 I have a feeling, going back to your  
17 point, in the actual reg we don't say anything about  
18 maintenance. We're telling you about maintenance in the  
19 guidance document, but we're not telling you anything in  
20 the regulation.

21 MR. WHEATLEY: I think you just make a  
22 quick (j) under 543.9 that talks about that adequate  
23 controls will be established for plastic cards if they  
24 are in use.

25 MS. HAMEL: What about everything else?

1 We're just picking out one piece of the card game.  
2 We're not talking about progressive sign, we're not  
3 talking about shuffler, we're not talking about the  
4 chips. Why are we just picking on the playing cards?

5 (Simultaneous discussion.)

6 MR. CALLAGHAN: To me, it's all part of  
7 inventory, which is in the regulation.

8 MS. HAMEL: That's right.

9 MR. FISHER: It's all up in here you  
10 mean?

11 MR. CALLAGHAN: (Inaudible.) And that's  
12 what you're looking to be doing, should be doing.

13 MR. FISHER: Okay. So let's -- we are  
14 focused -- we have been focused on plastic cards and  
15 washing plastic cards. So, Kathi, your question is why  
16 focus just on that particular thing? So is there  
17 something --

18 MS. HAMEL: I'm not suggesting that you  
19 don't wash them, I just don't know what they have to do  
20 with the regulation and the guidance documents  
21 associated with --

22 MR. CALLAGHAN: You've got  
23 misappropriation, forgery, theft, fraud. I think the  
24 mechanics of these other aspects -- and I agree with  
25 some of the I don't want to call it frustration, but

1 there is a lot of things that we've left off the table  
2 in the regulation, everything down to what happens if  
3 your communication on why your progressive bingo goes  
4 down, should you shut your bank down or should you allow  
5 it to play in the house with the probability that the  
6 progressive could be hit. What does that have to do  
7 with regulation. That's more internal protecting  
8 yourself as opposed to your mission of keeping fraud and  
9 other things out of -- I mean, we're moving in with your  
10 mission, we're not moving into how we operate a casino.  
11 And crime, fraud, theft, misappropriation is right up  
12 there.

13 So you're so right, Kathi, you're so  
14 right.

15 ASSOCIATE COMMISSIONER LITTLE: So would  
16 it be helpful for a new gaming commission if you do put  
17 it in the guidance document?

18 MS. HAMEL: You could, there is no harm,  
19 I just don't think it's a regulation. You could put --

20 MR. CULLOO: You assume (inaudible) that  
21 are completely ignorant of the game to run it. I mean,  
22 that's pretty standard in the business. I've never  
23 known anyone in a poker room not to (inaudible.) Now,  
24 some may choose not to do it, but they know they should  
25 do it. That's another issue.

1 MR. FISHER: Okay. So what does that  
2 mean? Are we changing anything or not?

3 ASSOCIATE COMMISSIONER LITTLE: I think  
4 these are, once again, these are guidance -- these are  
5 points that we're raising that we see in the guidance  
6 document. Take them into consideration or not. Do as  
7 you see fit.

8 I think we should move on to the next  
9 one, which is in regard to storage requirements for the  
10 cards.

11 MR. FISHER: Everybody ready to move on?

12 ASSOCIATE COMMISSIONER LITTLE: You know,  
13 another area where there could be some clarification in  
14 the guidance. I don't know if anybody has any comment  
15 on it.

16 MS. HAMEL: I think in the third and the  
17 fourth, the discussion about adding something to the  
18 guidance document about used cards is a very valid  
19 point. So there may just need to be more information  
20 than removal from table after inspection, that there is  
21 a process to segregate used cards from new cards.

22 MR. FISHER: So we're still on this. So,  
23 Kathi, I heard you -- you're making a suggestion about  
24 adding that to the guidance document?

25 MS. HAMEL: I think it would be

1 appropriate to add it to the guidance document after the  
2 inspection, that there just be a comment that used cards  
3 are segregated from the new cards after they're  
4 inspected.

5 MR. WILSON: Kathi, can you cite the  
6 section specifically? After inspection, but what --

7 MS. HAMEL: The top of page 5 of 18. It  
8 says (ii), upon return of inventory the cards are  
9 inspected. I mean that whole (inaudible.)

10 MR. WILSON: Oh.

11 MS. HAMEL: And again, I'll just make the  
12 comment, the final guidance documents that we submitted  
13 in July is a little bit different than what we're  
14 looking at here. So like we took -- we just took return  
15 of inventory and we broke it into some subsections of  
16 (i) and (ii). So maybe there is a (iii) that ensures  
17 that -- which is page 5 of 11 of Tab D.

18 MR. WILSON: Can I just get a point of  
19 clarification? Tab D in the binder, which is the  
20 guidance document, you're saying is not the same  
21 guidance document that's referenced in the comparison?

22 MS. HAMEL: No. I believe that was the  
23 main version, because it still has the reference to tabs  
24 instead of cards.

25 MR. WILSON: Because the date on the top

1 of it says 7/28/2011.

2 MR. FISHER: So what's in the  
3 comparison -- go ahead, Dan.

4 ASSOCIATE COMMISSIONER LITTLE: We didn't  
5 have guidance documents when we got the May draft, we  
6 only got the guidance documents when we got the July  
7 draft. So it should be the same.

8 MS. LASH: We're looking at the July  
9 draft right here.

10 MR. WILSON: Yeah, and -- because what --

11 MS. HAMEL: It still has reference to  
12 tabs, for the regulation.

13 Comparison document, page 3 of 18,  
14 543.9(e), such controls shall address tab cards.

15 MS. LASH: Are you on Tab E?

16 MR. MORGAN: Of the comparison document.

17 MS. HAMEL: So under that section of  
18 return of inventory, there could be a (iii) that says  
19 used cards should be segregated from new cards.

20 MR. FISHER: Oh, I see. So it would be  
21 like this. Can you look on the screen, Kathi? This  
22 would be this.

23 MS. HAMEL: Sure.

24 MR. FISHER: Okay. So I think we're  
25 still trying to ascertain document versions.



1 MS. HAMEL: So it's just the regulation.

2 MR. FISHER: It's just the regulation?

3 Okay, okay. So now we're back to the guidance comments,  
4 the top of page six.

5 ASSOCIATE COMMISSIONER LITTLE: That was  
6 this one right here, then cancellation log.

7 MR. FISHER: Right.

8 MR. WILSON: So one of the NIGC comments  
9 there about controls in this section should include  
10 storage requirement, that's referencing to controls in  
11 the guidance document? Because the guidance document  
12 does have a section on storage requirements.

13 ASSOCIATE COMMISSIONER LITTLE: All these  
14 are references to the guidance documents, all these  
15 questions here reference guidance documents.

16 MR. WILSON: So the controls in this  
17 section should include storage requirements, oh, for  
18 used cards and the time period within which cards should  
19 be canceled.

20 ASSOCIATE COMMISSIONER LITTLE: So do you  
21 feel that it's adequately addressed in the guidance  
22 documents?

23 MS. LASH: Yes. Page 4 of 11 under Tab  
24 D, it says storage. (i) says new and used playing cards  
25 must be maintained in a secure location, i.e., under

1 lock and key with the appropriate surveillance coverage  
2 and accessible to authorized agents to prevent  
3 unauthorized access and tampering. So that does  
4 reference used, as well.

5 MR. WEST: What about the second part,  
6 the cancellation period?

7 MS. LASH: Page 5 of 11 under Tab D has a  
8 cancellation and removal section, and page 6 of 11 under  
9 Tab D on number ten has a logs section. I think it's  
10 covered.

11 MR. FISHER: Does it cover the time  
12 period?

13 MR. WEST: No, I don't see where the time  
14 period is addressed.

15 MR. FISHER: So Rest is asking about the  
16 time period. Is that --

17 MS. HAMEL: I think he means time of day.

18 ASSOCIATE COMMISSIONER LITTLE: The  
19 length, right.

20 MR. FISHER: Total time, right? Total  
21 time.

22 MS. LASH: We need to add that.

23 MR. FISHER: Okay. Where would you put  
24 it?

25 MS. LASH: Oh, sorry. Page 6 of 11,

1 number ten, logs, (ii)(a) says date and (c) says time.

2 ASSOCIATE COMMISSIONER LITTLE: But the  
3 time --

4 MR. WEST: It's the time period for  
5 cancellation.

6 MR. MORGAN: You have so long to store  
7 them and then --

8 MS. LASH: And you have cancellation?  
9 Okay.

10 MS. TAHDOOAHNIPPAH: They can only sit in  
11 the podium for 30 days or two days.

12 MR. FISHER: Got it.

13 MS. HAMEL: I think it's kind of dictated  
14 on your size, right, based on your space? Do you make a  
15 specific time or do you --

16 MR. CULLOO: What if you don't use a deck  
17 three times in the 90 days? It makes no sense.

18 MR. WEST: You're not going to remove it  
19 from play, you're probably going to keep it at the  
20 podium. These are the ones that have been removed from  
21 play and need to be canceled before they disappear.

22 MS. HAMEL: Is your question  
23 cancellation --

24 MR. WEST: Cancellation.

25 MS. HAMEL: -- or destroyed?

1 Oh, I didn't understand.

2 MR. RAMOS: (9)(iii).

3 MR. FISHER: Can you say that a little  
4 louder, Jason?

5 MR. RAMOS: I think it goes under  
6 (9)(iii).

7 MR. FISHER: That's what I got right  
8 there.

9 MR. RAMOS: Actually, I'm sorry.  
10 (Simultaneous discussion.)

11 MR. WILSON: These decks that are no  
12 longer in play, how long are they going to be sitting  
13 somewhere before they're destroyed so that they can't be  
14 reintroduced into play, with the theory being that cards  
15 that are taken out of play have less visibility than  
16 cards that are in play. And therefore, you don't want  
17 them sitting for an indeterminate amount of time that  
18 they -- you could lose track that, in fact, you have  
19 cards missing that have been reintroduced into the game  
20 even from outside.

21 And that is a common scam, is the  
22 reintroduction of non-destroyed cards by outside parties  
23 back into the game.

24 MR. RAMOS: Robert, it probably goes  
25 under (ii).

1 MR. FISHER: (ii)? Is it a new one?

2 MR. RAMOS: No. I think if we put it  
3 anywhere in there it goes (9), some language in (ii).

4 MS. HAMEL: The cancellation?

5 MR. FISHER: Right.

6 MR. RAMOS: (ii).

7 MR. FISHER: Sorry.

8 MS. HAMEL: So cancellation and removal,  
9 guidance document 9(i), used playing cards that are not  
10 to be reused shall be properly cancelled and then  
11 removed from service to prevent reuse and retire cards.

12 I think it should have another statement  
13 that says best practice suggests this cancellation take  
14 place in X amount of days.

15 MR. MORGAN: In (ii) you already have a  
16 second sentence that says best practice suggests that  
17 the cancellation process be under surveillance to  
18 prevent (inaudible). You could add something in there  
19 on time period.

20 MR. WHEATLEY: Maybe like seven days or  
21 whatever.

22 MR. MORGAN: You could add best practice  
23 suggests that it's under surveillance and it occurs  
24 within whatever that date is.

25 (Simultaneous discussion.)

1 MR. FISHER: Okay, okay, so we got a lot  
2 of conversations going at the same time.

3 MR. RAMOS: It is getting late.

4 MR. FISHER: It is getting late. Maybe  
5 we should take a short break. We've got another hour to  
6 go. Let's take a little stretch break. Let's just take  
7 a five-minute stretch break.

8 (Recess.)

9 MR. FISHER: All right, folks. We've got  
10 50 minutes left. Where we took a little break was to  
11 add a recommendation in the guidance on the best  
12 practices section right here. So I don't know if you  
13 want to specify a time frame or just say --

14 ASSOCIATE COMMISSIONER LITTLE: I think  
15 the standard is seven days, yeah, or the -- I don't want  
16 to say standard, but the recommended best practice.

17 MR. WHEATLEY: Common practice.

18 ASSOCIATE COMMISSIONER LITTLE: Best  
19 practice, yeah.

20 MR. FISHER: Good? Okay, going to move  
21 on here. That's it for (e), right?

22 ASSOCIATE COMMISSIONER LITTLE: No.

23 MR. FISHER: What did I miss?

24 MS. TAHDOOAHNIPPAH: We're at number five  
25 now on page six.

1 MR. FISHER: Oh, I see, yep.

2 MR. WHEATLEY: I think that's in there,  
3 though, (10)?

4 ASSOCIATE COMMISSIONER LITTLE: I think  
5 that's what Robin was saying in (10)(ii), is that  
6 what --

7 MS. HAMEL: I think maybe there is a  
8 misunderstanding of the comment. And it says management  
9 should determine based on the size of the operation and  
10 inventory needs where the logs are maintained, not  
11 whether or not you should have logs.

12 Is that the confusion?

13 MR. WEST: Yes, it is.

14 MS. HAMEL: It's where the logs  
15 themselves are maintained, are they maintained at the  
16 podium, are they maintained in a closet or do you have a  
17 room.

18 MR. WEST: No, it says where card  
19 inventory logs are required. That means, in my mind,  
20 management can say we don't need a card inventory log.

21 MS. HAMEL: And I think our intent was  
22 location, not whether or not they were required. So  
23 there probably needs to be some clarification.

24 ASSOCIATE COMMISSIONER LITTLE: The  
25 location where card inventory logs are required? That

1 doesn't make any sense.

2 MR. CULLOO: Maybe just the location of  
3 the inventory log.

4 MS. HAMEL: Yes, change the language.

5 ASSOCIATE COMMISSIONER LITTLE: Cleaner,  
6 yeah. So that would be in (10(i)).

7 MR. CULLOO: Management determines the  
8 location of the log.

9 MR. FISHER: All right. Did I get that  
10 right? Yes?

11 MR. CULLOO: Yes.

12 MR. FISHER: Does that work, Kathi?

13 MS. HAMEL: It may need some  
14 wordsmithing.

15 MR. FISHER: So do you want to just  
16 change it and say add the concept in there --

17 MS. HAMEL: Yes.

18 MR. FISHER: -- where it's clarified that  
19 it's the location, not whether there are logs, right?

20 MS. HAMEL: Not whether. And then we  
21 would get rid of that.

22 MR. FISHER: Does that do it? Okay?  
23 Does that do it?

24 Okay, all right. So we made three  
25 changes. So like we did with (g), you want to do (e)?



1 MR. CULLOO: Uh-huh.

2 MR. FISHER: So we didn't make any change  
3 to (e). So it would be TGWG version (e), and then all  
4 of these things would be guidance related to (e). We  
5 would just put that in there like that, like this.

6 Okay. So should we test this? Everybody  
7 ready?

8 Okay. So if you agree with the changes  
9 up on the screen, raise your hand.

10 Perfect. All right. So back to the  
11 comparison document. Now we're up to (f).

12 ASSOCIATE COMMISSIONER LITTLE: Shills.

13 MR. FISHER: Okay. What did you have to  
14 say about that?

15 MR. WEST: I just didn't put it on the  
16 comparison document, but I was looking at the actual  
17 wording of the standard. Issuance and return of skill  
18 funds shall be recorded and have the written approval of  
19 another agent. Should it say an authorized agent or  
20 approved agent? Because it reads --

21 MR. MORGAN: Sorry, it's kind of an  
22 inside discussion. The Tribal Gaming Working Group,  
23 when we used the generic term "agent," it assumes that  
24 you have to be authorized in order to be an agent.

25 MR. FISHER: It's a defined term.

1 MR. MORGAN: Yeah, under the defined term  
2 of a definition of agent.

3 MR. WEST: I'm going to say are they  
4 going to authorize a shill be used and approve funds.  
5 That's the question, it's not that agents are not  
6 authorized, it's do they have that authority.

7 ASSOCIATE COMMISSIONER LITTLE: I think  
8 the idea is that while an agent can be any employee  
9 within the facility, they may not be authorized to do  
10 that particular task.

11 MR. MCGHEE: A person authorized by the  
12 gaming operation as approved by TGRA to make (inaudible)  
13 on behalf of the gaming operation.

14 MR. FISHER: That's the way the  
15 definition is, right?

16 ASSOCIATE COMMISSIONER LITTLE:

17 MR. MCGHEE: It means that agent was  
18 assigned to perform that task.

19 MR. FISHER: Right.

20 MR. WHEATLEY: It's also in the guidance,  
21 (g)(1)(ii), agents authorized to make the decision to  
22 use a shill. Or are you just talking about signing out  
23 the cash? That would be separate.

24 MR. WEST: So it sets up a different  
25 class, it sets up particular agents that are only

1 authorized to do that, which would be not global to all  
2 the agents.

3 MR. FISHER: Isn't that what it means to  
4 be a shill?

5 MR. CULLOO: I was going to sing that  
6 song.

7 MR. FISHER: Okay. So did that way of  
8 piecing that together, did that address your concern, or  
9 do you still have a concern?

10 MR. WEST: No, it didn't.

11 MS. HAMEL: So the definition of agent  
12 doesn't create the control? Because an agent has to be  
13 authorized to perform the assigned task.

14 MR. WEST: What if the agent is a dealer?  
15 That doesn't mean you're authorized to approve someone  
16 to become a shill.

17 MS. HAMEL: Well, then they wouldn't be  
18 authorized to perform that task.

19 MR. WEST: Well, it doesn't say  
20 authorized, it just says --

21 MR. FISHER: The definition of agent says  
22 that in order to be an agent, you have to be authorized  
23 to do that task.

24 MR. CULLOO: Specific task.

25 MR. WEST: Okay, all right.

1                   ASSOCIATE COMMISSIONER LITTLE: So that  
2 addresses this issue here.

3                   MR. WEST: So that would address that,  
4 too.

5                   MR. FISHER: So we're good? We don't  
6 have anything else? Okay. Are we done with shills?

7                   ASSOCIATE COMMISSIONER LITTLE: Just for  
8 my own personal knowledge, is this a common practice in  
9 card games?

10                  MR. WHEATLEY: I use a shill. Our poker  
11 room manager is our shill. And she's authorized to, up  
12 to \$100 a day, to get a game going. Once the game has  
13 enough players to sustain itself, then she withdraws,  
14 turns her cash back in. But she can go in and out of  
15 the game at any point in order to keep the game going  
16 with enough players so that we have action.

17                  MR. MORGAN: That's when you need it. It  
18 depends on your card room. You've got one guy that  
19 comes in all the time and wants to play, you've got to  
20 give him that ability to play and get the game going.

21                  ASSOCIATE COMMISSIONER LITTLE: All  
22 right.

23                  MR. MCGHEE: Does that address the last  
24 comment from NIGC?

25                  MR. WEST: Yes.

1 MR. FISHER: All right. So I think we  
2 addressed all the comments on --

3 ASSOCIATE COMMISSIONER LITTLE: (f).

4 MR. FISHER: -- section (f) in the  
5 guidance. So do you want to test this?

6 If you support that language, raise your  
7 hand, please.

8 Okay, that got everybody.

9 All right. So what is next? No  
10 comparable TGWG section. So now we're on page eight.  
11 We already did the counting room thing. The card room  
12 bank, that comment on page eight is the same as before  
13 we got on cash and cash equivalents, right?

14 MR. WEST: Right.

15 MR. FISHER: So have we taken care of  
16 that?

17 ASSOCIATE COMMISSIONER LITTLE: I think  
18 so.

19 MR. WHEATLEY: We just said that they're  
20 going to establish guidance.

21 MR. FISHER: Right.

22 So now we're on (i), page --

23 MS. TAHDOOAHNIPPAH: Eight.

24 MR. FISHER: -- 13 is all the way to  
25 where it goes to, but that's where your comments begin,

1 right, on page 13? So you want to start on page eight,  
2 start on page eight. So there is a comment about the  
3 regulation.

4 MR. MCGHEE: (Inaudible).

5 MR. FISHER: Say again?

6 MR. MCGHEE: It talks about the effects,  
7 which we talked about before. And the only other thing  
8 it says is guidance appears to be relevant.

9 MR. FISHER: Where are you looking at?

10 MR. MCGHEE: We're on (i), right?

11 MR. FISHER: Yes.

12 MR. WEST: You're looking at the standard  
13 part of it, though, page eight -- top of page 13, I'm  
14 sorry.

15 MR. FISHER: Top of page 13.

16 MR. MCGHEE: Got it.

17 MR. FISHER: Effect the TGWG proposal,  
18 page eight. I mean 13.

19 MR. MCGHEE: It's not a question, is it?  
20 Okay, yeah, I got it.

21 MR. FISHER: The standard could be more  
22 specific. Further, it's not clear whether it's intended  
23 to require verification of increases and decreases, and  
24 then it goes on. So it's what -- I mean, what's the  
25 question?

1 MR. WEST: I want to back up to the  
2 heading of (i). Unless it's been changed, it says  
3 promotional progressive pots and pools such as contests,  
4 tournaments, drawings and giveaway programs. I don't  
5 understand "such as." Promotional progressive pots and  
6 pools are not contests, drawings or giveaway programs.  
7 To me they're two separate -- I mean, it's separate  
8 programs or promotions, if you will.

9 MR. FISHER: Okay. So I think we need to  
10 turn to the TGWG folks and see what was intended there.

11 MS. LASH: So does deleting the "such as"  
12 language help at all or --

13 MR. WHEATLEY: Deleting the references  
14 altogether? Because I'd have to agree, they're not the  
15 same thing.

16 MR. WEST: And then the rest of the  
17 standard talks about promotional pool contributions, and  
18 then it's just like it's silent as to contests, drawings  
19 or giveaway programs. It's just like it's dropped off.  
20 I don't know, it's just a confusing section to me.

21 MS. HAMEL: So if that was removed, would  
22 it be clearer, if it just ended at pools, remove "such  
23 as"?

24 MR. WHEATLEY: So pools shall be returned  
25 and documented in accordance with the posted rules? Is

1 that what you're saying? Delete "such as" all the way  
2 through -- well, never mind. There is two separate  
3 sentences there.

4 MR. FISHER: There is a period right  
5 after programs.

6 MR. WHEATLEY: So get rid of the "such  
7 as" and the rest of that sentence?

8 MR. MORGAN: Does that make it clear?

9 MR. WHEATLEY: I believe so.

10 MR. MORGAN: The heading is confusing but  
11 the language is not, so clarify the heading.

12 MS. THOMAS: It's still confusing with  
13 the guidance documents, though, because you guys  
14 actually break down promotions and tournaments. It's  
15 still two separate things.

16 MR. WHEATLEY: Wouldn't those be more  
17 appropriate in section (10), the promotion section?

18 MR. WEST: Was it the intent of the TGWG  
19 to address contests in this section or not?

20 MS. HAMEL: If it involved contributions  
21 from the patron.

22 MS. TAHDOOAHNIPPAH: Because we use their  
23 money to fund tournaments out of that player pool, we  
24 use their money to have some sort of promotional or  
25 contest, returning their money.



1 MR. CALLAGHAN: What about if you had a  
2 bad beat and it was seeded, you would be able to take  
3 part of that rake and if you -- so long as it was  
4 stated, the house could get paid back?

5 MR. WHEATLEY: For their seed amount?

6 MR. MORGAN: Yeah.

7 MS. HAMEL: And tournaments may or may  
8 not be funded by the player. That's why we had that in  
9 there.

10 MR. MORGAN: I think that is the  
11 distinguishing thing. We're talking about what the  
12 casino does and the word for general patrons to come in  
13 and maybe obtain some incentive. And this term, we're  
14 talking about cards, because Class II is player banked.  
15 We're using a portion of their funds. And we're still  
16 running the tournament and we're still running the  
17 contest, but we're not running it with the, quote  
18 unquote, house any more, we're running it with the  
19 player's pool funds.

20 MR. CALLAGHAN: So it's just like a  
21 progressive. Once you post a progressive, it's used  
22 with the player's money. Regardless of whether it comes  
23 off of that game or it comes off of another game, the  
24 money is always returned to the player.

25 MR. MORGAN: Back to the player and

1 understand what the percentages are.

2 MR. CALLAGHAN: So you should be allowed  
3 for cancellation so long as the funds are (inaudible).

4 MS. HAMEL: So that's why in the guidance  
5 document that we made we talked about tournaments as an  
6 example. Not that that's the only example, but there  
7 could be. Maybe that's why we had the "such as" in  
8 there.

9 MR. MORGAN: That could be. It reminds  
10 me of the term "reasonable" when we're talking about  
11 variances. Remember when we had that discussion about  
12 how to use the term "variance" in this context? That's  
13 sort of the way we used promotions and tournaments in  
14 this, because it's a specific context within the card  
15 games, it doesn't have the natural attributes a  
16 promotion would have. It's used very specifically. And  
17 when it's used that way, either suggested guidance of  
18 how you control that (inaudible).

19 MR. CULLOO: Maybe we should be more  
20 specific, player-contributed funds in promotions.  
21 Because if we do a free roll tournament or something,  
22 that doesn't have anything to do with this. There is a  
23 lot of promotions that you can do that have nothing to  
24 do with this.

25 MR. WHEATLEY: Exactly.

1 MS. HAMEL: And that was the intent of  
2 it.

3 MR. CULLOO: Maybe if it was only a  
4 player-contributed funded promotion.

5 MR. CALLAGHAN: Patron funded, yeah.

6 MR. FISHER: Are we still talking about  
7 changing the heading or are we talking about what this  
8 section covers?

9 MR. CALLAGHAN: It does say funds  
10 contributed by patrons to prize pools shall be returned  
11 and documented in accordance with posted rules. That  
12 fits exactly the scenario.

13 MR. MORGAN: So far the language is okay,  
14 it's the heading that's confusing.

15 MR. CALLAGHAN: Oh, I'm sorry.

16 MS. TAHDOOAHNIPPAH: In the accounting  
17 section of 543.19(6)(d), it talks specifically about the  
18 promotions and the cash returned to the patrons and pool  
19 balances and the reconciliation process, that it's  
20 accounted for, on page 10.

21 MS. HAMEL: Maybe that section just needs  
22 to be added to the guidance document and removed from  
23 the regulations.

24 MR. CULLOO: I think the old header is  
25 correct.

1 MS. HAMEL: Pots and pools.

2 MR. FISHER: So the old header is just  
3 that, right?

4 MS. HAMEL: Right.

5 MR. FISHER: With the "such as" not  
6 included.

7 ASSOCIATE COMMISSIONER LITTLE: You  
8 suggest it be moved into the guidance documents?

9 MS. HAMEL: Right, because we just -- we  
10 talk about tournaments, but maybe in the guidance  
11 document where it talks about (inaudible) card games and  
12 related promotions and tournament, maybe it should say  
13 promotional progressive pots and pools such as, so long  
14 as the control is around those funds that are  
15 contributed by the patrons.

16 MR. MORGAN: If I'm following everybody,  
17 I'm just trying to make sure I'm up to speed here, so  
18 we're looking at the comparison document of what NIGC  
19 (inaudible). That paragraph there, the first part, they  
20 kind of said, well, the section title is confusing, so  
21 we modified that.

22 Mia, your comment went to say it's moved  
23 to accounting to take care of some of that stuff, that's  
24 where you need to look if you have issues with whether  
25 it's specifically referenced in how to do this, it's

1 actually found in the accounting section.

2 And then your last thing there is talking  
3 about once per day or per week. And it gives you that  
4 independence, because it depends on how frequently your  
5 game is done. If you don't open your game except for on  
6 Thursday, Friday, Saturday, then why should you be doing  
7 that once a day? You know, it kind of depends on the  
8 operation to perform that function based on its risk  
9 associated with what kind of a frequency your card game  
10 gets.

11 So to me that's kind of the -- addressing  
12 all of those. So change the title, make it less  
13 confusing. Mia's point was you look to the accounting  
14 section to, I guess, get into specifically how those  
15 functions are performed now, remove it out of the cards  
16 and move it to accounting. And then that once per day  
17 per slash week issue allows the operations some  
18 flexibility.

19 MS. TAHDOOAHNIPPAH: The word "day" is  
20 struck, so it actually is, in the most current one, it's  
21 week, at least once a week.

22 MR. MORGAN: Okay.

23 MR. FISHER: Okay. So where are we?

24 MR. MORGAN: It depends on what issue you  
25 have. The section heading, I think we got through that.

1 I think we're ready to move on to his next point as to  
2 whether it's covered adequately. And that's what Mia  
3 was talking about in the accounting section.

4 MR. FISHER: Okay. So are we ready to  
5 back to talking about 13, then?

6 MR. WILSON: So on the top of page 13,  
7 NIGC, on the second comment, the proposed standards  
8 appear like -- it's too late in the day.

9 MS. HAMEL: They're not specific.

10 MR. WILSON: But a lot of these issues  
11 are addressed in the guidance document. And in the  
12 guidance, your comments on the guidance portions state  
13 that you're okay with the guidance, basically.

14 So I guess what my question is,  
15 understanding the guidance document now that you may not  
16 have understood when this comment was made, is this  
17 comment still valid?

18 MR. WEST: No. Which comment?

19 MR. WILSON: Comment number two, comment  
20 two about the proposed standard appears to lack any --

21 MS. LASH: Specificity.

22 MR. WILSON: Yes, that word, it appears  
23 that your comment under the guidance section below sort  
24 of confirms that, okay, the guidance really does address  
25 these concerns that you had that weren't in the

1 standard.

2 ASSOCIATE COMMISSIONER LITTLE: We're  
3 thinking we may have made these comments prior to us  
4 receiving the guidance documents.

5 MR. WILSON: Yeah, I think so. It  
6 appears that way, and that's why I just want to -- if  
7 these are no longer applicable, those comments, we don't  
8 need to talk about them.

9 MR. WEST: I think it's going to flow  
10 from however the standard is resolved, because in the  
11 guidance documents you talk about tournaments. So are  
12 you going to take tournaments out? I'm confused,  
13 because the way the -- I mean, the actual standard is,  
14 in my personal opinion, is poorly written, or at least  
15 maybe I don't understand the intent.

16 MR. FISHER: I'm thinking that it might  
17 be getting late in the day. To sort this out in a way  
18 that actually -- maybe it would be better if we came  
19 back fresh in the morning to look at this, because there  
20 still seems to be a conceptual question about what's  
21 included in this section, and therefore what's included  
22 in the guidance and whether the regulation covers  
23 everything that's included in the guidance.

24 So I'm -- I'll check with you. You know,  
25 we have 15 more minutes. If you want to keep going, we

1 can. I'm thinking it might be better to come back fresh  
2 on this.

3 We do have to do public comment.

4 MR. WILSON: We have to do public  
5 comment.

6 MR. FISHER: Yes, we do. So that's how  
7 we would end the day, we would check on public comment  
8 and come back tomorrow on this topic. Everybody good  
9 with that? Anybody want to keep going on this?

10 So we'll start up again tomorrow on this  
11 topic. Before we adjourn for the day, we want to check  
12 with the folks in the audience to see if anybody wishes  
13 to provide public comment, at this point, to the TAC.  
14 I'm checking to see if anybody in the audience wants to  
15 provide public document.

16 Okay. So for the purposes of our record  
17 here, nobody in the audience expressed a desire to  
18 provide public comment. And so let's adjourn for the  
19 day. We'll start up again at 8:00 a.m. and pick up  
20 where we left off.

21 (TAC meeting recessed at 5:46 p.m.)

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