

THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION

P.O. BOX 278
Pablo, Montana 59855
(406) 275-2700
FAX (406) 275-2806
www.cskt.org



A People of Vision

A Confederation of the Salish,
Pend d' Oreilles
and Kootenai Tribes

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August 14, 2012

Ms. Tracie L. Stevens, Chairwoman
National Indian Gaming Commission
1441 L St. NW, Suite 9100
Washington, DC 20005
VIA EMAIL: reg.review@nigc.gov

Re: RE: Comments on the Proposed Rules to 25 CFR Part 543 Minimum Internal Control Standards for Class II Games and Part 547 Minimum Technical Standards for Gaming Equipment Used in the Play of Class II Games

Joint Comments of the Confederated Salish and Kootenai Tribes and the Confederated Salish and Kootenai Tribal Gaming Commission

Dear Chairwoman Stevens:

We comment on behalf of the Confederated Salish and Kootenai Tribes (CSKT) and Tribal Gaming Commission (TGC) on the Proposed Rules for 25 CFR Part 543 Minimum Internal Control Standards for Class II Games and Part 547 Minimum Technical Standards for Gaming Equipment Used in the Play of Class II Games.

We would like to commend the National Indian Gaming Commission (NIGC) taking on such a difficult endeavor, however, we would like to remind the NIGC of the background of Indian gaming is tribal sovereignty. The Indian Gaming Regulatory Act (IGRA) was enacted in recognition of the sovereign status of Indian Tribes as governments to generate revenue through gaming operations. The primary purpose of IGRA is to: "provide a statutory basis for the operation of gaming by Indian Tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments." Therefore, we would expect NIGC to consult in good faith with Indian Tribes, with our due regard for our status as sovereigns: that means you must work hard to close the gap between your current proposed regulations and tribal government

concerns before final adoption of the proposed regulations. We expect that when you asked for our concerns and input, you will listen with open hearts and open minds and make every reasonable effort to accommodate our legitimate concerns.

In regards to the substance of your proposed rules, we must still recognize that for many years, tribal governments have fought to secure recognition for our rights to use Class II technological aids as an integral part of our tribal government gaming facilities, through IGRA and in prevailing in several favorable court decisions.

First of all, we would like to comment broadly and once again stress the importance for these proposed regulations to be flexible, cost efficient, clarify with modern, clear and concise terminology, eliminate duplication and confusion, facilitate enhanced compliance and ensure effective internal controls, since tribal governments and tribal gaming commissions are the primary regulatory of Indian gaming.

Secondly, we comment on our concern in the proposed rule for 25 CFR Part 543 Minimum Internal Control Standards for Class II Games.

- Imposing a particular organizational structure into the regulations, for instance, § 543.24 assigns certain functions to “revenue audit,” despite the fact that such functions are not normally performed by the revenue audit department. This could put use in non-compliant if we assign this function to another department. Therefore, we would like to see the disclaimer that the Tribal Gaming Working Group (TGWG) has proposed.
- Inconsistency in providing detailed requirements in some parts of the regulations and less in other parts. An example is in § 543.15 control standards for lines of credit is broadly outlined and then in § 543.17 drop and count standards prescribe the specific content that must be included in the controls, including the specific tasks that must be done by pre-designated individuals and departments.
- Additionally, we support and concur with the Tribal Gaming Working Group comments, concerns, red-lined document, and documents that they have submitted, including disclaimers, since we have followed and participated with the group from the beginning.

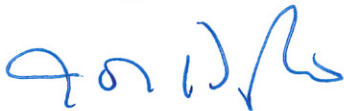
Finally, a few highlighted comments to Part 547 Minimum Technical Standards for Gaming Equipment Used in the Play of Class II Games.

- The grandfather section still gives us concerns in the proposed rule because it is not clearly spelled out on point on what are the exact requirements, the interpretation is confusing and needs to be cleaned and cleared up. The sunset clause in the proposed provision, when read together with the definition of “grandfathered Class II gaming systems,” if promulgated can be construed to require the removal of all grandfathered Class II gaming systems.

- Part 547 does not contain a provision clarifying the prospective application of the rule. An example of why the need for a provision can be shown through the existing §547.14(b)(2)(i) provides that numbers produced by the random number generator must satisfy certain tests for randomness. Originally, the section permitted the use of one of ten various statistical tests. However, the proposed rule specifies that three of these tests – the chi-square test, the runs test, and the serial correlation test-are “mandatory statistical tests for randomness.” Therefore, the proposed rule creates mandatory tests, that were previously not mandatory and if games were not evaluated against all three test in 2008, thereby invalidating the certification of all Class II gaming systems. Then in turn requiring us to absorb the costs for recertification without an indication or evidence of significant security or integrity risks associated with previously certified systems.
- We are concerned with the NIGC asking CSKT for specific facts and information in support any amendments to the provisions of your proposed rule. We should not have to provide that information, since we are not proposing the changes in the rules and the request is overly burdensome for us to complete an economic analysis for submission within the limited time period with our limited resources. A focus study and economic impact analysis should be conduct by the NIGC if such data is vital to its decision and given the scope of the potential economic harm.
- Additionally, we support and concur with the Tribal Gaming Working Group comments, concerns, red-lined documents and documents that they have submitted since we have followed and participated with the group from the beginning.

We appreciate the opportunity to provide the above comments and sincerely hope the NIGC will consider the concerns in our comments.

Sincerely,



Joe Durglo
Tribal Chairman



Lissa Peel
Tribal Gaming Commission Chairwoman