



White Earth Reservation Tribal Council

P.O. Box 418
White Earth, Minnesota 56591
Tel. (218) 983-3285
Fax (218) 983-3641

7310-14

CHAIRWOMAN
Erma J. Vizenor

July 19, 2012

SECRETARY-TREASURER
Robert J. Durant

DISTRICT I
Irene Auginaush

DISTRICT II
Terrence Tibbetts

DISTRICT III
Kenneth Bevins

Ms. Tracie L. Stevens, Chairwoman
National Indian Gaming Commission
1441 L Street NW, Suite 9100
Washington, D.C. 20005

RE: Preliminary Discussion Draft of 25 C.F.R. Part 543: Class II MICS

Dear Chairwoman Stevens:

Please accept this communication as the White Earth Nation's comments to the Preliminary Discussion Draft of the Minimum Internal Control Standards (MICS) for Class II gaming (25 C.F.R. Part 543) proposed by the National Indian Gaming Commission (NIGC). As a preliminary matter, I must emphasize that the White Earth Nation has substantial experience in successfully regulating the Class II gaming activities conducted on the White Earth Reservation. We have developed Tribal Internal Control Standards (TICS) which are custom fit for our specific Class II gaming activities. Such TICS have been regularly updated to reflect changes in technology, as well as to better account for the specific conduct of Class II gaming conducted by the White Earth Nation. We firmly believe that our TICS satisfactorily protect the conduct of Class II gaming conducted on our Reservation.

Because of the unique nature of the Class II gaming that we operate, we are pleased to see the inclusion of §543.5 in the draft regulations, which permits alternate minimum standards from those set forth in the proposed MICS. Additionally, we are pleased to see the inclusion of §543.4 in the discussion draft, which exempts small gaming operations from the reaches of federal regulation so long as the local tribal gaming regulatory agency (TGRA) permits the exemption and enacts responsible regulations.

Tribes are the Exclusive Regulators of Class II Gaming

The White Earth Nation agrees with other comments which emphasize that Indian tribes are the exclusive regulators of Class II gaming activities within our jurisdictions pursuant to the Indian Gaming Regulatory Act (IGRA); and that the NIGC's role is a secondary, monitoring function intended by

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Congress to be supportive of tribal regulation. To the extent the discussion draft pronounces NIGC authority to regulate Class II gaming activities, such pronouncements should be stricken.

MICS Should Specify Goals and Objectives, Not Specific Procedures

We are concerned that the discussion draft is too procedurally detailed. If such detailed MICS were ever enacted there would be inevitable conflicts with individual tribal regulatory agencies over compliance with the detailed procedures. We agree with other comments that recommend the NIGC should shift its focus from establishing detailed “one size fits all” procedures to the establishment of *objectives* that tribal regulatory bodies should meet. The methods by which tribes meet the objectives should be left to individual tribal discretion. The methods that each tribe utilizes to meet the objectives should be flexible, recognizing the vast spectrum in which Class II gaming is conducted across Indian Country.

MICS Should Recognize the Constantly Evolving Nature of Gaming

Another area of primary concern is the apparent oversight by the NIGC to recognize in the discussion draft the constantly evolving nature of the technology involved in Class II gaming. Because the technology involved in the gaming industry is constantly evolving, and because the tools available to tribal regulators are also constantly evolving, tribal regulators must have the freedom to develop new policies and procedures to accommodate new technologies as they become available. It is very important that the Class II MICS include provisions permitting tribal regulatory bodies to modify their regulatory practices to keep up with evolving technologies.

Requirement of System Internal Controls (SICS) is Excessive

The White Earth Nation agrees with the uniform condemnation of the NIGC’s proposal to implement a further level of federal regulation, the SICS. For a variety of reasons, the NIGC should abandon this unnecessary level of bureaucracy. Tribes already are sufficiently burdened with TICS and MICS compliance. As other commenters have emphasized, the entire concept of the SICS is without authority in IGRA, and should be stricken from the discussion draft.

Same Day Count

The White Earth Nation is concerned about the burdens imposed in the discussion draft at §543.24 (c), (9), (iii), which requires a count of all funds, chips, tokens and other items of value in all gaming areas two times each year. Our operations personnel interpret this all-encompassing count requirement as necessitating a virtual shut down of our gaming operations on each of the count days. Considering that the White Earth Nation already has in place tribal internal control standards sufficient to assure the accountability of all funds, tokens, chips and other items of value, we believe that the same day count requirement is overly burdensome and unnecessary. This regulation should be stricken.

We appreciate the opportunity to have input on the development of the Class II MICS. We look forward to further government to government consultations once the proposed MICS included in the discussion draft are amended to include the concerns raised by the various Tribal Nations.

Sincerely,

A handwritten signature in blue ink, appearing to read "Erma J. Vizener". The signature is fluid and cursive, written over the word "Sincerely,".

Erma J. Vizener
Chairwoman