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NATIONAL INDIAN GAMING COMMISSION
TRIBAL ADVISORY COMMITTEE MEETING

NOVEMBER 15, 2011

VOLUME I

DATE: November 15 - 17, 2011

PLACE: Hilton Garden Inn
815 East Mall Drive
Rapid City, South Dakota 57701

I N D E X**TAC MEMBERS PRESENT:**

John Magee, Gaming Commissioner, Pechanga Band of Luiseño Mission Indians

Kathi Hamel, Casino General Manager, Lytton Rancheria of California

Jason Ramos, Gaming Commission Chairman, Blue Lake Rancheria

Daniel K. McGhee, Gaming Commission Administrator, Poarch Band of Creek Indians

Brian Callaghan, Gaming Commission Executive Director, Pokagon Band of Potawatomi Indians

Christinia Thomas, Office of Gaming Regulation and Compliance Executive Director, Mille Lacs Band of Ojibwe

Steve Garvin, Gaming Commissioner, Ho-Chunk Nation

Jeff Wheatley, Director of Gaming, Stillaguamish Tribe of Indians

Michele Stacona, Gaming Commission Executive Director, The Confederated Tribes of the Warm Springs Reservation of Oregon

Leo Culloo, General Manager of The Point Casino, Port Gamble S'Klallam Tribe

Mia M. Tahdoahnippah, Gaming Commission Compliance Director, Comanche Nation

Robin Lash, Gaming Commissioner, Miami Tribe of Oklahoma

Matthew Morgan, Gaming Commissioner, Chickasaw Nation

Thomas Wilson, Gaming Commission Executive Director, Pascua Yaqui Tribe

Carleen Chino, Gaming Commissioner Executive Director, The Navajo Nation

NIGC SPEAKERS:

David Little

Nimish Purohit

R. Rust West

Tracie Stevens

Michael Hoenig

FACILITATOR:

Robert Fisher

1 (November 15, 2011, at 8:05 a.m.)

2 MR. FISHER: Good morning, everyone. So
3 we're only missing one TAC person so far. And
4 there is a question that has come up before we
5 get to our agenda, and I'm going to turn it over
6 to Commissioner Little.

7 MR. LITTLE: Good morning, everyone.
8 First of all, I want to welcome everybody here
9 today. Glad everybody made it safely.

10 Before we even get started with welcomes,
11 introductions, there is an issue that we need to
12 address and to the group to discuss. The
13 Oklahoma Indian Gaming Association has contracted
14 with a court reporter to take a transcript of
15 these proceedings, and then they would like to
16 post it on their website.

17 When we started this process, we discussed
18 this issue in great detail amongst the
19 commission. And I think through our past
20 experiences, through our consultation in the last
21 basic year and a half, we've been very clear
22 about our desires for transparency and openness.
23 If you look on our website, there's a lot of
24 information, including every single transcript
25 from every single public meeting or consultation

1 that we held. We are very big believers in
2 document -- written documentation, of any
3 activity that the commission does in the public.
4 However, when we were talking about this issue,
5 we did raise a point that we were concerned that
6 a written document or a transcript, word for word
7 transcript, could stymie full and open
8 communication. I think at the end of the day, we
9 came down to the point that we decided to do a
10 written summary and have someone take notes
11 versus doing an actual transcript.

12 We understand part of the nomination
13 process, you are all required to get, you know,
14 permission from your councils that you are able
15 to make decisions and speak, you know, speak on
16 behalf of your tribes. We understand that's a
17 huge responsibility. And, you know, we didn't
18 want to make sure that you were looking at every
19 single word that you said with the concern that
20 that may go back to your council and then there
21 could be some discussion that may not be, you
22 know -- you may not like. So that was the whole
23 reason why we decided not to use a
24 transcriptionist and decided to go with a written
25 summary. However, we do have this issue

1 presented before us.

2 And the folks that, you know, did bring
3 this reporter, you know, has made some compelling
4 arguments that there has been a lot of questions
5 about this group and what we're doing. So my
6 idea was that this is your group. This is your
7 decision. If it's something that you all believe
8 is in the best interests of, you know, this group
9 going forward, then I'm fine with it. However, I
10 would have two requests. One is that because we
11 did originally talk about doing this, the
12 commission would actually like to pay for it
13 because we think it is something that we think is
14 appropriate to do. And then we would like to put
15 it on our website versus I think the folks from
16 Oklahoma have -- that they would put it on their
17 website. Now, it's entirely up to you. This is
18 obviously your group and I would like to open up
19 a discussion amongst everybody here, including
20 the folks from Oklahoma that did bring the
21 transcriptionist here. I think it's something we
22 need to talk about and take care of right away.
23 Because she is behind us here and ready to go.

24 MR. FISHER: She's starting.

25 MS. LASH: I would just like to say for

1 the record, I don't oppose her being here. I
2 think it's a good idea to have a free flow of
3 information, and I hope that it's not a problem
4 with the TAC. Also, I would like to point out
5 that this is a public hearing, and I think that
6 it's not really the decision of the TAC whether
7 she could be here or not. It's a public hearing,
8 and I think she has the right to be here for the
9 public. It's a public information event. But I
10 think it's a good idea. There's been some errors
11 in the summary, and I think that having that as
12 our only record and dealing with errors in the
13 summary that we have, I think it's better just
14 that the information just be free flowing and
15 accurate.

16 MR. LITTLE: I don't disagree with
17 anything you said.

18 MR. WILSON: I don't foresee in my mind
19 that our tribe would have a problem with a court
20 reporter being here. But I do see that if it
21 were posted out on their website as kind of --
22 that would seem odd to me and that my preference
23 would be that if they're going to be recorded,
24 then that information should be posted wherever
25 you normally would post information. I

1 personally wouldn't want my tribal council to ask
2 me a question about something they read on a
3 non-NIGC website about the meeting. It just
4 seems to me that that would be a little bit
5 convoluted.

6 MR. LITTLE: Anybody else that wants to --

7 MR. WHEATLEY: Is this a standard
8 procedure for NIGC meetings?

9 MR. LITTLE: It has been since this
10 commission has been formed. We've transcribed
11 every public event and consultation that we've
12 done.

13 MS. STEVENS: The commission -- I think
14 back -- the previous commission did not do
15 transcriptions. They did transcribe. We did
16 that as soon as I came into office, started
17 transcribing our consultations. It is very
18 costly. What's costly, if any of you have done
19 this before, is it's per page. I think on
20 average, we're spending --

21 MR. LITTLE: 7 to 10,000.

22 MS. STEVENS: It's in the thousands in one
23 day because of the pages that they have to
24 transcribe. And so when we do three days in a
25 row, that's very costly. Even the White House is

1 in a Tribal Nations conference. They do
2 summaries because of the costs. But we've
3 started doing the transcribing. The previous
4 commission in their TACs did not do this. And,
5 frankly, I'm surprised and disappointed that
6 Oklahoma Indian Gaming didn't talk to us about
7 this and sprung this on us this morning with the
8 court reporter being here, when that was
9 something that was never done before with the
10 previous commission. When it was probably more
11 reason to do it there than there is here.

12 As Dan said, we've been very clear about
13 what our intentions are. We've been letting
14 everybody know what we wanted to do. We are
15 approaching this differently than the previous
16 commission. You know, we have an alternative
17 standard that's been put in front of us, and
18 rather than just taking it, altering it and
19 putting it right to the Federal Register, we're
20 adding not only did we ask it from the tribes and
21 the manufacturers as have happened before; we've
22 added this TAC in here from around the country to
23 give us their opinion of that document, and
24 that's an extra step that's happened. So we've
25 been, I think, very fair.

1 I'm concerned at how we're stepping off
2 here. You know, ghosts of past and a hangover
3 from previous commissions are still haunting us.
4 And I'm frustrated by this, and I'm disappointed.
5 And, you know, we're going to leave this to all
6 of you to decide, but I have to be honest that
7 having come down from, you know, 15 minutes
8 before the meeting to have this sprung on me is
9 rude. So this will be left to you all to decide.
10 We -- you know, the reason we -- like Dan said,
11 we chose not to do the transcriptionists so that
12 we, one, could be mindful of the costs; and, two,
13 we could have free-flowing conversation and that
14 there be some trust. You know, the summaries go
15 around so that there can be some corrections made
16 to them prior. And it's not like we're trying to
17 hide anything or that we're trying to do anything
18 shifty. But we're just trying to be mindful of
19 free-flowing information and costs. And,
20 overall, and I'm just going to, you know -- one
21 thing you can always count on me for is candor,
22 even if it hurts. I'm disappointed that there is
23 already begun an "us versus them" mentality here.
24 And we put this together and we're not part of
25 your decision-making process as a TAC and we're

1 sponsoring this so we can get some wide spectrum
2 expertise from Indian Country on these particular
3 standards. And we do want to consider them, and
4 we're counting on all of you to give us your
5 recommendations; not just on this decision this
6 morning, but as we move forward, as you start
7 getting to substance, because we're still in the
8 middle of a process. This is another process
9 question. So that's all I have to say about
10 that. I'm going to be here for a little while
11 this morning, and then I'm going to leave. Dan
12 is going to be in charge of NIGC's participation
13 here, as you all know. I have the utmost
14 confidence in Dan, and I also have the utmost
15 confidence in Robert. So that's all I have to
16 say. Thank you.

17 MR. LITTLE: Is there anybody else that
18 had any other discussions on this?

19 MR. FISHER: I think it might be useful to
20 hear from everybody, just see what everybody is
21 thinking and figure out where we go from there.

22 MR. CULLOO: I don't have a problem with
23 it being recorded, a transcript being put
24 together, though. I would like it -- prefer it
25 to be on the NIGC website if it's going to be

1 anyplace at all. It does bring into question if
2 we go into small groups, are we going to have the
3 ability to go off the record at any point. So
4 those are the concerns I would have.

5 MS. HAMEL: I don't have an opinion one
6 way or the other, but I do share Leo's question
7 about is there some discussion that is off the
8 record, because it may be a lot more detailed
9 than needs to be published on the website.

10 MS. CHINO: I have the same kind of
11 concerns, just that for some -- to go off the
12 record at some point in time, can we do that and
13 that kind of thing. Other than that, I don't see
14 any problem with it either.

15 MS. THOMAS: I guess I have no issue with
16 it all being transcribed. It is expensive.
17 We've transcribed stuff before for our tribe, and
18 it does run a pretty hefty bill. I do agree with
19 Tom that it should be on the NIGC website. And
20 then just addressing their concerns, our
21 procedures actually allow us to go into a closed
22 meeting, and so at that point I wouldn't think
23 that they would be recording.

24 MR. WILSON: I would just add that my
25 concern is the Oklahoma association, if the TAC

1 were to vote, no, we don't, I don't want to get
2 into a debate about whether we have authority or
3 don't have authority to say, yes, we do, or, no,
4 we don't, because I suspect that they'll have
5 this person here anyhow. I mean, she's here now.
6 So I don't know. I just don't want to get into a
7 political debate about whether this person should
8 or shouldn't be here. I just want to make sure
9 that the information is accurate and that I'm not
10 -- I do not want to come across, nor does my
11 tribe, that we are being represented by the
12 Oklahoma Indian Gaming group, and that's why them
13 sponsoring having the court reporter here seems
14 odd to me.

15 MS. LASH: I've made my statement, but I
16 would like to add, though, you know, I do know
17 that there's a great expense for tribes to come
18 to be here to hear what's being said, and I know
19 that during the consultation, there were a lot of
20 tribes following what was going on at the
21 consultation through reviewing the transcript.
22 So I think it's useful to Indian Country as an
23 information source to follow the discussion and
24 what's taking place at our meetings.

25 MR. CALLAGHAN: No objection.

1 MR. MAGEE: John Magee, for the record. I
2 don't object. It's a little odd, but I don't
3 object. As far as -- I'll have to agree with
4 Tom, post it on NIGC's website for the record. I
5 think that's where most of the documents have
6 been presented so far. I would have to agree
7 with that process.

8 MS. STACONA: Well, I don't think I have
9 any objections. It's a public meeting. I think
10 I'm going to have to watch what I say now a
11 little bit. But I guess my concern is on this,
12 are we still going to have the summary also being
13 done? I prefer a summary. I don't want to go
14 read in all the stuff everybody says line by
15 line. I don't have time to do that. So I would
16 like to still see the summary being done.

17 MR. GARVIN: I don't have any objections
18 certainly to the transcription. I would
19 appreciate it if the NIGC took on the expense. I
20 would appreciate that offer. I guess I'm a
21 little interested in why Oklahoma kind of did it
22 in the manner that they did it. I guess were you
23 anticipating NIGC, some push-back? Because they
24 explained why they didn't in the first meeting,
25 and so I was kind of interested to know. It

1 wasn't a good enough reason or --

2 MR. LITTLE: I don't have a reasoning why
3 it was done. I do understand it was at the last
4 minute, last minute issue, so maybe that's why we
5 weren't contacted. I don't know. Just
6 speculating. You know, I think it's a decision
7 which was made on Friday.

8 MR. GARVIN: I guess I don't have an
9 objection. I would hope my tribe doesn't have
10 any problem with what I said. I'm sure it will
11 be good.

12 MR. MORGAN: No objection. I will state
13 it's a public meeting. Every consultation I've
14 been through on your term has been transcribed,
15 and I read the goofy stuff I said on there so
16 far. It's not bothered me. We're here and it's
17 being transcribed. I hope it doesn't limit
18 anybody and anybody doesn't feel uncomfortable to
19 express. That decision was made by the OIG
20 leadership, which none of us here are actually
21 on, so I really can't answer the
22 behind-the-scenes question of what was done, if
23 it was discussed at a general meeting as far as
24 what the -- I guess of how that happened. We
25 don't know. From Oklahoma, we don't sit on that

1 leadership group, so --

2 MS. TAHDOOAHNIPPAH: I have no objections.
3 I think that it would be a positive thing if
4 later down the line, if there ever needs to be
5 why did we do a certain thing or how was it
6 interpreted, it would be helpful. But on the
7 flip side, I hope that doesn't limit conversation
8 and open dialogue.

9 MR. WHEATLEY: I don't know that I would
10 say I object. Again, I think I echo the
11 sentiments of some other folks that said I think
12 it's odd. I think it's unfortunate the NIGC has
13 to take on the expense, especially in our tight
14 budget times. I think it will limit some of the
15 conversations a little bit. Some people might
16 not feel as comfortable. I don't know who's
17 going to go back and review all these documents.
18 I think that the stuff that we have to read now
19 is plenty, plenty enough on our plate. I
20 certainly won't have time to go back and look at
21 transcripts. But, to me, it's a growing sense
22 that there's an adversarial relationship here,
23 and that's what I'm concerned about. How much
24 more process stuff are we going to have to talk
25 about before we get to reviewing regulations.

1 We're already behind, and now we're again talking
2 about process issues. And if at what point, how
3 do we decide is this going to be on the record,
4 off the record, do we have to throw that into our
5 operating plan on how we handle those types of
6 discussions? That's my biggest concern is that
7 it's holding up what we're -- the work we're
8 actually supposed to be doing here.

9 MR. RAMOS: I think I agree with Jeff to a
10 large degree. I think that while it's a public
11 meeting, and I can't object to a public meeting,
12 I do kind of object to the way that it was
13 proposed to the group. I think that the tribes
14 that represent this stenographer had a duty and
15 responsibility to address this in some way during
16 the first meeting in Connecticut where we talked
17 about process. And if you're not going to do it
18 there, then at least get it on the agenda somehow
19 so that we know that it's here and not with the
20 other members of the group showing up and that
21 we're addressing a new issue that I don't have
22 much background in. But I would like to have had
23 some consideration prior to the meeting to be
24 able to formulate some thoughts on it so at the
25 end of the day, stand down or stand by on the

1 issue, but I think there's some common courtesy
2 that really should have happened.

3 MR. LITTLE: So what does everybody want
4 to do? Christinia said we could go into a closed
5 meeting, vote to go into a closed meeting, kick
6 everybody out and decide what you want to do off
7 the record. We --

8 MS. STEVENS: Because you're on the record
9 right now.

10 MR. LITTLE: I did ask that she not start
11 prior to until we settled this issue.

12 MS. STEVENS: There's a couple of
13 questions, too. What happens in Connecticut,
14 what happens with the day, how does this get paid
15 for. Because NIGC, we had consultation
16 yesterday, and we couldn't get a stenographer, we
17 couldn't get one locally, so this had to have
18 been decided at some point just recently.
19 Because we planned out all of our consultations,
20 and we couldn't get one for Rapid City, which
21 tells me this was thought about. And so what do
22 we do today? Because she's on someone else's tab
23 right now. That means we don't own this
24 transcript, and it can't go on our website. And
25 then we will have to scramble to find one for

1 tomorrow and the next day. Which is fine, we'll
2 do that. I want to be clear. I don't have a
3 problem with it. It's just a decision. We've
4 been doing it all along. We'll do it again if
5 that's what the group decides. But then we've
6 got another process question here on how do we
7 move forward. And everybody's -- you know, it's
8 a little different when you start doing actual
9 transcription. You're going to have to state
10 your name, where you're from, so they can get it
11 accurately into the record. It's going to change
12 the dynamics here. So we all want to go into
13 closed session and talk about this, but we have
14 an issue right immediately on what to do.

15 MR. WILSON: I'd like to move that we go
16 into closed session. Because this wasn't an
17 agenda item, I'm really not prepared to talk
18 about this in an open session, and I do think
19 that this was sort of thrown on us, and so I'm
20 not comfortable discussing it in an open session.
21 I'd like to move that we go into a closed session
22 to resolve this.

23 MR. FISHER: Sure. So the procedures
24 allow for you to do that. And so if everybody is
25 okay with doing that, then let's ask the

1 stenographer to stop and basically ask everybody
2 else to leave the room so that we can figure out
3 what you want to do. Okay.

4 (Executive session - discussion held off
5 the record.)

6 MR. FISHER: Should we get started? Okay.
7 What did you decide?

8 MR. WILSON: What we've decided is -- so
9 I'm speaking for the TAC right now. We don't
10 have any opinion on having a stenographer or not.
11 We're neither opposed to it nor in favor of it.
12 We feel like if there is an issue between NIGC
13 and Oklahoma Gaming Association, that you guys
14 can work that out as far as that goes. But we'd
15 like to move past any further discussion in this
16 group about that issue.

17 We would also like to close some
18 procedural issues. We're prepared to vote on the
19 guidance documents or operating procedures, as
20 well as the public comment procedures.

21 We do have one comment on the public
22 comment procedures that we would like to discuss.
23 We'd like to table the summary document to get
24 some feedback to you, Robert, between today and
25 tomorrow that we then could have changes made to

1 OIGA if they could submit those to us, just like
2 the tribal meeting working group's document. We
3 have to put it on the website that this is not
4 our document; this is someone else's document,
5 and we have no responsibility of the content of
6 those documents for this meeting. Because we
7 have an immediate question to answer right now,
8 which is we have a lady, lovely Amy back here,
9 doing her job and we would need to have her keep
10 doing it or stop. And if she keeps doing it,
11 it's going to be on OIGA's tab, and all we can
12 ask is that OIGA share it with us. And, you
13 know, they can choose to or not to share it with
14 us and then we would have to post it on our
15 website later on as they have submitted it to us
16 and with the appropriate disclaimers that this is
17 the property of OIGA and not NIGC. And then we
18 can arrange for a transcriptionist at the next
19 ones, and we can proceed as we normally do with
20 how we handle transcriptionists in the future.
21 So is that workable for everybody? Okay.

22 MR. FISHER: Okay. So it sounds like you
23 want to get to doing the voting on the operating
24 procedures and the public engagement protocol.

25 MR. WILSON: If we could vote on the

1 operating procedures first and then have a brief
2 discussion on public protocol and then vote on
3 that.

4 MR. FISHER: Before we do that, could I
5 introduce my colleague, Kim Oliver, who is here
6 joining us, who I expect is going to be here
7 throughout however long I'm here with you in
8 place of Touchard who was here with us at the
9 last meeting. So, Kim, she also works -- you can
10 say -- you want to say two seconds?

11 MS. OLIVER: Sure. I'm currently working
12 for the Department of Interior in an accelerated
13 management development program where I spent four
14 months in various offices under the Office of
15 Secretary. And collaborative action resolution
16 is currently one of the offices I'm rotating
17 through. I've been through environmental policy
18 and compliance, Office of Civil Rights where I
19 wrote final agency decisions for the department,
20 and my first rotation was in the Office of Budget
21 where I worked in the past. So I'm glad to be
22 here.

23 MR. FISHER: I'm glad to have her. It was
24 my goal to have somebody who would be with us
25 throughout the whole process. Kim was able to do

1 that with us. Okay.

2 Did you want to say something before we
3 start? You look like you do.

4 MR. LITTLE: I just want to make sure that
5 I know in the protocols, has the group decided on
6 the employee issue disclosure or how that's going
7 to be handled?

8 MR. FISHER: Well, there was a thing that
9 got -- in this draft of the procedures about
10 employees.

11 MR. LITTLE: On my checklist here, I would
12 ask if we could go back and get further
13 definition of employee and how it's viewed under
14 FACA. We're prepared to talk about it, unless
15 it's something that's been already resolved.

16 MR. FISHER: Sounds like they're ready to
17 vote.

18 MR. LITTLE: What's determining is a
19 resolution going to be provided by your councils.
20 Do you want a form letter created? What is the
21 process for you bringing your, you know, experts
22 or whomever might -- is this the right time to
23 talk about this? How is that to be handled?
24 Okay. It was handled with a resolution from a
25 council last time. Is that going to be the

1 standard procedure for any experts, produce a
2 tribal council resolution? We need some -- we
3 need some documentation.

4 MR. FISHER: The way it's written right
5 now, it says that they'll provide written
6 verification, right?

7 MR. WILSON: Dan, we were comfortable with
8 how it's worded currently in the operating
9 procedures.

10 MR. LITTLE: Okay.

11 MR. FISHER: Did you have anything else?
12 Does that -- did that answer your question?

13 MR. LITTLE: Yeah.

14 MR. FISHER: All right. So then let's
15 turn to the operating procedures, and it sounds
16 like people are ready to -- so were there any
17 changes to it, or you're ready to approve it the
18 way it is, or is there anything else that people
19 needed to talk about?

20 MR. WILSON: We were ready to approve it.

21 MR. FISHER: So, you know, as part of our
22 consensus procedure, raise your hand if you agree
23 with the operating -- the draft of the operating
24 procedures dated 11/10.

25 (All hands raised.)

1 MR. FISHER: Okay. That looks like
2 everybody.

3 MR. MORGAN: Procedural matters are simple
4 majority.

5 MR. FISHER: Okay. On the procedural
6 things, that's how you want to do your work, by
7 simple majority? Perfect. So I think that's it,
8 correct? We put that in there based on the
9 agenda plan.

10 MS. STEVENS: On recommendations, when you
11 get to substance recommendations --

12 MR. FISHER: Right. It's only on process
13 related.

14 MS. STEVENS: Clarifying.

15 MR. FISHER: All right. Congratulations.
16 All right. That takes care of that part of it.
17 So now the public engagement protocol.

18 MR. WILSON: We had a comment on that. We
19 feel like the TAC should be able to determine if
20 a speaker should be given more time. Right now
21 under the three-minute rule, it's NIGC that's
22 determining if somebody should have more time or
23 not. We feel like that should be the TAC that
24 determines that.

25 MR. FISHER: Okay. Was there anything

1 else to change in that? No. So it will stay the
2 way it's set up, three minutes, then the response
3 time. Unless the time limits are changed by the
4 TAC. Okay. So all I'll do is cross off the NIGC
5 representative in the TAC in there and it will
6 read, Time limits may be changed at the
7 discretion of the TAC, and then take out the
8 "after consulting." Okay. So are you ready to
9 check to see whether you've got consensus on
10 that? Now this would be a procedural thing. It
11 would only be a simple majority. But we might as
12 well see what everybody thinks about it. If you
13 agree with the document as revised, raise your
14 hand.

15 (All hands raised.)

16 MR. FISHER: Okay. Unanimous. All right
17 then.

18 MR. WILSON: One other comment, Robert.
19 On the summary document that would be on
20 Thursday, one thing they would like is we know
21 there's a summary document, but we're presuming
22 that there is a whole host of notes that really
23 have been taken by the -- in this case, Kim, and
24 we'd like to be able to see the entire package as
25 well as the summary, those two documents

1 together.

2 MR. FISHER: So those notes were not taken
3 from the perspective that anybody else was going
4 to read them, other than the person who created
5 the list. So they're raw notes. They're, you
6 know, not a transcript. There could be
7 commentary in there. I don't know. I have no
8 idea what's in there.

9 MR. WILSON: We're okay with that.

10 MR. FISHER: I figured you would be. I'm
11 wondering about Touchard. Okay. So how would
12 you like that -- you want me to e-mail that to
13 everybody? I'll e-mail it to everybody. Okay.
14 All right. So on the summary, my understanding
15 is you provide comments tomorrow or --

16 MR. WILSON: Today and tomorrow.

17 MR. FISHER: And then I can redo it and
18 send it back out to everybody and then we can
19 determine whether it's final. And once it goes
20 final, NIGC was going to put it on its website.
21 And since -- so you know, in terms of the way
22 that thing was drafted, and I know it got sent to
23 people later than we had said, but Touchard did a
24 first draft, he sent it to me. He got it to me
25 six days later than he committed to getting it to

1 me. I then read through it and edited it and
2 then sent it out to you. It did not go to
3 anybody else for review before it went out to
4 you. It basically went to everybody for review.
5 I did check on a couple of the provisions in it
6 with -- one with NIGC and one with one of the TAC
7 members about some of the things that were in it,
8 and then it just went out to you for review. So
9 that's basically the procedure, is that nobody is
10 scrubbing those things in advance. And the
11 process is set up for you to be able to review
12 and to make changes so that it accurately
13 reflects what we did. Okay. So when do you want
14 to provide comments on it?

15 MR. WILSON: Well, some folks will provide
16 comments today. Some --

17 MR. FISHER: You give it to me in writing.
18 It would be easier in writing.

19 MR. WILSON: Yes, they'll give it to you
20 and they'll e-mail. Are you able to comment
21 electronically or in writing? Either way. And
22 you'll have all comments by tomorrow at noon.
23 And then that will give you time to make the
24 correction and then get that document back to us
25 on Thursday.

1 MR. FISHER: Okay. I can do that. That's
2 good. Okay. So anything else on process? Okay.

3 So we need to actually kind of check in
4 with the agenda. Should we check in with the
5 agenda so we're not too far off. We're already
6 in the midst of the work. The only other thing
7 we had on the agenda before we got back into the
8 discussion on the technical standards is whether
9 there were any updates or information to share.

10 The commission put out its comparison
11 documents. Anybody have anything else to share,
12 or should we go straight into the technical
13 regulations -- technical standards, I mean?
14 Okay.

15 So what we said on the technical standards
16 was that we would pick up where we left off, and
17 where we left off was on the grandfather
18 provision. So just as a reminder to folks, you
19 know, the group is small enough. You know, that
20 exercise this morning where you talked about the
21 procedural things, to the extent that you can
22 talk to each other across the table, then let's
23 do it. If everybody wants to talk once, then
24 we'll use the cue process with the cards. And
25 we'd ask that everybody in the audience, if you

1 haven't already signed in, please sign in. If
2 you want to provide public comment to the group
3 before lunch, there's a place to sign in on the
4 sheet up there, and there's additional public
5 comment sheets in writing. Anything that's
6 commented in writing is shared with the TAC. All
7 right.

8 So we're ready to go to the technical
9 standards. I'm putting all my process documents
10 aside. So where we left off, we did create a
11 recommendation at the last meeting about the
12 Sunset provision. And there were other things
13 that we were talking about in the grandfather
14 provision, so who wants to kind of kick us off
15 and pick up where we left off?

16 MR. MORGAN: My recollection is the next
17 item we had to discuss is the submission date.
18 The current 547 had a 120-day submission
19 requirement past the November 10, 2008 deadline.
20 The tribal work group proposed that that go away
21 and make it read basically kind of similar to
22 what we talked about in Connecticut, all those
23 authorities kind of fall to your local tribal
24 gaming authorities. I like the way that that is
25 written. I like that authority being at a local

1 level jurisdictionally, not at a federal level.
2 Like at my jurisdiction, I can choose whether I
3 think something can come into play or not come
4 into play because, again, at least in my
5 jurisdiction, I have requirements above and
6 beyond what these are. So just because you may
7 meet federal 547 regulations to come into play,
8 it doesn't mean you can come into play at the
9 Chickasaw Nation. That's the way -- I don't know
10 if anybody else has any objection to it moving,
11 it being moved or not.

12 MR. WILSON: Just for a point of
13 clarification, the timeline, the 120 days is to
14 having to submit software. In other words, we've
15 already discussed the boxes, the recommendation
16 grandfathered in, and meeting those four criteria
17 we discussed. This is different, though. This
18 is dealing with the software?

19 MR. MORGAN: My understanding is that the
20 purpose was is that all things out there in the
21 market were to be submitted to a -- not
22 necessarily tested, but at least submitted within
23 120 days, software. The only thing about
24 removing it would be -- and it's kind of -- I'm
25 fuzzy from Connecticut -- is you would still meet

1 all the grandfathered requirements or whatever
2 requirements you tend to make; it's just that you
3 don't have to submit within that 120 days. You
4 submit it to the lab and you would still go
5 through that normal process under 547 and have
6 anything tested. The only thing we're saying is
7 if you miss that window, you're not forever
8 forbidden from playing that. And that comes into
9 context a lot in that some -- at least from
10 vendors I talked with, some games they didn't
11 think they were going to be profitable anymore.
12 Now they've changed their mind as new technology
13 came along. At least in Oklahoma, we'll be on
14 the one subject for a while, and then you kind of
15 see us go back to an older tradition form of
16 something and then we'll move forward again. And
17 it kind of ebbs and flows. And it's to take away
18 that you would never be able to play the
19 software. All requirements meet. If you still
20 want to play it, and you haven't got it tested by
21 a testing lab, you still have to send it. That's
22 my understanding.

23 MS. LASH: I agree. One other point is
24 the software, the things that we're talking about
25 have already been approved by court cases in the

1 Ninth and Tenth Circuit as Class IIs. So we're
2 not going to conflict with what established law
3 is.

4 MR. WILSON: I'm wondering if we could
5 hear from the NIGC in terms of the thinking about
6 this 120-day rule, what the thoughts were about
7 that and why that was significant or not. Of
8 course, I understand that that was done in the
9 context of having a grandfathering clause, but,
10 you know, are we missing anything on our end as
11 to why you felt a 120-day rule was necessary?

12 MR. LITTLE: I can't say what their
13 thinking was when they created this, you know.
14 My understanding, I think, from reading the
15 preamble was that they figured the natural course
16 of the market will move these machines out and
17 they will no longer be -- the market won't demand
18 that. I think. I think. I can't be a hundred
19 percent certain what their logic was.

20 In Connecticut the question, I think, that
21 we had raised was how big of an issue is this.
22 Are there a lot of machines out there that would
23 not make -- and the market in 2009 had to be
24 submitted -- that did not make that date. How
25 big of an issue is that. And I think, if memory

1 serves me correctly, I think they said it was
2 about 6,000 machines out there that did not make
3 that deadline. And that date could be -- so it
4 was desired to bring them into -- to be used.
5 However they still would have to -- they still
6 would have to meet all the provisions under the
7 grandfather provision, but it's just they cannot
8 meet that arbitrary date. Am I correct?

9 MR. MORGAN: I think that elicits
10 discussion, but there's probably more than 6,000.
11 What we're talking about is software. So you're
12 talking about a software. Now, what that box,
13 that software goes on, at least in my mind, is
14 irrelevant. Because at least my understanding of
15 our conversation in Connecticut, our concern was
16 was it going to meet the testing standards. As
17 long as it's submitted and meets the testing
18 standards, I won't let the market determine how
19 many boxes that software goes on.

20 MR. LITTLE: You're right. Those boxes
21 and not the servers -- I mean, the software is
22 fully compliant. It's just the boxes that we're
23 discussing.

24 MR. MORGAN: Like ours, we own some
25 software that we bought, that we purchased as a

1 tribe thinking that we could develop it for
2 future uses. I don't really have it assigned to
3 boxes yet, but we have the software. We have
4 that capability.

5 MR. FISHER: Jeff.

6 MR. WHEATLEY: As long as the manufacturer
7 goes through the expense of submitting the box or
8 whatever it is to the independent testing lab, I
9 don't think it should matter. I don't think when
10 it was developed or when it was tested, as long
11 as they're meeting the four or five different
12 criteria of the technical standards that are in
13 place now, it shouldn't matter when the box was
14 created. As long as they're submitting them and
15 they meet those four requirements, then they
16 should be able for play, is my --. It's on the
17 manufacturer to absorb those costs.

18 MR. MORGAN: I think I'm paraphrasing what
19 you actually said. That's my understanding.

20 MR. FISHER: Wait one second.

21 MR. LITTLE: What he is telling me is he
22 thought that the previous commission had kind of
23 pulled the manufacturers and that they would set
24 up through, I guess, consensus how long it would
25 take to get them into the lab. So we're just

1 kind of, you know, trying to remember what -- I
2 can't really say what the last was, but just a
3 little bit of additional information.

4 MR. RAMOS: I think where we had gotten,
5 Dan, is to the place where we said, Hey, look,
6 where's that arbitrary date, what's really
7 important? What's really important is that the
8 machines are safe for players; they're not going
9 to get, you know, hurt, shocked, whatever; that
10 there's not the -- that there's fairness of play;
11 that they've been tested; that there's not
12 reflexive software, near miss software; and that
13 the transmission was secure. And then Jeff's
14 follow-up comment was that's already in the
15 standards anyway. So we're kind of going full
16 circle there.

17 MR. MCGHEE: So am I clear that the way
18 it's written in the proposed document where it
19 just struck out that "within 120 days," is that
20 basically that we're saying that that's okay?

21 MR. FISHER: It sounds like that that's
22 the proposal. You want to check to see if people
23 are in agreement with that?

24 MR. MCGHEE: Yeah, if nobody is opposed to
25 it.

1 MR. FISHER: Right. The question is
2 whether everybody is in agreement with
3 eliminating -- this is my way of saying that, so
4 maybe there's a better way of saying it --
5 eliminating that the date requirement to submit
6 to a lab, taking out that fixed --

7 MR. MCGHEE: The 120 days.

8 MR. FISHER: Right, the 120 days. So
9 let's see if we can do it on a short hand wave.
10 Everybody good with this? Anybody have a problem
11 with it? It will be easier if we can work our
12 way through. If people have a problem with it,
13 they can say and we can talk about what the
14 problem is. If nobody has a problem, then we'll
15 consider it to be unanimous that you're in
16 agreement to remove it. Okay. So is there --
17 there's more in here, right? Kathi?

18 MS. HAMEL: I have a question just in the
19 document that we're working from does not have
20 the entire 547.

21 MR. FISHER: Right.

22 MS. HAMEL: And in 547 for (a), there's
23 provision number 7 that requires the player
24 interface to have a tag on it. And just like
25 what Matthew is saying, it's not the box that

1 runs the game. It's the software. And I guess I
2 don't understand what the format of only those
3 items that are listed in there, the review
4 documents, are up for discussion, or are all the
5 provisions in 547 up for discussion?

6 MR. FISHER: Let me take a quick stab at
7 reminding people, because we talked a little bit
8 about this in October, so this document
9 represents the TGWG's comments. And while that's
10 the starting point for our conversation, anything
11 in the regulations is open for discussion.

12 MS. HAMEL: Do we need to bring it up, for
13 those people that may not have this in front of
14 them?

15 MR. FISHER: Bring it up, you mean up on
16 the screen?

17 MS. HAMEL: This section. Do you want me
18 to read it?

19 MR. FISHER: Yeah.

20 MS. HAMEL: It keeps talking about the
21 box, 547.4(a)(7).

22 MR. MORGAN: It's the --

23 MR. FISHER: Why don't you read it.
24 Before you do that, let me just double-check. So
25 I took it that we had unanimous agreement on

1 moving the March 20th date, the 120 days
2 requirement.

3 Okay. So do you want to read it, Kathi?

4 MS. HAMEL: I can.

5 MR. MCGHEE: I have a question. So if the
6 document that was given to us by NIGC, you know,
7 they only -- if they only list (a) and then (1)
8 and then they skip the pages, so (2) through (7),
9 what does that mean? Does that mean they didn't
10 have a problem with (2) through (7) of the TGWG's
11 document or that they didn't have an opinion, or
12 did you only want an opinion on (a)(1)?

13 MR. LITTLE: When we did these, we only
14 compared the changes that were made by the TGWG.
15 And I think we talked about at the last meeting
16 was there any areas that were not addressed that
17 the group would like discussed. But we
18 actually -- at technical standards, we only
19 addressed the issue changes that were changed.
20 Now when we move forward to the bingo, we
21 actually -- there are some areas that we did have
22 to raise some issues with the parts that were not
23 affected by the document before us, just for some
24 clarification. So in this document, it's only
25 the changes that were presented to us that we

1 compared.

2 MR. MCGHEE: So if I'm looking, there's
3 changes in 1, changes in 2 and 3, and then -- but
4 those aren't up here for discussion.

5 MR. PUROHIT: They might be in the
6 subsequent pages. Let me just double-check,
7 though.

8 MR. FISHER: What -- Dan, say again what
9 you don't see there.

10 MR. MCGHEE: What I'm saying, and maybe
11 I'm missing it, is changes in the TGWG documents
12 are changes, but they're not in the comparison
13 document of NIGC. So it makes me think that
14 they're okay with those. Only the ones that they
15 listed may be the problem, and I just want to be
16 sure.

17 MR. FISHER: I was pretty sure they were
18 doing everything.

19 MR. PUROHIT: It was all the major things
20 that had a response from the TGWG for
21 justification. And if you look on the second
22 page, there's 547.4(2)(a) and then subsection (2)
23 that talks about limited media compliance that's
24 on the next page. It was kind of broken down
25 into sections that had like regulations in there.

1 That's what we tried to focus on.

2 MR. MCGHEE: It's not in order.

3 MR. PUROHIT: It's not necessarily all
4 together lumped in.

5 MR. MCGHEE: So the changes that you're
6 talking about --

7 MR. FISHER: It's in there. Which page is
8 it on?

9 MR. PUROHIT: 547.4. The specific
10 subsection (7) with the box, that's not in here.

11 MS. HAMEL: I didn't think so. That's the
12 question I'm bringing up. It's not in the
13 document, but I have it.

14 MR. FISHER: We're still trying to make
15 sure that everything TGWG did is in the document
16 and then we'll come back to yours. Are you good,
17 Dan?

18 MR. MCGHEE: Yeah. Now, just as long as
19 we can find it.

20 MR. FISHER: The intention is that it's
21 all in there.

22 MR. PUROHIT: If you notice on the top of
23 each page as well, we kind of grouped it into
24 sections of each. Like in the first section, we
25 talk about the grandfather provision and

1 everything that the TGWG proposed for that. And
2 the next one talks about the actual -- the
3 minimum probability standards and relevant
4 fairness requirements. So we grouped all the
5 TGWG proposed changes into that subgroup as well.
6 So we're kind of looking at the subject area of
7 the regulation document, not necessarily just
8 that. As far as the documentation, just do like
9 reg by reg and take a look at that.

10 MR. FISHER: So are you good?

11 MR. MCGHEE: Good.

12 MR. FISHER: So let's go to Kathi's
13 question with 547.4(a)(7).

14 MS. HAMEL: The regulation reads, Require
15 the supplier of any player interface to designate
16 with a permanently affixed label each player
17 interface with an identifying number and the date
18 of the manufacture or a statement that the date
19 of manufacture was on or before the effective
20 date of this part. The Tribal Gaming Regulatory
21 Authority shall also require the supplier to
22 provide a written declaration or affidavit
23 affirming that the date of manufacture was on or
24 before November 10, 2008.

25 And here's our comment. Why is this a

1 special requirement for player interfaces with a
2 grandfathered system? It's just a box. The
3 player interface has nothing to do with the play
4 of the Class II gaming system. It is possible
5 for a grandfathered Class II gaming system to
6 utilize the player interface cabinets that were
7 built after November 10, 2008.

8 MR. MCGHEE: Really, it would be trying to
9 identify that the software was at least -- not
10 the box.

11 MS. HAMEL: Exactly. Through software
12 signature verification.

13 MR. MORGAN: To me that was their
14 confusion when the previous NIGC published it,
15 they kept mixing up software and boxes and
16 software, and they equated them to one and the
17 same in a Class II, which it's not. At least
18 with our last agreement, are you saying that this
19 should all be removed, is that where you're
20 getting to?

21 MS. HAMEL: There's one piece on here that
22 I think it's valuable that this has to have an
23 identifying number.

24 MR. FISHER: I guess the question is --
25 while we're having that discussion, I can figure

1 out how to project this.

2 MR. CALLAGHAN: In the manufacturer's
3 world -- and there's two sides of this. One, I
4 agree with the affidavit, that doesn't belong.
5 Two, manufacturers, particularly in the State of
6 Nevada, are required, and that's where the
7 majority of the boxes are made, in the Class 3
8 world. They're required to put a label on the
9 outside of manufacturing, and they also have to
10 subscribe on the inside of the cabinet. They
11 tell us that's what they're required to do. So
12 that may be the genesis of this. So you might
13 not see that for a manufacturer out of Norfolk,
14 Georgia.

15 So then the other part of this is on an
16 annual basis, we have to file a letter with the
17 Department of Justice, and I'm not thinking of --
18 where it says we have the ability to transfer
19 boxes interstate, and that may also be where
20 that's at. So that might be a safe part. I
21 think a Class 3 manufacturer is going to do this
22 anyway, because Nevada doesn't distinguish
23 between Class II and Class 3. But I do -- I
24 think you really had a very good point on that,
25 on, one, the affidavit; and, two, making the --

1 distinguishing between the software and the
2 hardware.

3 MS. HAMEL: And when it was manufactured.

4 MR. CALLAGHAN: Correct.

5 MR. MORGAN: My worry here is that
6 technical standards are set up to be a checklist
7 for the independent testing lab, and suddenly
8 we're talking about a stick on a box that says
9 you submit the software back to your thing. So I
10 submit the software. Do I really need to submit
11 the box the software is going into with that
12 label? Because I don't know how that's a
13 technical standard from my perspective. If the
14 Class III of Nevada requires it, that's something
15 they have to meet in Nevada. That doesn't apply
16 to Class II. There's an explicit exemption for
17 Class II's on the Johnson Act for their gaming
18 machines. So I agree with you. I think that's
19 where it came from, now that you say that. We
20 have seen that a lot in the Class II world, where
21 a Class III requirement comes down on a Class II
22 because it makes sense in the Class III, but it
23 doesn't really make sense in our world. So
24 I'm --

25 MS. HAMEL: I'm not saying there shouldn't

1 be a label so you at least know where it came
2 from. I'm just saying that it's not relevant to
3 Class II and grandfathered systems and 547.4.

4 MR. MORGAN: Does this sentence fall
5 anywhere else? Because if we're talking only
6 about grandfathered here, did that sentence fall
7 anywhere else?

8 MS. HAMEL: I don't recall.

9 MR. MORGAN: Because if it's not relevant,
10 grandfathered, are we going to get rid of it or
11 move it to a different section so it does apply
12 somewhere, but just not within a grandfathered
13 system?

14 MR. FISHER: Did you hear his request
15 about whether it appears somewhere else? Do you
16 know the answer to that?

17 MR. LITTLE: I --

18 MR. PUROHIT: As far as the software side
19 of it identifying where the software? I don't
20 think there's any requirement that I'm aware of.

21 MR. MORGAN: The requirement is on the
22 player interface.

23 MS. HAMEL: Not on the software.

24 MR. PUROHIT: What you're requesting is is
25 there something that identified the date of the

1 software itself?

2 MS. HAMEL: That's the relevant, not the
3 hardware.

4 MR. MCGHEE: So can (7) just be fixed to
5 address software, not --

6 MR. PUROHIT: The key issue also is I
7 think the justification for the whole
8 grandfathered process was to make sure not
9 everything is introduced like this is
10 grandfathered, this is grandfathered even when
11 there's not. There's some kind of identifying
12 factor of what is going to be grandfathered. So
13 I think to Kathi's point, the box itself is from
14 a technical standard perspective. They can't
15 test the date of anything. But that's going to
16 be included that this is the software, this is
17 when it was submitted to a lab or this is when it
18 was identified as being created to prior to 2008
19 or whatever the timeline is.

20 MS. HAMEL: I think we have enough
21 language about software verification and testing
22 through labs because there has to be
23 documentation to support that. I just don't
24 think this applies at all to this section. I
25 don't think it's relevant at all.

1 MR. FISHER: So your proposal would be to
2 remove it. So let's --

3 MR. RAMOS: I think it really -- with this
4 entire discussion, it kind of centers around what
5 we're really targeting in regulation. And,
6 really, from my perspective, it's the software
7 involved with the server and not so much this
8 discussion around the boxes.

9 MR. MCGHEE: How would we -- just strike
10 that?

11 MR. WHEATLEY: So are we saying that the
12 box does not get submitted to the independent
13 testing lab at all?

14 MR. MORGAN: There's safety requirements.

15 MR. WHEATLEY: I think that the label
16 still needs to be there with the serial number
17 and the model number so that the tribal gaming
18 regulatory body can ensure that the model of
19 machine, regardless of what softwares, they'll
20 have do the software verification, but they also
21 need to confirm that the box that is on the floor
22 has been through an independent testing lab, and
23 then they'll do that through a model number.

24 MR. MCGHEE: Number 7 doesn't require a
25 model number. It just requires a tab that says

1 this was manufactured. Somewhere in here, and I
2 don't know if it's in here or the MICS, that says
3 they have to have that stuff on the box. But
4 that paragraph number 7 only says it's something
5 to identify that that cabinet was produced before
6 November 7th or something.

7 MR. WHEATLEY: That all goes away with our
8 recommendations about the grandfathering and the
9 120 days. So that portion wouldn't be necessary.
10 As long as it's somewhere else within the
11 document that says that the box needs to have a
12 label that has the model number, serial number,
13 blah, blah, blah, I'm fine with that.

14 MR. MORGAN: You need some type of
15 identifying number.

16 MR. WHEATLEY: The tribal gaming
17 regulatory body needs to have a way to be able to
18 identify that this is an approved box.

19 MR. FISHER: So is that currently in a
20 separate regulation?

21 MR. LITTLE: I'm not aware of that.

22 MR. WHEATLEY: If there's hardware
23 requirements.

24 MR. PUROHIT: I'm not aware of any
25 specific technical standard that requires models

1 to be affixed on the side of the terminal or
2 anywhere identified. I think that might be in
3 the MICS.

4 MR. CULLOO: By the serial number.

5 MR. PUROHIT: The serial. That's
6 definitely a requirement.

7 MR. MCGHEE: That's what I recall it
8 being, and when it talks about being an
9 identifying number and stuff like that. But I'm
10 not going to swear to it.

11 MR. FISHER: So the question that was
12 posed was whether people were in agreement or
13 disagree with removing this section (7). You
14 raised a question about wanting to make sure
15 there were other requirements that were still in
16 place. What I heard the answer was is that it's
17 in the MICS, not in the technical standards.

18 MR. MCGHEE: Which (7) doesn't do that
19 anyway. Number (7) doesn't do it.

20 MR. FISHER: So why don't we check to see
21 what people are thinking about with respect to
22 the proposed recommendation to remove
23 Section 547.4(a)(7), what's projected up on the
24 screen there.

25 MR. PUROHIT: Can I say one word of

1 caution, though? The other thing about the
2 technical standards, there is minimum design
3 guidelines for manufacturers. So if you take
4 that requirement, put it in the MICS, then the
5 manufacturer is going to say we have to start
6 looking at the MICS now, too, to put the labeling
7 on our terminals and all that stuff.

8 MR. MCGHEE: This number (7) --

9 MR. PUROHIT: Again, the date itself.

10 MS. HAMEL: It does say a statement. It
11 doesn't necessarily have to be affixed. So
12 it's --

13 MR. MCGHEE: The modeling and stuff he's
14 talking about are a separate issue to number (7).
15 Because this is only about making sure about that
16 before November 7th. So it would be formally
17 grandfathered or something. As far as model
18 number, serial number, whether you take this away
19 or add it or not, I don't think this is going to
20 appear somewhere else or not somewhere else.

21 MS. HAMEL: Are there player interfaces
22 out there without any sort of language affixed in
23 them? So to keep this -- the intent of
24 understanding where player interface came from,
25 could number (7) end at the date of manufacture

1 and strike the rest?

2 MR. PUROHIT: That's what I was trying to
3 get at. It has to be put in by the manufacturer.
4 It's still a design principle of the device
5 itself.

6 MR. FISHER: You would do that, right?
7 That's what you were saying? Let's pause here
8 for a second. So to make sure everybody is
9 hearing, Kathi, this is what you were saying, it
10 would stop here?

11 MS. HAMEL: That would give you a label.
12 It gives you some sort of identification,
13 identifying the number and the date of
14 manufacture. And obviously this -- the suppliers
15 would have their name on it, I assume.

16 MR. MCGHEE: Is that a -- something that
17 needs to be limited? Once we take away all that
18 other garbage, what we're asking should probably
19 be somewhere in the (inaudible.)

20 MR. WILSON: Is the relevance of the date
21 of manufacture -- because I understand this part
22 that was in there is because of the arbitrary
23 date to determine this was prior to November or
24 whatever and this was after. So my question is:
25 What's the relevance of that date? I'm trying to

1 think from a standpoint of auditing or something
2 after the fact, do I need that date, do I need
3 that information?

4 MS. HAMEL: It's not relevant on the box.

5 MR. WILSON: On the box. So if -- because
6 I'm wondering, too, with manufacturers even on
7 some of these machines, it's when they were
8 manufactured or other than if generically you can
9 say that this set of machines was manufactured
10 prior to whatever. But, again, if that date
11 serves no purpose for me, then --

12 MR. MCGHEE: Just because the date is on
13 the machine doesn't mean you have to replace
14 everything on the machine, like the parts of it
15 that are not manufactured, the --

16 MR. WILSON: That's what I'm trying to get
17 at, is does this date mean anything to me from an
18 audit standpoint if I'm trying -- do I need that
19 date to determine something about that box?

20 MR. CULLOO: The box can be modified any
21 way. The date makes no difference.

22 MR. FISHER: So where does that take you
23 in terms of the suggestion around how to deal
24 with this section?

25 MR. MORGAN: To follow up on Dan's

1 question, and I heard Jeff say probably in the
2 hardware. If you will look at 547 -- 8; 547(d),
3 Player interface. The player interface shall
4 include a method or means to: display
5 information, allow player to interact with the
6 gaming system. My suggestion would be if you
7 think that statement is relevant and it needs to
8 go somewhere, that's probably the section it
9 needs to go in, on the player interface, 547(b).
10 You could have an (a) or I guess (1) or (2) or
11 however you want to.

12 MR. MCGHEE: There's no (d).

13 MR. MORGAN: Yeah, (d). If you like that
14 first sentence, my suggestion is you move that to
15 547(d). If you like it. I'm in agreement, I
16 don't disagree with having that statement, but I
17 think it's misplaced if you have it there.

18 MR. FISHER: 547 -- 547.7(d), physical
19 enclosures.

20 MR. MORGAN: You got (c) and (d). So
21 either right there, physical enclosures, or
22 player interface. Because 547.7, the subject is,
23 What are the minimum technical hardware standards
24 applicable to Class II gaming systems. That
25 seems to be more appropriate for that section if

1 that's where you want to keep it.

2 MR. FISHER: Okay. Kathi, back to you in
3 terms of what's your suggestion?

4 MS. HAMEL: I agree with that, it needs to
5 be down with the hardware.

6 MR. FISHER: So it would be that first
7 sentence from --

8 MS. HAMEL: Or it can be 7. I mean, it
9 talks about an identification plate in (d).

10 MR. FISHER: Right.

11 MS. HAMEL: That includes serial number
12 and date of manufacture. It does say that.

13 MR. FISHER: You're saying it's covered?

14 MS. HAMEL: Isn't that what an
15 identification plate is?

16 MR. WILSON: It seems like the issue is
17 whether the manufacturer is going to be required
18 to put that information on the box or whether the
19 gaming regulatory authority requires that
20 information to be on the box. And it just seems
21 to me that it probably makes more sense for it to
22 come from the manufacturer as to make, model,
23 whatever identifying information needs to be on
24 there from the manufacturer.

25 MR. PUROHIT: Another word of caution, if

1 you remove it from 547.4 altogether, then it's
2 saying that this is only a requirement for fully
3 compliant cabinets, terminals. But, you know,
4 we're not concerned about the box. But then if
5 the tribal regulatory body wants to still do an
6 audit of grandfathered boxes for that nameplate
7 as well, then there's nothing that requires the
8 manufacturer to put that on any grandfathered
9 system and the components on there. It's only
10 for the fully compliant boxes. That's just a
11 word of caution over here. The way -- if you
12 just put it in here in 547.7, that's my only urge
13 of caution.

14 MS. HAMEL: So if you leave it in 547.4,
15 there's enough language in 547.7 that talks about
16 the physical box as well as an identification
17 plate. And if you just take out all the other
18 languages, it's telling the suppliers what they
19 need to do to be able to get a player. But I
20 don't think the date is relevant or when it was
21 manufactured in relationship to grandfathered.

22 MR. WHEATLEY: There's no such thing as a
23 grandfather clause anymore. There's only four or
24 five technical standards that any system needs to
25 meet in order to become compliant. So there's no

1 more grandfather.

2 MR. FISHER: Well, you got a little ahead
3 of everybody. So far we've been chipping away at
4 removing the pieces. We haven't said yet there's
5 a recommendation to remove the whole grandfather
6 provision.

7 MR. LITTLE: Just remove the deadline.

8 MR. FISHER: We remove the deadline, so
9 now you can have those dates. Does that change
10 what you were -- how you approach this?

11 MR. WHEATLEY: No, I think that thought
12 process is the same. It depends on if we agree
13 to remove the 120-day, the time frame clause.
14 But we've already removed the Sunset provision
15 which would be for existing compliances to meet
16 additional technical standards. Since we removed
17 that, the only requirement is that they meet the
18 existing technical standards that are in place
19 now. The question on the table, though, when we
20 go around is whether we remove the 120-day clause
21 that those systems already had in place, or now
22 can any system be submitted to conform to the
23 existing technical standards that are in place
24 now. If we do that, we essentially remove any
25 type of grandfathering clause in my mind. And if

1 that's the case, then that requirement would go
2 away as well. There's not a need to identify
3 whether a box or cabinet needs a grandfather
4 clause because there isn't one. Am I --

5 MR. WILSON: I'm not quite sure that's
6 correct, because we've got two levels of
7 standards. You've got the grandfather standards,
8 which are the four criteria that those have to
9 meet. But newer machines meet a higher degree of
10 standards that the older machines can't meet
11 because of their inherent design. So there
12 really are still two components. So new machines
13 being made are being made to meet a higher level
14 of standards, but not built to be the four
15 criteria.

16 MS. HAMEL: And you could take a box
17 manufactured after November 2008 on a
18 grandfathered and play it on a grandfathered
19 system and use it on a grandfathered system.

20 MR. FISHER: Okay. So where does that
21 leave us in terms of the recommendation? Daniel?

22 MR. MCGHEE: All right. So what we're
23 saying is with number 7, we want to -- basically
24 we're talking about striking the whole paragraph.
25 The only concern was that grandfathered systems

1 still have a requirement that they have an end
2 plate or identifying number. So what she had
3 said before, where it ended at player interface
4 with an identifying number, period --

5 MS. HAMEL: And date of manufacture.

6 MR. MCGHEE: Which isn't on here. It
7 ended after manufacturer would solve the problem.
8 So how does everybody stand on that?

9 MR. FISHER: I think we need to delete --
10 sorry, I'm trying to -- it's that --

11 MR. PUROHIT: Kathi, for consistency would
12 it be some language along the lines of in 547.4,
13 identification plates as required by tribal
14 agreement regulatory authority? Kind of leave it
15 like --

16 MS. HAMEL: But in 7, 547.7, not 547.4.

17 MR. PUROHIT: No, in 4, because there's
18 still a requirement for the TGRAs, like what Tom
19 was just outlining, you still want to be able to
20 audit any of the information, the unique
21 identifiers on there. Instead of putting a date
22 requirement, just any kind of requirements that
23 you might have specific to your jurisdiction,
24 including date, serial number, whatever. But
25 it's just like keeping a generic with the

1 identification plate from 547.7, as well. That's
2 what I was trying to get at.

3 MS. HAMEL: So I don't understand.

4 MR. WILSON: From my standpoint, it's just
5 that I want to be able on the floor or whenever
6 to identify a machine, a box, as knowing that
7 that box is A, B, C, and the box next to it is D,
8 E, F. And just from an audit perspective, if
9 you -- put it this way: Each box should have a
10 unique identifier, whether that's for inventory
11 purposes for whatever it happens to be; there
12 should be a unique identifier. And I can tell
13 you right now, we're going through issues with
14 the fact that we have tables for manufacturers,
15 card tables that don't have any unique
16 identifiers, and we just discovered the fact that
17 we're talking about Table A, but it could be
18 Table B that's moved off the floor. And this
19 might not matter, but the reality is this idea of
20 having a unique identifier for a piece of
21 equipment is relevant for probably any number of
22 reasons that you might want to be able to say
23 it's this machine that we're talking about or
24 it's this box that we're talking about.

25 MS. HAMEL: And if -- wouldn't that cover

1 that?

2 MR. WILSON: Well, I think if I understand
3 what Nimish is saying, is that the one statement
4 covers new machines, but if it's not saying that
5 in 547.4, it wouldn't necessarily apply to what
6 we're currently calling grandfathered machines.

7 MR. PUROHIT: One is saying, like,
8 identification plates and the other one is saying
9 identifying numbers. I was saying if there's
10 consistency, then there's any requirements that
11 the TGRA operations needs.

12 MR. MCGHEE: I think you would add a note,
13 not necessarily language, to y'all's purpose to
14 make sure that it is consistent with 547.7. Not
15 that it belongs there. It still belongs here.
16 But make the language consistent.

17 MR. FISHER: So the recommendation would
18 be -- so let me see if I can see where we are,
19 and maybe -- because you had your card up and you
20 had your card up. But the recommendation would
21 be as projected on the screen, right, so stop the
22 sentence at the end of "manufacturer" and with a
23 note that says "make it consistent with 547.4."

24 MR. MCGHEE: 547.7(d).

25 MR. FISHER: Does everybody understand

1 where we are? Good. So you want to check that?
2 Leo has his card up. We can take his comment and
3 then check.

4 MR. CULLOO: I'm confused because every
5 machine I know on my floor has the date of
6 manufacture, serial number and has the
7 information you're talking about. Where is it
8 defined what specifically has to be on the label,
9 other than there where it says with identifying
10 number, date of manufacture?

11 MR. PUROHIT: There isn't any specifics as
12 far as what the definition of identification,
13 you're right. It's just left as a -- I think
14 it's implied language on whatever the TGRA wants.
15 If you put in all the specifics in there, it's
16 going start varying by jurisdiction to
17 jurisdiction. The only requirements has to be
18 unique identifiers, that's it. That's all that's
19 implied in there. What that unique identifier is
20 depends on whatever your jurisdictional needs
21 are. Date and serial number, if you start going
22 into that detail --

23 MR. MCGHEE: The TGRA can take these and
24 expand upon them.

25 MR. CULLOO: That's the minimum. That's

1 the baseline.

2 MR. FISHER: Okay. So that's -- if I got
3 that right, that's the suggestion, assuming that.

4 MR. LITTLE: Could we make some suggested
5 language or put it out there? After -- replace
6 identifying number with an identification plate
7 consistent with 547.7(d) and as recommended by
8 TGRA. I'm sorry, required by TGRA.

9 MR. PUROHIT: Something along those lines.

10 MR. FISHER: Say that again.

11 MR. LITTLE: Right there. Identification
12 plate consistent with 547.7(d). There you go.
13 And "as required by TGRA," or you can put "as
14 recommended," whatever. "Required by TGRA." Is
15 that right?

16 MR. FISHER: I got the section reference,
17 right, 547.7(d), which is --

18 MR. MCGHEE: It's (c) on this. Physical
19 enclosures is (c).

20 MR. PUROHIT: We're going with the current
21 standard as it is.

22 MR. MORGAN: That was my fault for -- I
23 was meaning to put it under player interface,
24 because that's what we were talking about.

25 MR. LITTLE: It should be (c) or (d).

1 MR. FISHER: It's (e) on what I've got,
2 player interface.

3 MS. HAMEL: Physical enclosures is (d).

4 MR. MORGAN: We're talking about
5 requirements of player.

6 MR. WHEATLEY: You're referencing where
7 it's stated. I have it as (d).

8 MR. LITTLE: We are working off this
9 document, so it should be (e). Yes.

10 MR. PUROHIT: Whatever the section is
11 going to be.

12 MR. MCGHEE: And it's (c).

13 MR. MORGAN: Jeff, if I understand, you
14 have all attachments such as buttons,
15 identification plates, and labels shall be
16 sufficiently robust to avoid unauthorized
17 removal, that's where the point --

18 MR. FISHER: It's intended to be a
19 reference to the physical enclosure section. So,
20 Kathi, did you have something?

21 MS. HAMEL: "With" is there twice.

22 MR. FISHER: Two "with's". They got two.

23 MR. MCGHEE: I think that would be "and
24 any other additional information," because it's
25 not as required by, right? You should add

1 anything else TGRA wants on it.

2 MS. HAMEL: How about "or"?

3 MR. PUROHIT: I don't think you need "or."
4 Just say, "as required by TGRA." So that gives
5 the flexibility so it could be anything you want
6 in that unique identifier as long as it --

7 MR. FISHER: Kathi, does that --

8 MS. LASH: Is this (c), not (d) on the
9 original file?

10 MR. MCGHEE: Just leave that question mark
11 in parentheses, wherever physical enclosures ends
12 up being.

13 MR. FISHER: There. Did I do it? That's
14 the intention, is to hit that section. Okay. So
15 everybody -- let's check on this and see what
16 people are thinking, because a lot of people we
17 haven't heard from yet. So the recommendation is
18 to go with what's up on the screen for all of the
19 reasons people have talked about it. So let's
20 just try this one. If you're -- if you agree
21 with this recommendation, raise your hand.

22 (Indicating.)

23 MR. FISHER: Okay. So we missed Tom
24 because he's not in the room. But I will check
25 with him to see -- if it counts as unanimous

1 because he's not in the room. But we might as
2 well check with him anyway. Okay. It's about 20
3 after 10. We had a scheduled break at
4 10 o'clock, which we didn't take because of our
5 time change. Do you want to take a break now?
6 All right. So why don't we take a 15-minute
7 break.

8 MS. STEVENS: I'm taking off. I'm so glad
9 to hear this conversation happening, and I'm sure
10 you are all very happy, too. So I trust that you
11 all will come with some really good
12 representation for us. You will see me again.
13 We do consultations right before -- on other
14 relations before the TAC, so I've been handling
15 those. I've been staying over so I can say, you
16 know, hey, hope you all are doing well. And then
17 Dan will be here representing NIGC and our staff,
18 and hopefully that you utilize NIGC and our staff
19 and really have robust conversation about
20 anything that's written from the NIGC's
21 perspective, just like you are now. So I thought
22 I heard Matt over here talking about high
23 lightning speed you're going now comparatively, I
24 guess, so I hope that continues and wish you all
25 the best of luck. Thank you.

1 (Recess taken at 10:22 a.m. to 10:40 a.m.)

2 MR. FISHER: Okay. Let's start again. So
3 on our agenda, we have until 11:30, and then at
4 11:30, we're scheduled for public comment. And
5 there is one person signed up to give public
6 comment. So we're back -- are we back to the --
7 let's not get distracted by my computer here. So
8 we're still back -- is there anything else in the
9 grandfather provision on the Page 1 of the TGWG
10 document?

11 MS. HAMEL: Well, I have comments or
12 questions, mostly comments, about many of the
13 phrases in grandfathering that aren't listed on
14 the grandfathering provision of the document. So
15 you just want me to go ahead?

16 MR. FISHER: Sure. Go ahead. Start with
17 the first one.

18 MS. HAMEL: We did number 7. And then (b)
19 of the grandfathering provision (3). It talks
20 about as permitted by the TGRA, individual
21 hardware or software components of a
22 grandfathered Class II gaming system may be
23 repaired or replaced to ensure proper
24 functioning, security or integrity of the
25 grandfathered Class II gaming system. My comment

1 is that as this is written literally, you can
2 only modify, repair or replace individual
3 components of the gaming system that are
4 grandfathered. No new components can be added.
5 For example, a gaming system software is fully
6 compliant, but you may want to add a new theme
7 and interfaces to the existing four that are
8 grandfathered. But that -- this language about
9 grandfathering and hardware and software is
10 limited.

11 MR. FISHER: You're reading number (2),
12 correct?

13 MS. HAMEL: (3), as permitted by the TGRA.

14 MR. MCGHEE: Individual hardware or
15 software.

16 MR. MORGAN: Can you say that again?

17 MS. HAMEL: 547.4(b)(3).

18 MR. FISHER: Up on the screen.

19 MS. HAMEL: I'm working from 547.

20 MR. FISHER: Okay. So did you want to
21 maybe restate your --

22 MS. HAMEL: As it's written literally, as
23 a Class II operator, we can only modify, repair
24 or replace individual components of the gaming
25 system that are grandfathered. What if I want to

1 add a new component that's technology, or I want
2 to add a new piece of software to a grandfathered
3 system? Our interpretation of number (3) is
4 limited.

5 MR. MCGHEE: I can't hear what you're
6 saying.

7 MS. HAMEL: Or new themes. Or you may
8 have a fully compliant Class II system, but you
9 want to bring in a grandfathered theme. Our
10 interpretation of this regulation is you couldn't
11 do that. Am I --

12 MR. PUROHIT: I'll jump in. The way I
13 would always approach this, and that was, I
14 think, a first question that we talked about in
15 October as well. The way this is written and the
16 way I was explaining to it tribal regulators any
17 time I'm asked is the whole intent of this, even
18 from a lab and a former regulatory background,
19 the way I read this was a grandfathered system
20 doesn't have to be in stasis. You can make any
21 changes to that as you want, as long as at what
22 point does it cease being the grandfathered
23 system. When you start approaching a software
24 that we talked about as well, the minute that
25 that's touched, that's where the compromise comes

1 in. So I can see you're concerned with the
2 specific language as well. The most common thing
3 that happens, I think we talked about it in
4 October as well, is you might have a game theme
5 library that was grandfathered initially as part
6 of this overall package by a manufacturer, and
7 then they started releasing new themes instead of
8 just grandfathering the whole system again. What
9 you're saying is you're taking a stricter
10 approach that you can't really add on any themes.
11 And, vice versa, if it's a fully compliant
12 system, you can't add on any grandfathered themes
13 as well. Grandfathered software in general, I
14 think that you want to put it in an overall
15 umbrella?

16 MR. MCGHEE: Do you have a suggestion?

17 MR. FISHER: Before you get to the
18 suggestion, Jason has his card up.

19 MR. RAMOS: I guess I'm still a little
20 confused. And maybe members either from National
21 Gaming Commission or the group can tell me,
22 what's the real purpose behind having the
23 grandfathered language anyway? What is it
24 specifically about? Is it something about the
25 software? I mean, why was that regulation

1 proposed? Because we keep talking about
2 grandfathering and keep going back. What are
3 those core elements of a grandfathered system
4 that industry-wide we don't want, we shouldn't
5 have?

6 MR. PUROHIT: Can't really speak on the
7 "shouldn't have" part.

8 MR. RAMOS: We said before, the near miss
9 software, the reflective software, those are all
10 -- are those the elements we're talking about
11 here?

12 MR. PUROHIT: Yeah, in general the main
13 intent of having -- I think going back to the
14 first part of your question, the main intent was
15 to make sure that you effectively freeze any kind
16 of systems that were in place when it was passed
17 and make it comparable to other jurisdictions
18 that had existing gaming products out there when
19 a set of regulations were passed. So anything
20 manufactured after that point, once regulations
21 go into effect, they have to be tested to
22 everything applicable in there. So as far as the
23 bad parts, like you pointed out, the four
24 minimums are definitely in here. But there are
25 other risk areas in general, I think what Tom

1 brought up last time as well, with the -- what is
2 it that you're assessing with the risk as far as
3 having the five-year period or whatever. But
4 what that was referring to is any kind of
5 technology that might be in its infancy at the
6 time when the regulations were passed, for
7 example. And once they were passed as far as the
8 date, like let's say 2008, that technology which
9 has since then evolved as well, it might not had
10 been able to regulate it because at that point,
11 it didn't have the capabilities in there. Remote
12 access is the one thing I keep bringing up. When
13 these started being drafted back in 2006, 2007,
14 you know, whatever the expiration was, remote
15 access of gaming was still in its infancy as
16 well. But since then it's evolved to a
17 significant point. But it's not to the point
18 that where grandfathered systems need to be fully
19 compliant with all remote access requirements. I
20 don't know if that makes sense or not.

21 MR. RAMOS: To some degree. I'm just
22 wondering why we go back to grandfathering. Why
23 not have a remote access standard, right? I
24 mean, we keep going back to this grandfathering.
25 So far that's the only part of this grandfathered

1 section that I really -- the argument I've heard
2 besides the software. I think the software can
3 be solved through testing laboratories, some
4 standards through testing laboratories and this
5 other way, and we can get -- I mean, I'm looking
6 at it globally. What's the regulatory value of
7 having this grandfathered system, this idea of
8 having a grandfathered clause? And so I'm not
9 too sure -- I'm not so sure I'm seeing the value;
10 is it protecting the public, is it about -- is it
11 just about software? We have those standards.
12 Is it just about the UL certification or some
13 protection of the public? I think we have that.
14 So just kind of getting back to the core argument
15 of why we should have this grandfathering clause,
16 I think that's worth a discussion.

17 MR. FISHER: Pause for a second while you
18 guys are conferring. So let's go Tom and then
19 Daniel.

20 MR. PUROHIT: I'll let the TAC talk about
21 it. I'll address it after the TAC gets done as
22 well.

23 MR. FISHER: Tom, Daniel, Mia.

24 MR. WILSON: I think there's two
25 components; one is you have manufacturer

1 interests that they have, you know, 6,000
2 machines or whatever that may or may not come
3 into play, depending upon whether there's a
4 grandfathering clause or not. But then you also
5 have tribes that are using -- and that
6 manufacturing has to be owned by a tribe. And
7 then you have tribes that are using these older
8 machines that want to continue to have that
9 capability to use those machines without having
10 to meet the newer technical standards because
11 they don't envision a point in time in the near
12 future, anyhow, where they would be changing
13 those machines out, nor monetarily do they want
14 to invest in that new capital to have to bring in
15 machines that meet the new standards. So that's
16 kind of the economic piece behind the whole
17 grandfathering piece, as I understand it, why
18 that even exists.

19 MR. RAMOS: And they wouldn't meet the
20 standard -- they wouldn't meet the new standards
21 now because of what reason? Software?

22 MR. WILSON: Software capabilities. So
23 just like what Nimish was saying, the new
24 standard talks about remote access or things like
25 this. Well, those older machines don't even have

1 that capability, so they can't meet that
2 standard. So you have to have some way to
3 grandfather them in and say you're okay because
4 just the hardware and the software just
5 physically can't do that at the time it was
6 designed. So, you know, that's kind of that
7 reality issue.

8 MR. RAMOS: Okay.

9 MR. PUROHIT: I'll add one more example to
10 that, too. I think I spoke about it last time,
11 securing communications from eavesdropping and
12 all that. That, too, at the time was in its
13 infancy as far as the gaming environment was
14 concerned, even though Class II gaming is
15 advanced as everyone here knows as well. But as
16 far as like the encryption of the data that goes
17 from one point to another in a server-based
18 environment, that wasn't still as advanced as it
19 is right now. So some of the requirements in
20 here may be the grandfathered systems, which when
21 this standard was passed, may be five or
22 six years old or even older than that. So
23 they're already dated at that time when this was
24 passed. So not only are they not going to meet
25 any existing requirements at that time, but even

1 technology from five or six years before that.
2 So that's the main reason to capture that segment
3 of the market that's been on the floor for a
4 while as well; that even though it might have the
5 technology, the technology was installed in the
6 system well before the standards were passed as
7 well. It's not just the operator communications
8 in there. Some simple requirements in there;
9 they sound like they are trivial. Like help
10 screen requirements, as far as what's being
11 displayed to the patrons, price schedule
12 requirements and their artwork, anything generic
13 from disclaimers. I can speak -- give you
14 examples of jurisdictions of tribal regulators
15 where they just told manufacturers, put it on
16 them. But something as simple as actual payouts
17 determined by the game of bingo are similar and
18 malfunction, voids, the two minimum disclaimer
19 requirements, stuff like that as well. When
20 there were no standards, that wasn't a
21 requirement to be put in. So there's a whole
22 array of systems. And I think the idea was that
23 because they've been on the floor for a while at
24 that point, you effectively freeze it and only
25 require those older machines that might not have

1 capabilities or it might just be logistically
2 impossible to give them time to catch up, and
3 that's where the five-year period came in as
4 well.

5 MR. FISHER: Mia, then Matthew, then
6 Robin.

7 MS. TAHDOOAHNIPPAH: I just want to make
8 an overall comment on (b)(3), altogether. It is
9 very confusing and it's very wordy and it is very
10 confusing. And I am not in big favor of how it
11 just generically lists the sections that it has
12 to be compliant to because it is very difficult
13 to -- now I got to flip over and see this one,
14 547.14, now I got to read that. I think it adds
15 to the confusion.

16 MR. MCGHEE: This is the one she was --

17 MS. TAHDOOAHNIPPAH: Uh-huh.

18 MR. MORGAN: My comment is to address the
19 reasons for grandfathering, Tom. And I think you
20 summed up economic reasons why. I guess my take
21 at it would be legal requirements; that there are
22 machines out there that -- again, we're operating
23 a regulatory framework, but when we look back at
24 IGRA, the governing document, three statutory
25 requirements. And as long as you meet those

1 three statutory requirements, you're bingo. And
2 no matter what we do by regulation, we can't
3 change that. I mean, that's been upheld in so
4 many court cases. So for those machines that do
5 meet the minimum requirement, I think your
6 grandfathering provision does allow a pathway for
7 those machines to make it to the marketplace,
8 albeit with some minimum software and safety
9 requirements. And their recommendations that's
10 placed on them is now you can't update to the
11 latest and greatest of some aspects. Maybe it is
12 remote. And if you choose to take advantage of
13 those technological upgrades, now you're going to
14 have to meet the newer standards. So I
15 definitely think there is a place for
16 grandfathering and a place for grandfathering
17 machines out there, but I agree with Tom on all
18 your points on the economic reasons for it as
19 well.

20 MS. LASH: And just to follow on both the
21 comments of Tom and Matt, there's value in these
22 games, and there are requests for those games and
23 they're simple games. And there are legal
24 indications again -- back to the legal -- there
25 are cases that said these are Class II machines

1 and some random dates can't change that. They're
2 still -- they were approved back by lab tests
3 when they were in operation. They're older
4 games, they're simple games, but they're still
5 Class II games, and they shouldn't be excluded.

6 MR. FISHER: Daniel.

7 MR. MCGHEE: I agree with what everybody
8 said about that. All right. Because this is
9 something else. I'm getting past that.

10 So to go back to Kathi's concern, is what
11 I'm trying to determine where we're at, is what
12 was listed here, you're saying, for instance, if
13 you have a grandfathered machine and you wanted
14 to make it compatible with, say, CNP or
15 something, right, and you still want it to be
16 considered a grandfathered machine, and you want
17 to make sure this language doesn't prevent you
18 from being able to add that and mess it up,
19 right?

20 MS. HAMEL: Right, because it's not a
21 repair or replace. It's something new.

22 MR. MCGHEE: And it's not ensuring proper
23 functioning, security or integrity. So we just
24 need to figure out, if everybody is okay,
25 something we can add. Because the next one says,

1 Any modifications that affect the play is a
2 different category. Which you have a category
3 missing that would be -- I mean, if we can
4 identify what that is, then we can fix this
5 section.

6 MS. HAMEL: Right. And in Section (3),
7 also, if you've got a fully compliant system, but
8 you want to put a grandfathered theme or
9 grandfathered software on the floor, this seems
10 to be a contradiction to the ability to do that.

11 MR. MCGHEE: But then you're getting into
12 what can I do to another system, a fully
13 compliant system, which I think you can do
14 anything to a fully compliant system, as long as
15 you're not then turning it into a grandfathered
16 system. So you can add grandfathered provisions
17 to a fully compliant system as long as you're not
18 bringing that new system back.

19 MS. HAMEL: Right, but this is talking
20 about components of the system.

21 MR. MCGHEE: Components of the
22 grandfathered system.

23 MR. PUROHIT: What's unique is this is not
24 a system that just came off the shelf. This was
25 a system that was grandfathered back in and then

1 it was gradually brought into full compliance.
2 So at what point does it become a fully
3 compliant.

4 MS. HAMEL: But then there's theme that
5 was a grandfathered theme and it can play on a
6 fully compliant system.

7 MR. MCGHEE: But are themes really
8 grandfathered? I mean, software and the way in
9 which a game is played is --

10 MS. HAMEL: Software.

11 MR. MCGHEE: Software, but then a theme is
12 really just bells and whistles, so to speak. It
13 all plays the same on an X, Y, Z software
14 platform and you may change it from pigs to dogs,
15 but that's just a theme.

16 MR. PUROHIT: The fairness requirements
17 are standard, but then there might be something
18 along the lines of what --

19 MS. HAMEL: Help.

20 MR. PUROHIT: -- exactly, the help
21 screens, the artwork, all of that in order to
22 make that fully compliant as well. There's
23 numerous other requirements just at the theme
24 side as well. So it might be cost prohibitive
25 for manufacturers, for example, to fully comply,

1 fully certify all the game themes that were at
2 one point grandfathered.

3 MR. FISHER: Tom.

4 MR. WILSON: My concern would be from a
5 risk standpoint, is that it's this idea of trying
6 to freeze the technology of one, you know, the
7 grandfathered system, but not being able to take
8 a grandfathered system and make it then something
9 other than what it was at the time when it was
10 grandfathered, if you will. If the ultimate
11 objective -- and we had talked last month, that
12 over time, just the sheer nature of the market
13 and stuff would determine what happens with these
14 machines anyhow. But my concern as a regulator
15 would be are you now -- is that machine being
16 turned into something other than what it was as
17 part of the grandfathered provision. And I'm not
18 disagreeing with what you're saying. I'm just
19 saying that from a regulatory standpoint, if I
20 were asked to go evaluate this machine, I would
21 be evaluating -- one of the criteria I would be
22 evaluating on is has this machine changed from
23 what we approved, if you will, at this point in
24 time, to what's being asked to be changed in the
25 machine now at this point in time. That would be

1 the question that I would have to resolve in my
2 mind about whether this still is a grandfathered
3 machine or this is a machine that no longer meets
4 the criteria and therefore is no longer a
5 grandfathered machine, hence, it can no longer be
6 operated.

7 MR. FISHER: Okay. Let's take the
8 comments, and then we'll see where we are on
9 this. Matt.

10 MR. MORGAN: Kind of following up with
11 Tom, I have that concern, too. But my question
12 to Kathi is: Is this a proper question at a
13 federal minimal, or is this a proper question for
14 your local regulatory body to say there may be
15 ambiguity here, but after discussions with my
16 staff or with the lab or whatever, whoever, I
17 think it falls into this. Because, again, we're
18 talking about when that line is crossed. That is
19 going to be an interpretation from every
20 jurisdiction, and I'm not for sure if that's an
21 overarching minimal and federal concern.

22 MS. HAMEL: That's the section that makes
23 it confusing for the regulatory at our property.
24 If we have a fully compliant system, this says we
25 can't bring in a grandfathered software for the

1 theme.

2 MR. FISHER: Back to you, Daniel, and then
3 Nimish.

4 MR. MCGHEE: I don't -- if you'll just
5 tell me or maybe help me understand, because I'm
6 not getting it, why this statement doesn't allow
7 you to do something to a fully compliant machine.
8 Because all this is really addressing is
9 grandfathered systems, the way I read it.

10 MS. HAMEL: Because it's talking about
11 grandfathered software components and hardware.

12 MR. MCGHEE: It says, Individual software
13 and hardware components of a grandfathered Class
14 II gaming system may be repaired or replaced to
15 ensure proper functioning, security, or integrity
16 of the grandfathered Class II gaming system.

17 MR. PUROHIT: Let me give you an example.

18 MR. MCGHEE: It's talking about the Class
19 II grandfathered system. She's talking about
20 new.

21 MR. PUROHIT: Let's say originally
22 manufacturer X, Y, and Z had a server, like about
23 20 game themes, and like all these other
24 accounting systems, proprietary accounting
25 systems, everything else for that one Class II

1 gaming system as a whole, that was initially
2 grandfathered with the technical standards,
3 everything. Then that manufacturer saw that for
4 them it might not be economically feasible for
5 what they did, so gradually they brought that
6 whole system into full compliance. But except
7 for out of those 20 themes, they only brought 10
8 themes into full compliance, and the remaining 10
9 themes are still grandfathered. So that's the
10 software component side of it. So another
11 particular example for X, Y, Z, now, the issue
12 comes into the fact we have a grandfathered
13 system that it's been brought into full
14 compliance except for the ten themes that they
15 were initially grandfathered with. So what do we
16 do with these ten themes, even though we want to
17 use them for a couple years more? And what does
18 that do to the status of the grandfathered system
19 for the system that was fully -- brought into
20 full compliance, and only ten themes were brought
21 into full compliance, but we still want to use
22 the other ten themes that are still in the
23 grandfathered.

24 MR. MCGHEE: What happens is these ten
25 themes, if they really want them, make the

1 manufacturer make the ten themes compliant if you
2 want to use them. When does the manufacturer
3 have to do something to, you know -- he only
4 brought ten into compliance. He left the other
5 ten lingering back there for whatever reason.
6 And as an operator, then you would say, I want
7 the other ten, bring them into compliance.
8 Because then just the gray lines start getting to
9 ten of these have been moved up and ten of these
10 are still back here. It's a regulatory tool.
11 It's not for operations so much. It's to help
12 the regulator understand what's going on. So at
13 some point, the buck has to fall on the
14 manufacturer to either decide you want it to be
15 grandfathered systems or not a new system, not a
16 hybrid of something.

17 MR. FISHER: Let's take Jeff and then Leo,
18 and then we're going to come back to what problem
19 are we trying to solve and what's the way to do
20 it. So Jeff.

21 MR. WHEATLEY: So I understand what your
22 argument is, Daniel. And I guess kudos to the
23 manufacturer for bringing their system fully
24 compliant, but now they have these other games to
25 worry about. My fear is if we told the

1 manufacturer that, no, you can no longer use
2 those themes, that's going to drive other
3 manufacturers not to bring their systems fully
4 compliant. Because then there's an economic loss
5 to them with those themes that are currently
6 existing and grandfathered. If they're
7 grandfathered under a grandfathered system, why
8 couldn't they operate, I guess, on a fully
9 compliant system. You're not changing the
10 experience for the guests at all. So if there is
11 economic viability -- and maybe it's only at one
12 property. Maybe it's only at Kathi's property,
13 so that's why they don't want to invest the extra
14 dollars just to bring those one or two themes or
15 ten themes into compliance just for Kathi's
16 property. Maybe there's not an economic
17 viability there. But I think if we put too many
18 restrictions and we say that we can't allow them
19 to use those games on a fully compliant system,
20 it will drive other manufacturers not to become
21 fully complaint. They'll want to stay in a
22 grandfathered status as long as possible.

23 MR. CULLOO: As far as requiring the
24 manufacturer to upgrade it to be compliant, I
25 think it's such a niche market right now, so

1 there's not that many machines that it's cost
2 prohibitive for them. They're not going to do
3 it. And if they do, they're going to pass the
4 cost on to the tribe that wants it. So every
5 manufacturer I see, when they change their OAS
6 system, eventually they quit supporting old
7 software because it's too expensive. It's not
8 the market. By requiring the vendor to do it,
9 it's hurting the tribes, not the vendor because
10 the vendor is going to say, I don't see a value
11 to that; it's cost prohibitive, we're not going
12 to do it.

13 MR. RAMOS: Getting back to the example,
14 is it the case you think that that legacy
15 software, it's not we're not saying -- or that
16 grandfathered software is a better term -- it's
17 not compliant. It passes the GLI certification,
18 independent lab certification, but it's not
19 compliant because some of those elements you
20 spoke of earlier; it doesn't have a help screen,
21 doesn't have some other -- is that where we're
22 going with that?

23 MR. PUROHIT: Yes.

24 MR. RAMOS: So nothing prohibits it from
25 being valid software?

1 MR. PUROHIT: Exactly. It's just
2 grandfathered at that point. The way I would
3 read this as well is just in that particular
4 example, it's just that because the system was
5 grandfathered at one point, when you start adding
6 grandfathered components, it just reverts it back
7 to a grandfathered system. It's no longer a
8 fully compliant system. And that's where the
9 whole issue of labeling comes in as well, like
10 how do you certify it, whatever you classify it,
11 is it a grandfathered system now because you're
12 adding in grandfathered components because of
13 those ten themes; what does happen to that?
14 Because only a couple of components aren't fully
15 certified.

16 MR. MCGHEE: There's the November 10th
17 deadline, that it says basically so you can't
18 bring that new system back because it wasn't
19 already operating.

20 MR. FISHER: Christinia.

21 MS. THOMAS: Going on what Nimish said, my
22 understanding of how software and stuff is tested
23 and hardware and that specific software, if you
24 have software that is fully compliant, that's
25 what you look at when you look at independent

1 testing labs when you look at it's compliant
2 with. When you're looking at the grandfathered
3 software, you're looking at the previous
4 provisions that are approved on it. So why
5 wouldn't you just maintain that separation even
6 if you're putting it all into a system together?
7 Because you would still have to look at that
8 software individually as having proved either
9 this way or this way.

10 MS. HAMEL: Because the confusion is that
11 now this system that was fully compliant is not
12 because one of its components are grandfathered.

13 MR. MCGHEE: Because they couldn't have a
14 help screen, that's just an example.

15 MR. FISHER: So maybe -- so there's two
16 more cards up. Maybe we need to create something
17 that addresses that circumstance, right, instead
18 of -- and maybe changing this language is the way
19 to do it. Maybe we need something new. Matt and
20 then Tom.

21 MR. MORGAN: I don't read it as
22 prohibiting what you want to do. And maybe
23 that's an issue with your individual regulators.

24 My question would go to NIGC. Do you read
25 it as prohibiting that? Because as a regulator,

1 I'm going to talk to the lab and then I may call
2 you guys and see what your opinion is before I
3 make my opinion. Is this an issue with their
4 regulator? Because I don't see it as prohibiting
5 that. In my place, I think I would allow that to
6 happen, like Christinia was talking about, and
7 keep them separate. I don't see that prohibition
8 in there.

9 MR. LITTLE: I don't think this commission
10 does, but then again --

11 MR. MORGAN: But it's my job as the
12 primary regulator to classify and issue an
13 opinion. Your job, no matter what it is, is to
14 come back and look respectfully and say, I may or
15 may not bring an enforcement. But that's my job
16 to do for my jurisdiction, and I need to have
17 reasoning and documentation and do some due
18 diligence. That's my decision. And, again, I
19 know things change as commissions change, but I
20 don't see it as a prohibition. And that's maybe
21 where I'm getting lost myself.

22 MR. PUROHIT: I had a couple conversations
23 with Commissioner Little about this as well. The
24 combined intent of 3 and 4 from everyone that
25 I've spoken to and that pretty much agrees, is

1 that you can have a grandfathered system, but,
2 you know, as long as you're bringing it into
3 gradual compliance -- that was the original
4 intent and that was pretty much the only
5 intent -- it's not supposed to be in stasis. And
6 I think the interpretation part of it, I think,
7 that's where the issue is coming in as well, as
8 far as what the software components are versus
9 what the play components are, like Dan pointed
10 out with the number 4 here as well. Is it the
11 language combined with 3 and 4 that is something
12 that is still ambiguous from that perspective
13 that the intent is not being carried out that you
14 can add and make changes to the system as long as
15 the core software that was certified as
16 grandfathered is still grandfathered when you
17 bring it into gradual compliance with any other
18 additions you're bringing on. Any other
19 additions you are making to it are bringing it
20 into full compliance gradually and not touching
21 this core software as well. Is there something
22 that needs to be added in 3 and 4 to make sure
23 that that gives you the comfort level, I guess?

24 MS. HAMEL: I believe so. And I wish I
25 could tell you what it should say to indicate

1 that. And I will tell you that all of these
2 comments are not based on the discussions that we
3 had in October in Connecticut where there was no
4 longer a date. But that 2013 date was looming,
5 and our ability to continue to make our floor
6 competitive and to add new to a grandfathered
7 system, we interpreted, as limiting by these two
8 regulations.

9 MR. FISHER: So we have made a fundamental
10 change to the structure that you just talked
11 about in terms of dealing with grandfathered
12 machines. So it may be that you have to revisit
13 the effect of 3 and 4 and that fundamental
14 premise as a way to figure out whether there's
15 still a problem. And it may be we can't do it at
16 the table here and you need to figure out some
17 other way to do that. So I think it's Tom,
18 Michele, and then Mia.

19 MR. WILSON: Kathi, I want to be clear,
20 because we keep jumping back and forth between
21 adding something to a grandfathered machine or
22 adding grandfathered stuff to a fully compliant
23 system. And is this a both way or is this one
24 way?

25 MS. HAMEL: Would be both ways. You could

1 add a component to a grandfathered system that's
2 new. It's not a repair or replace because it's
3 new; it's new technology. So that doesn't talk
4 about something new. It just talks about repair
5 or replace to ensure. And you also could have a
6 fully compliant system and you want to put a
7 grandfathered software component on.

8 MR. WILSON: Theme is what you're talking
9 about?

10 MS. HAMEL: Right, and that's a component
11 and therefore would make the entire system all
12 compliant.

13 MR. WILSON: And that's, I guess, where
14 I'm trying to understand. I mean, when I get
15 back to my simplicity thing, my computer is
16 running on Windows 7, Version 2, but your
17 computer might be running on Windows 7, Version
18 3. By virtue of the fact that she's running
19 Version 3, she has the benefit of certain changes
20 in Version 3 that I don't have in 2, but it
21 doesn't make 2 any less significant than it was
22 before Version 3 came out. So, I mean, I always
23 get back to this risk thing. Adding this
24 grandfathered component to a fully compliant
25 machine, in my mind, it doesn't make it any less

1 compliant. What it means is there's now a
2 component there, the component -- and I may be
3 incorrect, Nimish -- but the component doesn't
4 meet the standard. But, you know, unless you're
5 telling me that by adding that component, it
6 changes the entire parameters of that machine.
7 Then in my mind, that is a significant issue as
8 opposed to we're just adding a non-compliant
9 component, but the rest of the machine, the rest
10 of the software is still operating to the
11 standard that it was approved.

12 MR. PUROHIT: If the software that has
13 like the random number generator for ball drop,
14 if that gets changed out, I think everybody is in
15 agreement that's a significant issue. But I
16 don't think that's the example that's happening
17 right down here either.

18 And as far as components being added on,
19 it's usually the stuff that, you know, the core
20 system and the software that's on there and the
21 game server that houses all the software, too.
22 That continues to remain untouched. It's just
23 these add-ons that you pointed out that are being
24 put on there. And some of these add-ons have
25 been fully certificated and some haven't. I

1 don't think they may be restrictive from that
2 point of view, but we want to make sure that
3 there's -- it does capture that, too, because
4 it's a unique situation.

5 MS. STACONA: I think Tom got into what I
6 was trying to get at. When you have a
7 grandfathered system that's compliant and you
8 want to add an old software on there, whatever,
9 does that -- I guess my question is: Does it
10 affect the risk of fairness and integrity of the
11 whole system, is my question? If it doesn't,
12 then I don't see no problem with it. I guess
13 that's why I need to find out from them. I
14 mean --

15 MR. FISHER: So are you asking NIGC?

16 MS. STACONA: Yeah.

17 MR. PUROHIT: No matter what software is
18 added on to what system, any of them have to meet
19 those four minimum risk criteria.

20 MS. STACONA: Right. If you add that, why
21 does that then make it non-compliant then? I
22 just don't get it. When it's okay at the bottom
23 level, why can't you put it into a current
24 compliant system?

25 MR. PUROHIT: I think it's just an issue

1 of calling it a fully compliant system. I think
2 it's labeling it fully compliant versus not being
3 fully compliant just because you have a couple
4 components that are still grandfathered. It's a
5 unique situation because it was something that
6 was originally grandfathered and then it was
7 brought into full compliance. So at that point
8 where it was reverted back, quote, unquote, "a
9 little bit," you're still being there but not
10 there because of those couple of components. So
11 it might be something that's a marketing negative
12 feedback for the manufacturer because they can't
13 truly call it a fully compliant system even
14 though for lack of a better word it is. I think
15 it's in the labeling. That's why I don't really
16 see an issue with it as far as the core
17 components because everything else has been
18 brought into full compliance.

19 MS. STACONA: So could we add some
20 language in there that covers that? Because
21 you're still going to have a compliant system.

22 MR. PUROHIT: Right.

23 MS. STACONA: Is that something we can do?

24 MR. PUROHIT: I think that's going to get
25 into the issue of like you start figuring out all

1 of these scenarios, and that's going to go into
2 Matt's observation that it's going to really,
3 really make the regulations specific, and I don't
4 think that's a good intent with it.

5 MR. LITTLE: You're right on.

6 MR. PUROHIT: I think it's going to have
7 to go into the scenarios -- I think it might be
8 an issue of putting in some kind of clarification
9 language and the intent in the preamble with a
10 comment as well.

11 MS. HAMEL: Maybe that's where it is.

12 MR. FISHER: Mia and then Dave.

13 MS. TAHDOOAHNIPPAH: In 3, 4, under -- it
14 does say that no such modification may be
15 implemented without the approval of the TGRA.
16 So, I mean, I think that's pretty clear that a
17 modification is at the direction, and what kind
18 of modification. So it leaves the TGRA up to
19 decide. And then the second part in (3)(i), it
20 states that after receiving a new testing
21 laboratory report, you know, that the
22 modifications are compliant with the standards.
23 I think that that's pretty clear that the lab
24 report should state whether it's fully compliant
25 or what components are not fully compliant.

1 MR. PUROHIT: They'll do that.

2 MR. MCGHEE: I was going along the same
3 lines. Even numeral (iii), like (iii) -- triple
4 I, which says, Any other modification to the
5 software of the grandfathered Class II gaming
6 system that the TGRA finds will not detract from,
7 compromise or prejudice. So even there it says
8 if you as a TGRA decide it's not going to affect
9 these things, then you can allow it. And that's
10 already in there.

11 MR. FISHER: Okay. So I don't see any
12 more cards up. So now the question is what's the
13 -- what do you want to do with this, right? So
14 there have been a couple different suggestions
15 for how to deal with this. So what do you think?

16 MS. HAMEL: Well, I agree with Nimish, if
17 there's something in the preamble that talks
18 about the components versus the overall system,
19 so that there's clarification for the TGRAs as
20 well as the operators.

21 MR. FISHER: So the recommendation would
22 be that -- let me just try to say this and then
23 -- you want to try to say what the recommendation
24 is?

25 MR. MORGAN: No. My comment would be,

1 remember, the preamble goes away -- if it's
2 published in the Federal Register, the preamble
3 goes away. So maybe what you're looking for is a
4 statement, a guidance, a bulletin or something
5 from them, or I don't know if it's -- when it's
6 published, you issue a comment and they have to
7 respond back to your comment to try to clarify.
8 I'm just not sure a preamble is the correct
9 vehicle because it does go away once published,
10 and I'm not for sure what weight the preamble
11 will hold.

12 MS. HAMEL: Afterwards.

13 MR. MORGAN: Yeah, afterwards.

14 MR. WILSON: I think -- I mean, that's a
15 critical thing. As a regulator, the most
16 frustrating part of dealing with regulations is
17 the ambiguity. Because we all end up debating.
18 And, you know, you're going to have a different
19 interpretation of, just as you brought up, where,
20 you know, Matthew doesn't see that same ambiguity
21 there. So I think that some kind of guidance
22 document -- and, you know, the tribal working
23 group has done a pretty good job of identifying
24 guidance of many of these things, that if there's
25 a guidance document that one can reference that

1 says here's the intent of this piece, and there
2 you can spell out what the intent is, it's not to
3 limit this, but it's to do this. As a regulator,
4 that's what I would need most to quell the
5 discussions so that I don't end up with a
6 discussion with my gaming enterprise division
7 and, you know, this long, drawn-out thing about
8 is this affecting this or is it not affecting
9 that. So I think a guidance document of some
10 kind that supports these things would be most
11 beneficial for me as a regulator.

12 MR. MCGHEE: So if we add under this
13 section of that particular paragraph you're
14 talking about something that says, Guidance
15 document should be provided by NIGC, would
16 that --

17 MR. FISHER: It could be a recommendation.
18 It may be the exact language of which you could
19 sort out, people could sort out overnight and
20 bring it back. But the essence of it is how you
21 deal with grandfathered pieces that go into a
22 fully compliant system or mixing going both ways,
23 right? So it's guidance, direct guidance on what
24 the status of those the components and the
25 machines are, right? So maybe what we could do

1 to kind of put this aside for right now is ask a
2 couple of folks to maybe kind of come back to the
3 group later on this afternoon, or if you could do
4 it over lunch or first thing in the morning, to
5 come back with a suggestion for the specific
6 recommendation you would make to NIGC about what
7 should be included in guidance. So, Kathi, are
8 you willing to --

9 MS. HAMEL: I'll work on that.

10 MR. FISHER: Yeah?

11 MR. MCGHEE: I'll work with her.

12 MR. FISHER: Daniel. And you just
13 volunteered Nimish to work?

14 MR. LITTLE: I did, yes.

15 MR. FISHER: All right. There's help for
16 you there to draw on, Kathi. So Daniel and
17 Nimish. So we would bring that back. If you
18 could do it over lunch or sometime this
19 afternoon, we will do it before the end of the
20 day today. All right.

21 So when we started this and came back from
22 the break, you said there were other provisions.
23 Are there other things in this that you want to
24 raise?

25 MS. HAMEL: Yes. Any reference to 542.

1 MR. FISHER: All right. If I'm
2 remembering correctly from what you said in
3 October, it was there should be no reference to
4 542?

5 MS. HAMEL: Correct. Because 542 is Class
6 III.

7 MR. MCGHEE: It is in. It's just a matter
8 of everybody accepting it, I think.

9 MR. FISHER: So it is something that the
10 TGWG also proposed?

11 MR. MCGHEE: Yeah.

12 MS. HAMEL: It's just that the document
13 we're working from -- but there's -- throughout
14 547, there's reference to 542, so I don't know if
15 you want to go through each one of them and
16 highlight them or --

17 MR. MCGHEE: Make a note that any
18 reference to 542 should be stricken.

19 MR. FISHER: Why don't we test that with
20 everybody around the table. Does everybody
21 understand the suggestion that's being made?
22 It's right? Daniel, could you say it again?

23 MR. MCGHEE: That we make a recommendation
24 to strike any reference to 542 throughout the
25 technical standards.

1 MR. FISHER: Let's see what -- not what's
2 on the screen right now, but -- don't look up.
3 All right. So should we test it? If you're in
4 favor of that recommendation, which is to strike
5 all references in the technical standards to
6 Section 542, which is the Class III, raise your
7 hand.

8 (All hands raised.)

9 MR. FISHER: You'd raise two hands if you
10 could?

11 MR. CALLAGHAN: Correct.

12 MR. FISHER: Carleen, did you have your
13 hand up?

14 MS. CHINO: Yes.

15 MR. FISHER: Okay. All right then.
16 Unanimous. That was a fast one. So we have
17 about four more minutes before we're supposed to
18 shift to public comment. So, Kathi, did you have
19 another one you wanted to raise?

20 MS. HAMEL: I don't think so.

21 MR. FISHER: Okay. So then that would
22 take us back to the TGWG document. So the
23 changes that were proposed by the TGWG. Okay,
24 Mia, did you have something?

25 MS. TAHDOOAHNIPPAH: In the (a), 547.4(a),

1 it uses the word "and were in operation," and
2 then in 547.4(b)(1), it uses "or."

3 MR. FISHER: 547(a)(1).

4 MS. TAHDOOAHNIPPAH: (a)(1) requires that
5 all Class II gaming system software that affects
6 the play of the Class II game and were in
7 operation prior to November 10, 2008 be submitted
8 "and" were in operation prior to.

9 And then in (b)(1), it says all Class II
10 gaming systems manufactured or placed in a tribal
11 facility on "or" before effective date.

12 MR. FISHER: Right. So maybe that
13 effective date provision -- that reference to the
14 effective date has to change because we've
15 changed that provision. We've recommended that
16 provision be changed.

17 MR. MCGHEE: I see the first one. Where's
18 the second one?

19 MS. TAHDOOAHNIPPAH: (b).

20 MR. FISHER: It's up on the screen.

21 MR. MCGHEE: Where's the specific --

22 MR. FISHER: It's right here (indicating).

23 MS. TAHDOOAHNIPPAH: Manufactured or
24 placed in a tribal facility on the effective
25 date. So on the effective date, I guess we're

1 talking about November 10, 2008.

2 MR. FISHER: This part right here is the
3 -- that's the November 2008.

4 MR. MCGHEE: Now, we struck out her first
5 reference, didn't we? Wasn't that decided?

6 MR. FISHER: Yes, you struck out the
7 reference to 120 days from November 10, 2008.

8 MR. MCGHEE: I thought we struck the whole
9 paragraph? No, we didn't. Never mind. The
10 question is should it be "and" or "or" in both
11 places?

12 MR. MORGAN: Which one are you thinking?
13 It should be "and" or "or"?

14 MR. FISHER: There's a lot of lawyers in
15 the room, and they can tell you about the "and"
16 and the "or".

17 MS. LASH: I think the "or" is fine with
18 us, not "and." Just "or."

19 MS. TAHDOOAHNIPPAH: They should just be
20 the same, not one different than the other. So I
21 think that's right, the correct one sounds
22 more -- in (b) sounds more correctly stated.

23 MS. LASH: Yeah.

24 MR. FISHER: So in 547 -- let me scroll up
25 for a second. 547(a)(1), right?

1 MR. MCGHEE: Is this the document we had
2 before?

3 MR. FISHER: Yes.

4 MR. MCGHEE: Didn't you strike the
5 120 days?

6 MR. PUROHIT: We gave her a current copy
7 of the regulations. We're going to give them
8 that after lunch so he has a copy of that.

9 MR. FISHER: This is not reflecting all of
10 the changes so far. So we just picked up with
11 the change that we did on Section 547(a), right?
12 But the recommendation -- now I'm a little
13 confused. Which part do we need to change?

14 MR. MCGHEE: It's in the TGWG document
15 that she's referring to, that she says. So
16 there's new language there. And that's the
17 document we're working from. So it says -- and
18 in the new language that's proposed she's saying
19 it should say "or."

20 MR. FISHER: Got it. I don't have that.
21 I see. Got it. Okay. So I'm trying to keep
22 track of all these changes that you're making. I
23 got it. So anybody disagree with changing that
24 from "and" to "or"? Okay. I found it. Okay.
25 Tom and then Daniel.

1 MR. WILSON: I just want to make an
2 observation, because I know we're going to be
3 going to public comment, for the TAC to think
4 about during lunch. While I don't disagree the
5 comment about "and" and "or" is important, I
6 don't know that it's important right now. And
7 one of the things that we've talked about is
8 what's important for me is that NIGC understand
9 the concepts of what it is that we want them to
10 embrace when these regulations are being written.
11 So, you know, I'm more concerned about like
12 Kathi's point that we get the concept out there
13 that everybody understands, you know, we don't
14 want a limitation of this sort or that sort as a
15 part of the regulation. But I'm afraid if we get
16 into a line-by-line discussion, which is kind of
17 what's happening, we won't get through what we
18 need to get through. And it just seems to me
19 that we have two levels of dealing with all of
20 this. And, you know, one level is a concept that
21 we want to get out that these regulations have to
22 embrace. But I don't know that right now,
23 getting into the specific word, you know, it
24 should say "and" or "or" is going to get us where
25 we need to get to because we're going to spend a

1 lot of time discussing that. And since this
2 isn't a final document anyhow, it just seems like
3 we're going spend a lot of time discussing
4 something that's all going to be subject to
5 change anyhow. And I'm more concerned about just
6 the group keeping in mind that these concepts
7 that I think are important for us and for NIGC to
8 walk away with, that we're in agreement on, and
9 then focus on the wording of how we get there as
10 an afterthought of this. So just an observation.

11 MR. FISHER: Okay. So we're -- by my
12 clock, it's 11:30, just about 11:35, which means
13 we should be shifting to public comment. Okay.
14 So Jess, I think --

15 MR. GREEN: Withdrawal. I signed up just
16 in case. Well, I don't have anything to say at
17 9 o'clock in the morning. I signed up just in
18 case. You all are doing a good job. I don't
19 need to say anything.

20 MS. HAMEL: Even though you have time?

21 MR. LITTLE: Get that for the record.

22 MS. HAMEL: Jess had nothing to say.

23 (Laughter.)

24 MR. LITTLE: Moving right along.

25 MR. FISHER: I know that the sign-in sheet

1 is back at that table on the other side of the
2 door. Is there anybody else in the audience that
3 signed up and would like to give public comment
4 right now? Okay then. Hearing none, we can go
5 back to the discussion on the technical
6 standards. Okay. We don't have anybody. All
7 right.

8 So any -- partially in response to what
9 Tom raised about what level are we focusing on in
10 terms of our discussion, the way I thought you
11 were doing the recommendations was at the
12 conceptual level. So a recommendation that said,
13 you know, to the NIGC, remove this provision or
14 change this provision. We did make some specific
15 language with changes right now because it seemed
16 to be the easiest way to do it. But you do have
17 to figure out how each of those recommendations
18 get specifically framed to the NIGC. And what I
19 was thinking was that I would -- we would, Kim
20 and I tonight, would try to create a list of
21 everything that came out of the conversation
22 today and give you that tomorrow on paper so that
23 you will have that to basically be in front of
24 you and to work from. If that would be useful,
25 we can check at the end of the day whether you

1 want that.

2 Let's go back to the TGWG and keep moving
3 through the provisions in there. We've got a
4 little over 20 minutes before we are scheduled to
5 break for lunch.

6 MR. MCGHEE: I was trying to determine if
7 we were done with the whole grandfathered.

8 MR. FISHER: That's the question. Are we
9 done?

10 MR. MCGHEE: Where does it end in the
11 actual document?

12 MR. RAMOS: I got one more thing.

13 MR. FISHER: On the grandfathered
14 provision?

15 MR. RAMOS: Yeah. I guess I wanted to
16 make a statement and ask the National Indian
17 Gaming Commission, I know it wasn't your
18 commission that came up with the idea of
19 grandfathering. Clearly the idea is to move the
20 industry forward. So that there were some parts
21 of those devices that were deemed to be not so
22 good for the public and not so good for the
23 industry. You freeze it and you move forward. I
24 guess my question is, since that's been in place,
25 do you see that grandfathering provision actually

1 accomplishing that goal? Is the industry moving
2 forward and meeting these new standards, or do we
3 have manufacturers that are now just hiding in
4 the grandfathered provision? It's just a general
5 statement.

6 MR. LITTLE: I mean, kind of a general
7 response is, you know, my personal opinion, I
8 haven't discussed this with our commissioners.
9 The market is going to demand what is going to be
10 required. And there's 400 different, you know,
11 facilities in this country, 200 different tribes
12 with varying different degrees of markets and
13 capabilities and consumer demands. And that's
14 what's going to, I think, you know, push forward.
15 I can't speculate on what the previous
16 commission, their goals was. From reading the
17 preamble, I think I can get an idea. I figure
18 the market would have pushed these machines
19 probably through the normal course and new
20 technology would come in, and that's what the
21 market would demand. But it sounds to me like
22 the market is still demanding these machines. So
23 I think from my personal perspective is that we
24 need to make a, you know -- we need, you know, to
25 adopt regulations that can be, you know, utilized

1 by, you know, all the facilities and all the
2 tribes. And that's difficult. It's a very
3 difficult thing to do. But that's kind of the
4 goal.

5 MR. PUROHIT: The other thing in here,
6 too, I think we're all only focusing on just
7 player terminals that resemble electronic gaming
8 machines. You've got to understand, too, that
9 these are also met as any applicable standard for
10 session bingo device, those CardMinders,
11 electronic CardMinders that have those as well.
12 Generally speaking, that technology, even though
13 it's pretty robust in its sense, it doesn't
14 evolve, if I may -- and I know it might be a
15 volatile, but it doesn't evolve at the same speed
16 as the general market because it's a much smaller
17 market together. But these standards also apply
18 to them as well. I think that's the other sense.
19 It's not just making sure that the grandfathering
20 requirements apply to the gaming terminals, but
21 also that other segment of the different types of
22 Class II gaming systems and components that are
23 still there, and there's a significant portion
24 out there, too, that might not necessarily be
25 able to be forced out because that is the market

1 at this point. So we all want to make sure --
2 the commission is also going take a look at that
3 point as well and make sure that they're not
4 required to put in significant resources that
5 some of the TAC members pointed out may be passed
6 on to the tribes well. There's a couple of
7 segments of the technology here that I hope TAC
8 keeps in mind as far as the Class II systems are
9 concerned from a grandfathering point. I don't
10 know if that answers it.

11 MR. RAMOS: I think it does. For me, I
12 look at and say with the grandfathering clause we
13 created all these other ambiguities that we are
14 negotiating here today or reviewing here today.
15 And as a regulator, personally I would rather see
16 the real core issues addressed, the four or five
17 things about these machines that we could really
18 hang our hat on and then move forward with the
19 rest of it. So I was wondering if that program
20 has been effective and whether or not you really
21 see the industry moving forward.

22 MR. PUROHIT: I can tell you one thing.
23 The one thing, as far as the industry that I've
24 seen the report, and I'm sure Commissioner Little
25 would agree with me, is that I've been a big fan

1 of this document, even though it has its
2 blemishes on there. But I can't think of any
3 other document that's empowered all the
4 regulators like this document has as far as Class
5 II gaming systems. The single most important
6 point in here being nothing can be put on the
7 floor or no changes can be made without the
8 tribal regulatory authority approving it. From
9 that sense, absolutely it's moved the industry
10 forward. And I think that's that main segment of
11 this document as well, among with other market
12 forces and everything as well.

13 MR. LITTLE: That's the regulation, the
14 547 regulation you're referring to?

15 MR. PUROHIT: Exactly. As far as
16 empowering the tribal regulatory body, the
17 technical standards.

18 MR. FISHER: When you said "this
19 document," you meant the current regulation?

20 MR. PUROHIT: Correct, when it was first
21 passed. There was nothing that empowered tribal
22 regulators as far as the technology was concerned
23 and entering the jurisdictions especially at the
24 national level. It definitely has moved the
25 industry forward in that way.

1 MR. FISHER: Okay. So are we ready to --
2 if we're ready to move on to the next item on the
3 TGWG list, the question was whether there's
4 anything else in the grandfathering provision in
5 547.4, because the next one on Page 2 here is
6 547.5. Okay. We're on Page 2 of the TGWG
7 document, and the --

8 MR. LITTLE: The comparison, you mean?

9 MR. FISHER: Comparison document, I'm
10 sorry. And it goes to this provision right here.
11 All right. So the way we had set up in October
12 for each of these provisions was to ask somebody
13 from the TGWG to say what the purpose or the
14 intention is here with the changes that are
15 proposed, and then open it up for discussion and
16 get any kind of NIGC comment. Do I have the
17 wrong provision up there?

18 MR. LITTLE: Yeah.

19 MR. FISHER: I do?

20 MR. MORGAN: That's the current provision.

21 MR. LITTLE: We're going to get you a copy
22 of the TGWG document. That's what we should be
23 working off of.

24 MR. FISHER: Okay. So let's take that
25 down because it's creating confusion.

1 MR. LITTLE: It is.

2 MR. FISHER: And so over lunch, I'll get
3 the TGWG document so I can project that up there.
4 Okay. So back to the basic format. So does
5 somebody who was on the TGWG want to talk about
6 this provision and what's proposed and the
7 reasons for it?

8 MR. MORGAN: The probability -- this
9 section addresses the probability standards. The
10 current goal was to talk about fairness. The way
11 that they got to fairness was instituting an
12 arbitrary, in our opinion, an arbitrary standard
13 that was more based on a Class III premise on
14 probability. What the Tribal Gaming Work Group
15 did is say we agree that something needs to
16 address fairness, but the way to get there is to
17 get some of the manufacturers to disclose to the
18 testing laboratory, this is what our expectation
19 is under a bingo math model, and then to test
20 that to make a determination of whether you're
21 meeting that expectation. Not pick out some
22 arbitrary, what is it, less than 1 in 100 million
23 standard. So the TGWG actually thinks that it
24 enhances the fairness question with its change by
25 saying the test laboratory shall calculate and/or

1 verify the mathematical expectations of game
2 play, where applicable, in accordance with the
3 manufacturer stated submission. The results
4 shall be included in the test laboratory's report
5 to the TGRA. Which would then allow the TGRA to
6 make that determination on whether the
7 manufacturer has met its stated goal, whatever
8 that may be, because it leaves up to the
9 manufacturer what its goal is in bingo, whether
10 it's 75 balls or whether it's 50 balls, and how
11 often do you think you're going to get there or
12 what is your percentage of win-backs. That was
13 the point of the Tribal Gaming Work Group's
14 document instead of relying on arbitrary, what we
15 felt was a Class III probability standard.

16 MR. FISHER: Brian.

17 MR. CALLAGHAN: I based my research on the
18 class. This is the one time that I looked at a
19 parallel and actually pulled some contracts from
20 various manufacturers. What standard would you
21 -- there has to be some reasonable expectation.
22 I think the idea is eradicating the idea that you
23 will never hit. So what probability would you
24 hit. Because it's contribution rate. The rate
25 that's going to go -- at least that's going to go

1 into a progressive is going to be the public is
2 contributing so much from every card, correct?
3 So then what would be the reasonable expectation
4 of an outcome, 1 in 100 million or -- I don't
5 understand what the resistance is to not having
6 some kind of a parallel there at least.

7 MR. MORGAN: When you play a session bingo
8 game, you know what you're playing for. You know
9 what patterns exist. This is the winning pattern
10 in order to win this game. Whether it's in
11 session bingo or an electronic Class II game,
12 that is the same information you need. What
13 pattern do you have to achieve and what number of
14 balls in order to win designated prize A. It's
15 not a probability question. It is what is the
16 pattern involved. As long as you understand what
17 that pattern is, you can test it; did it meet
18 that pattern in there. What does it matter
19 whether it was 1 in 50 or 1 in 100. I equate it
20 to percentages when you do your payback
21 percentages. You tell your player that that's
22 98 percent or that's at 93 percent. As a
23 regulator in your individual jurisdictions, you
24 may have a floor and you may also tell them it
25 has to be a percentage that's tested by the

1 independent testing lab. You just can't pick out
2 anything because I need to go in and verify
3 that's what it's set at. But as long as it's in
4 that range, again, we're talking about fairness
5 to the player. They have the rules in front of
6 them. They know what it takes to achieve that
7 winning pattern. They know what prize is
8 associated with that winning pattern. How is
9 that not fair to them? That's my --

10 MR. CALLAGHAN: Still it is -- it is an
11 RNG. You have to bring some kind of probability
12 to the math model, don't you?

13 MR. MORGAN: I once saw a bingo math
14 presentation. Do you remember that? I'm not
15 very good at explaining it. Maybe you are.

16 MS. HAMEL: I saw it three times.

17 MR. MORGAN: The math model is so much
18 different from a Class II.

19 MS. HAMEL: Nimish understands it.

20 MR. MORGAN: I want to say he did the
21 presentation.

22 MR. FISHER: Before you go into that,
23 so --

24 MR. CALLAGHAN: Leo could kick in on this
25 because of the lottery based. There is a

1 probability that is built into this. Again, the
2 only reason I see this is setting some kind of a
3 maximum expectation, you know, at least 1 in 100
4 million. That's the way I look at it. The way I
5 understand it, couldn't it be the first card?
6 Let me equate it to a Class III. First pull,
7 even if it was a 10 in 100 million, and it's got
8 -- you see it with a million dollars, the first
9 card could very well hit that and take that
10 jackpot down and then you're upsidedown.

11 MR. MORGAN: If it's a blackout, four
12 corner. We have to equate that back to a session
13 bingo game, not a Class III. What patterns are
14 achievable in what number of balls? Everybody
15 ran bingo back in the day on session. You
16 understood what your profit margin is on that and
17 when things can be achieved and not. At least in
18 my opinion, it's a different way of looking at it
19 than a purely based Class III, this is a 4, this
20 is a --

21 MR. CALLAGHAN: This is where I'd like to
22 see -- I hadn't had the opportunity to get some
23 feedback from the manufacturer. In particular,
24 I've got some Rocket games on my floor. They
25 automatically seed it with a million dollar

1 jackpot. They must be doing that on some
2 probability. I can't imagine they're doing it
3 out of the fact that they're not, one, getting a
4 return, and -- well, if it's being seeded, it's
5 being seeded. There's got to be some way that
6 they're minimizing their risk which would mean a
7 math model.

8 MR. MORGAN: Whatever their math model is,
9 they have to submit it to the lab, and the lab
10 has to verify that what they are portraying to
11 you is correct. Whether you have issues with
12 that math model or not may be an individual
13 jurisdiction question. They do have to disclose
14 this is our model.

15 MR. WILSON: And I think, Brian, the thing
16 with this is understanding that there is a very
17 complex math model for bingo. It just doesn't --
18 the probability -- or the probability standards
19 that, you know, you're used to seeing in Class
20 III, it's different in bingo, but there's still a
21 mathematical testable or something that can be
22 validated as, yes, this --

23 MR. CALLAGHAN: That answers the question.
24 Then there's true probability that's going to
25 hit. Rather than having -- understanding what

1 you're saying with not applying it to Class III
2 where it's 1 in 100 million, but with the
3 understanding that there is a true probability
4 that it eventually is going to be hit. It's not
5 like going into a carnival and it's got a punch
6 board.

7 MR. FISHER: Let's go to Jason and then
8 Nimish.

9 MR. RAMOS: I agree with you, Brian, and I
10 think that to a large degree, that's what this
11 change does. I know that when I talked to a
12 large commercial manufacturer, they had a problem
13 with the progressive amount, 1 in 100 million.
14 It seems like a large number to me. But they
15 seem to believe that -- and certainly I'm not
16 representing them today. They seem to say to me,
17 their response was that's restrictive. That's
18 going to restrict the way in which we develop the
19 software. That's going to restrict the prizes
20 that -- the prize structure, and that, really,
21 it's just it's not needed in there. But they
22 really specifically spoke to the progressive
23 portion of that.

24 MR. FISHER: Nimish.

25 MR. PUROHIT: I have a few things I'll

1 bring out as well. I'll try to make sure I'm not
2 overly technical as well. If you look at every
3 compact in jurisdiction, because that's pretty
4 much the closest thing that compares this
5 document. Every single one, if they have any
6 kind of requirements, they don't have odds
7 requirements. They have minimum payback
8 requirements. So as someone that used to attest
9 to this before, to have odds requirements and not
10 have any payback percentage requirements, that
11 was very, very difficult. So from a testing
12 standpoint, it was always what are we testing it
13 to do.

14 The other fact of it is, kind of what
15 Matthew and what everybody pointed out as well,
16 it's underneath the fairness section. So it's
17 arbitrarily assigning a value of what fairness is
18 in this particular case, which 100 million for
19 progressive prizes. And then there's also by the
20 way a word that says, it's 1 in 50 million or
21 better for all other prizes. No other
22 jurisdictions -- if you're familiar with the odds
23 department, they don't say for all. They say for
24 top advertised awards. So it's only for the
25 highest one. So to put a limit on all advertised

1 products not only limits the creativity on the
2 manufacturing side, but also on the testing side.
3 How do you test for this? Because there's so
4 many different prizes out there. You could have
5 anything from 200 to 300 different bingo prizes
6 in any given math model. So that was the other
7 ambiguous part of this as well.

8 Finally, in my experience with pretty
9 much, I would say, 200 tribes a year, as far as
10 the tribal regulators that I deal with, everyone
11 has -- when I discuss this with them, the one
12 deficiency with the regulation as it stands right
13 now is -- what my firm belief is that it should
14 be empowering tribal regulators to make that
15 decision, which this section itself doesn't do
16 that by recommending a requirement to give that
17 equivalent to what a par sheet would be in the
18 Class III world and have that submitted to the
19 tribal regulatory body, tribal operator,
20 whatever.

21 MR. CALLAGHAN: You hit on a very
22 interesting thing. How do we, when we're paying
23 into a progressive pool that's controlled by a
24 manufacturer, i.e., IGT, how do we establish the
25 minimum payback? An example, IGT is always

1 sending out notifications how they're adjusting
2 how they're holding -- the money is secured
3 because they're drafting off the top. This is
4 really not a \$20 million prize. It's the present
5 value of a \$20 million prize if you want to take
6 it as a lump sum over a 20-year period. So there
7 are some things, I think, that just by saying 1
8 in 100 million is leaving a lot of the other
9 things off the table as well. How do you pay it
10 back, where do you secure the money if you're not
11 doing an immediate cash prize as well. I don't
12 believe that the Rockets that we have, that it's
13 a million -- that's immediate cash value. It's
14 an annuity.

15 MR. WHEATLEY: Yes.

16 MR. PUROHIT: The proposed language here,
17 it saying -- it doesn't say what the fairness is.
18 It just says all the documentation first has to
19 be created by the manufacturer, which there was
20 no requirement for them to create anything such
21 as like a par sheet. So it immediately elevates
22 it to that level over there. Secondly, it has to
23 be verified independently. And, thirdly, and
24 most importantly, it makes sure that it requires
25 either the manufacturer or the verified copy from

1 an independent test lab, whatever the final
2 outcome of this is, to be handed over to the TGRA
3 so they can make an informed decision to whatever
4 they see is fair.

5 MR. CALLAGHAN: From your recollection,
6 then, are you saying that then at least from the
7 buyer, the true top prize, there's no minimum
8 payback, there is no par on that? If you were to
9 go get the par sheets, like for slot machine,
10 there is no such animal for the top tier prize;
11 is that correct?

12 MR. PUROHIT: There is. There's an animal
13 for that, not to use your words.

14 MR. CALLAGHAN: I got the contracts. I
15 haven't had a chance to read them.

16 MR. PUROHIT: There is a math model that
17 identifies the expectations of all the different
18 bingo prizes on there.

19 MR. CALLAGHAN: Expectations. Which
20 translates into what he's saying, if you could
21 translate that in a bingo card, expected value
22 where you have a slot machine that's every stop
23 on a reel. I think then you could probably come
24 up with the same expected value based on a card
25 play.

1 MR. PUROHIT: Exactly. It's much more
2 complex, but it can be done. That's the whole
3 thing. And the language in here just says that
4 manufacturers should get it done and should get
5 that result certified and not necessarily put in
6 the requirements of which fields they're supposed
7 to design their games to.

8 MR. CALLAGHAN: Okay. Very good.

9 MR. FISHER: Robin.

10 MS. LASH: I just wanted to remind that
11 the statute says exactly what Class II bingo is.
12 And that you're playing for a prize with cards,
13 we covered that. Designated pattern and the
14 first person to cover the designated pattern
15 wins, and I think this is just arbitrary
16 language. And it's -- it limits the game design.

17 MR. MCGHEE: The old language or the new
18 language? TWGW language or other language?

19 MS. LASH: The current language.

20 MR. FISHER: Why don't we check to see if
21 -- what people think of the TGWG proposal.

22 MR. LITTLE: Can I ask a question?

23 MR. FISHER: No. Oh, okay. Go ahead.

24 MR. LITTLE: It's an easy one. Explain to
25 me the benefits of removing the probabilities.

1 What are the benefits of removing the minimum
2 probabilities? More games, more prizes, more
3 what?

4 MR. RAMOS: More games. More software.
5 More versions.

6 MR. MORGAN: Technology and availability
7 of what I have to choose from from either
8 operator or regulator point of view to
9 arbitrarily limit that for some reason. And
10 everybody I know, at least in the Class II world,
11 can't really figure out what that reason is, and
12 if there is a reason, why that standard is picked
13 because it doesn't make sense on a Class II
14 discussion.

15 MR. LITTLE: I mean, do you think it's
16 something that, you know, I think in my mind
17 recently there was a big Powerball jackpot and I
18 heard on the radio that the chances were 1 in 195
19 million, which to me is amazingly -- it's crazy,
20 crazy. But people are still going out in droves
21 to buy those tickets, so clearly it wasn't
22 affecting the public with crazy odds. Do you
23 think it's something that should be disclosed?

24 MR. CULLOO: But those odds kept changing
25 as more people bought tickets, so it was never a

1 fixed number.

2 MR. LITTLE: I think above 175 million to
3 1 is, you know -- I mean, that's bigger than I
4 think anything that you guys are all proposing.

5 MR. MORGAN: But market drives payback.
6 What I need to do to compete at paybacks in my
7 market is probably different than what Daniel
8 has, probably different from what Kathi has. As
9 regulators, you go to all these different
10 jurisdictions, and you kind of have in your mind
11 what the general going rate for a payback is
12 versus a Las Vegas maybe versus Oklahoma or
13 California. Or if you're going to take one of
14 those cruises to nowhere, you know, what that
15 probability is, that's the market that drives you
16 back, at least from my perspective as a
17 regulator. As long as you're meeting the
18 expectations that you said you were going to
19 meet. You said you were going to meet this
20 standard, a testing laboratory has verified you
21 met that standard, we go in and do a signature
22 verification and make sure that your
23 configurations also fall within those parameters.

24 MR. FISHER: I have to interrupt for a
25 second. By my clock, it is our appointed time to

1 break for lunch. So how about we take these
2 cards up and see where we are in the discussion
3 and then we can do the lunch break. Are we good?
4 Everybody good with that? So I think the order
5 is Jason, Robin, Daniel.

6 MR. RAMOS: So I think part of the
7 question that Daniel was asking there -- so part
8 of the question you were asking there, he kind of
9 spoke to our ability to be able to verify, right,
10 verify through software check, Cobitron, whatnot.
11 What you were kind of saying was it's for more
12 public benefit, right?

13 MR. LITTLE: Right. Does any tribes have
14 any disclosure requirements that you put it out
15 there. I don't think there are. I don't think
16 it's included in any compacts either.

17 MR. RAMOS: Interesting question.

18 MS. LASH: I just wanted to remind you
19 again, or remind the group again, that we have
20 two federal courts, the Ninth and Tenth Circuit,
21 that have established in accordance with IGRA the
22 three requirements for bingo. So we have the
23 IGRA statute and then we have the statutes that
24 says there are three requirements of bingo. So
25 this doesn't fit in there.

1 MR. LITTLE: Robin, I'm just asking a damn
2 question.

3 MS. HAMEL: That was off the record,
4 right?

5 (Laughter.)

6 MR. CALLAGHAN: That's not going to read
7 as well as it sounded.

8 MR. FISHER: Make sure you put all the
9 laughter in.

10 MR. MCGHEE: Well, the way I read this,
11 it's just saying that whatever their expectation
12 is, whatever the manufacturer has decided they
13 were going to put on that game, they're going to
14 let the TGRA know about it. And TGRA could say
15 I'm not comfortable with that and limit it. They
16 could go and say, no, I want it to be 1 in 100
17 million, or they could -- you know, it leaves it
18 up to the TGRA. So I think the way it was
19 before, it kind of made it to as long as they
20 reached this -- stayed within this area, they
21 were all good. The way it's worded now, I mean,
22 I'm okay with it, because once I get what they've
23 got or their thought process on, as a TGRA we
24 could decide if we wanted it to be so hard to
25 win, the odds are so high, that that isn't fair

1 to the people playing. So the way it's written
2 now, I'm good with that. And help me to clarify
3 what the comments you're making is you're saying
4 because this says that there must be a
5 mathematical expectation to the way the game
6 plays, it contradicts what --

7 MS. LASH: No, the mathematical
8 expectation is fine; there's not a problem with
9 that. It's just this random number.

10 MR. MCGHEE: The 1 in 100 million, which
11 in the TGWG document it struck out. So the blue
12 proposed language --

13 MS. LASH: We're okay with.

14 MR. MCGHEE: We're supposed to look at
15 what TGWG proposed in blue and decide if there's
16 a problem with that.

17 MR. FISHER: It's the basis for our
18 discussion which could take us to seeing if
19 people had other ideas or if people wanted to
20 make a recommendation that says adopt what the
21 TGWG says.

22 MS. LASH: Let's start with that.
23 Clearly, unless someone has a question with the
24 existing, but that's how this started, was a
25 question with the existing, should that even be

1 in there. And according to IGRA, no. According
2 to federal case law, no. So then what's the
3 alternative? Let's look at if anybody else has a
4 discussion.

5 MR. FISHER: Michele has her card up.
6 Let's take her comment and then let's see what
7 people think of the TGWG's suggestion.

8 MS. STACONA: I guess just for history,
9 has NIGC explained where they came up with these
10 numbers, or can they?

11 MR. LITTLE: I'm sorry, previous
12 commission, and I think the same thing, I don't
13 know the reasoning behind how it was done.

14 MR. PUROHIT: It was initially 50 million
15 and 25 million. And then if you look at the
16 comment section and the tech standards, they said
17 that it was way too strict and they upped it to
18 100 million and 50 million for progressive and
19 non-progressive. That was pretty much -- and
20 then they have an explanation in the comment
21 section as well on what their reasoning was for
22 those numbers.

23 MR. MCGHEE: Didn't they contract the
24 testing lab? Is that a question again?

25 MR. FISHER: We couldn't hear you.

1 MR. MCGHEE: I guess I'm trying to
2 remember, but it seemed like NIGC was fielding
3 out the GLI, BMM, those two, standards that
4 that's where a lot of this came from. It ended
5 up being BMM, I think.

6 MS. LASH: It's my understanding that the
7 author of these random numbers was Norm
8 DesRosiers.

9 MR. PUROHIT: I'm going to say one thing.
10 It is just for the consideration of the audience
11 as far as this language, the proposed language.
12 One thing, if you read the language, it doesn't
13 require the manufacturer to submit the document
14 that's been verified by an independent test lab,
15 like a par sheet, to the tribal regulator. It
16 requires just the findings by the independent
17 test lab to be submitted to the tribal regulator.
18 And that kind of goes around the purpose of
19 giving the information in its entirety to the
20 tribal regulator to make that decision. That's
21 not what standard practice as far as how par
22 sheets are submitted to the tribal regulatory
23 body. Just for some -- to consider that tribal
24 language.

25 MR. FISHER: Let's just check to see what

1 people are thinking about the TGWG
2 recommendation, which is to eliminate the 1 in
3 100 million and the 1 in 50 million requirement
4 and regulation. So if you're in favor of that or
5 support that recommendation, raise your hand.

6 (All hands raised.)

7 MR. FISHER: Okay. That's everybody.
8 Okay. So good work. So we're picking up speed
9 here.

10 MR. MCGHEE: You related it, and then the
11 next vote would be if this blue language would be
12 -- should we settle that before we break?

13 MR. FISHER: Well, I think we --

14 MR. MORGAN: I would like to settle that
15 so we can move on, if we can.

16 MR. LITTLE: You just want to accept the
17 recommendations in the TGWG?

18 MR. FISHER: That was my inartful way of
19 saying that. So what's the recommendation you
20 would like them to do, adopt the TGWG --

21 MR. MCGHEE: Proposed language in section,
22 whatever that would be, fairness.

23 MR. FISHER: 547.5(c). If you're in
24 support of that, raise your hand.

25 (All hands raised.)

1 MR. FISHER: It's unanimous again. Okay.
2 So all right. So now we're at our appointed
3 break time. So we had set aside an hour for
4 lunch today, hour and a quarter. I did an hour
5 and a quarter. So an hour and a quarter from my
6 watch takes us to 12:25. And so anybody have
7 anything to say before we break for lunch? We're
8 picking up speed here. Come back at 1:25.

9 (Recess taken at 12:08 p.m. to 1:32 p.m.)

10 MR. FISHER: Okay. That's where we left
11 off.

12 MS. HAMEL: Did you want our lunch
13 assignment?

14 MR. FISHER: Yeah. Do you have it?

15 MS. HAMEL: Yes.

16 MR. FISHER: Okay. So let's do this.

17 MS. HAMEL: That's 547.4(b)(3).

18 MR. FISHER: What you got?

19 MS. HAMEL: The three of us, our
20 suggestion was a recommended bulletin which
21 answers two questions.

22 MR. FISHER: Okay.

23 MS. HAMEL: Does 547.4(b)(3) preclude the
24 TGRA from approving a non-grandfathered component
25 to be added to a fully compliant Class II gaming

1 system? If yes, how does this affect the
2 classification of a fully compliant Class II
3 gaming system?

4 MR. FISHER: Okay. So, Kathi, this was
5 developed by you and Daniel and Nimish.

6 MR. LITTLE: Technical advisor.

7 MR. FISHER: For information purposes
8 only.

9 MS. HAMEL: And the way we came up with
10 this is we went and looked at the bulletin that
11 was from 2008, Nimish, for the questions and
12 answers that were asked and answered from 2008
13 for grandfathering.

14 MR. FISHER: Okay. Anybody have any
15 questions about this? What do you think? This
16 gets out what you were talking about this
17 morning, right? And this is really intended to
18 get at the full suite of everything we were
19 talking about. All right. So what do people
20 think? Good, or questions?

21 MR. PUROHIT: Isn't that supposed to be
22 certification, not classification, for number 2?

23 MS. HAMEL: Yes. Certification of a fully
24 compliant --

25 MR. PUROHIT: Classification has some

1 other undertones here.

2 MR. FISHER: Right there.

3 MS. HAMEL: Just say how does this affect,
4 and take out "if yes."

5 MR. MAGEE: My only concern is that by
6 asking the question, you might not get the answer
7 you want. And are you prepared to have that in
8 the event it goes that way? I guess, you know,
9 people who are lawyers always know that. Don't
10 ask the questions if you're not prepared for the
11 answers. Sorry.

12 MS. HAMEL: Did you just kick him?

13 MS. STACONA: No, I just told him he's a
14 party pooper.

15 MS. HAMEL: This is the objective. So
16 anyone have recommendations for --

17 MR. FISHER: Tom?

18 MR. WILSON: Well, in my mind this just --
19 the question, as I understand it, was is if
20 the -- can the TGRA approve something, correct,
21 and I mean, I don't see the question as asking
22 the question -- I don't see a guidance document
23 answering that question. We should be answering
24 that question beforehand. But the guidance
25 document then should speak to how the

1 interpretation of -- so in other words, the
2 guidance, in my mind, is the impact of a fully
3 compliant machine and when you add a
4 grandfathered component to the fully compliant
5 machine, does it change the status from one thing
6 to another. Because the thing I see here is the
7 answer to the question, if the answer is yes.
8 But if the answer is no, then number 2, we still
9 have the same question to resolve as to, well,
10 has the status of that machine changed if you add
11 something to it. So I thought the guidance was
12 going to address that portion of it that, you
13 know, what does that mean in terms of this
14 machine. Is it no longer a qualified -- or, you
15 know, does the machine no longer meet the
16 requirements or does it meet the requirements,
17 but it has this one little exception component in
18 it?

19 MS. HAMEL: So we need to add to the
20 question as well as asking the question.

21 MR. WILSON: It seems to me by not
22 answering the question, we haven't accomplished
23 anything, other than we're going to submit to
24 NIGC to answer this question for us when -- I
25 mean, I think you want an answer to the question,

1 right?

2 MR. MCGHEE: I think partly you're going
3 off an answer, you know, what we were talking
4 about and how it's written, the answer or say
5 interpretation or whatever was okay. But that
6 would need to be --

7 MS. HAMEL: To clarify 3.

8 MR. MCGHEE: I mean, NIGC's unofficial
9 answer would be that I understand it would be
10 okay.

11 MS. HAMEL: Right. That the answer to one
12 would be --

13 MR. MCGHEE: This needs to be a bulletin
14 with the correct answer. He's not formulated the
15 answer.

16 MR. WILSON: Yes, that's correct.

17 MR. LITTLE: I can't speak on behalf of
18 the whole commission, so any clarity you might
19 provide would probably be best.

20 MR. MAGEE: So we provide you the answer?

21 MR. WILSON: We can tell you what we think
22 the answer should be.

23 MR. MCGHEE: Nimish, why don't you give us
24 what you think, that is, based on how it's
25 written now.

1 MS. HAMEL: And does not affect.

2 MR. FISHER: That is the way to take those
3 two questions and turn it into the answer, right?

4 MR. LITTLE: Right.

5 MR. WILSON: Right. Because the
6 implication is, as I understand it, if it were to
7 affect the certification of that machine, then
8 that could mean that that machine is no longer
9 certified and therefore --

10 MS. HAMEL: That system.

11 MR. WILSON: That system and cannot be
12 used if it were interpreted that it changes
13 certification of that system.

14 MS. HAMEL: It's not a matter of not being
15 used based on what happened in October -- if
16 October's recommendations are accepted, with
17 Sunset going away, but this is clarifying the
18 issue of components that are added to a Class II
19 system.

20 MR. PUROHIT: This is also clarifying the
21 issue of existing language right now. The
22 language itself isn't going to get changed
23 with -- as of right now, with the TAC
24 recommendations. We haven't even addressed that.
25 Because everyone pointed out that the language is

1 -- doesn't prohibit that, but there's still
2 ambiguity in there. Like the other question and
3 answer bulletin that was issued in 2008, it's
4 just saying we have gotten this question before,
5 is that the intent. So it would be something
6 along --

7 MR. WILSON: I understand now the context
8 of the question and answer. I was thinking we
9 were proposing a question and answer, but -- I
10 mean, we still want to say here's what we think
11 the answer should be, and you guys, we'd like you
12 to agree with us.

13 MR. LITTLE: Right.

14 MS. HAMEL: Yes. So the -- I think the
15 way Robert has written it in the second example
16 is not a question. It's more direct.

17 MR. FISHER: You don't need that? Okay.
18 So we would get rid of this?

19 MS. HAMEL: Yes. Okay.

20 MR. FISHER: So let's test it. So what do
21 people think?

22 MR. PUROHIT: Just to clarify, though, the
23 bulletin, I'm just asking we want -- we still
24 want it in a question and answer format? Like
25 the bulletin that was issued in 2008, if you've

1 ever seen that, it was just like a whole bunch of
2 questions and answers that were posed based on
3 those. The format is still going to be similar,
4 despite how it's up there. Okay.

5 MR. FISHER: Q and A-D format. That's
6 digital. So it's the bulletin that's in the
7 question and answer, but it provides this answer.
8 That's what this recommendation asks for.

9 MR. LITTLE: Right.

10 MR. FISHER: If you're in favor of this
11 recommendation, raise your hand.

12 (Indicating.)

13 MS. THOMAS: Is that supposed to be
14 non-grandfathered? Should it be?

15 MS. HAMEL: It should be grandfathered,
16 you're right.

17 MS. THOMAS: If you change that, then I'm
18 good.

19 MR. FISHER: You're good, I think.

20 MR. LITTLE: I think Robin has got --

21 MS. LASH: There's a comment to be made
22 here. The answer to question one, if yes,
23 presents the basis for legal action immediately.
24 Why foster a question that is devoid of facts and
25 presents potential of controversy? And the

1 purpose is to address topics and give guidance,
2 not create additional controversy. So I think
3 that's red, too.

4 MR. WILSON: Is that comment in
5 relationship to what's up here now?

6 MS. LASH: Yes.

7 MS. HAMEL: Is the question to clarify
8 547.4(b)(3) and not ask the specific question?

9 MR. WILSON: I'm not understanding the
10 comment.

11 MS. TAHDOOAHNIPPAH: I kind of have a hard
12 time understanding if we're working on a document
13 and we're trying to come up with changes and
14 suggestions, and then -- why can't we just fix it
15 and instead of like putting a Band-Aid on it and
16 then having to clarify it somewhere else? Why
17 can't we fix it in the document so everybody can
18 understand it? Because if we can't understand
19 it, how is anyone else going to understand it and
20 enforce it?

21 MR. PUROHIT: I think this was like that
22 math question was and I think a couple other TAC
23 members also talked about it earlier, that do we
24 want to address something that's such a specific
25 situation in this particular case where it's a

1 formerly grandfathered system that has been
2 brought into compliance and then it's adding on
3 parts. And if it's going to be so specific and
4 you're adding a whole section in there, is it
5 going to create more ambiguity and more
6 restrictions for the TGRA to do actions on their
7 own right now. Whereas, the language that's
8 there right now gives them the flexibility to
9 interpret that either way. This is just
10 solidifying that fact that any ambiguity that
11 exists for that particular situation is going to
12 be addressed. And it's in a bulletin format.

13 MS. TAHDOOAHNIPPAH: If you just added
14 that language, something like that in there, then
15 it takes care of it and then you don't have to
16 put out separate rules.

17 MS. HAMEL: I don't know if it can be
18 added to regulation because that's not
19 regulation. That's procedural or comment to
20 regulation.

21 MR. PUROHIT: Specifying the intent in a
22 very particular case, that's what it is.

23 MR. FISHER: So could we go back, Robin,
24 back to your -- do you want to come back to your
25 comment? Because I heard some people say they

1 did not understand the context for it.

2 MR. MCGHEE: In layman's 8th grade terms.

3 MR. MORGAN: If I understood it, basically
4 the comment was meaning you may be creating a
5 controversy where the one does not exist and do
6 you really want to do that. It may be a question
7 in your jurisdiction, but it's not a question in
8 my jurisdiction. It's really not a controversy.
9 By having NIGC clarify something that's not yet
10 controversial, you have therefore made it like
11 there's controversy out there. Is there
12 controversy? Kathi has a question. I don't know
13 how many other people have the question. And I
14 fully support trying to clarify if for Kathi.
15 It's not a question in my place. I think it's
16 allowable. I'm good with it as written in the
17 regulation, that situation. But by lending
18 credence to a bulletin, you're de facto saying
19 there's controversy that exists out there,
20 ambiguity, and I am clarifying this. So what if
21 somebody disagrees with that now? You've invited
22 somebody to challenge it. I think that was the
23 point. Now, how real that risk is, that's what I
24 heard, in non-legalese terms.

25 MR. LITTLE: I don't know what -- I mean,

1 bulletins are changed. They can be changed.
2 They're not final agency action. I'm not aware
3 of a commission ever being sued for a bulletin.

4 MR. MORGAN: It's just the position of the
5 commission. Not legally enforced.

6 MR. LITTLE: Exactly. Not necessarily.

7 MR. MCGHEE: If one tribe has a question
8 about it, I think that's enough to have an answer
9 given to that tribe. If you had a question about
10 your property --

11 MR. MORGAN: That's the other way that
12 questions, at least to my knowledge, is if Tribe
13 A has a question, they submit the question to the
14 commission. The commission may respond back by
15 writing a specific action and/or a specific
16 letter or verbally and then they move on. Only
17 when there's such a question that exists that
18 affects nationwide that there seems to be a
19 disagreement on what this means do you guys
20 usually step in and say, hey, we want to clarify
21 what we think the intent is on this subject
22 matter.

23 MR. WILSON: So my concern would be, I
24 know in our regulatory structure, we issue
25 regulatory guidance documents, because the

1 regulation never can be -- it would be so onerous
2 to try and address every conceivable outcome that
3 may happen, so we issue regulatory guidance
4 documents that pertain to our interpretation of a
5 particular regulation. And that may even be the
6 compact; it may be NIGC. I mean, we as a tribal
7 regulator say here is how we are interpreting
8 this to mean for us, which may be different than
9 what your tribal regulatory authority interprets
10 that. So I think what I'm saying is to Matthew's
11 point, that if the issue is that your tribe is
12 interpreting this statement one way and another
13 tribe is interpreting it another way, I don't
14 know that that is inappropriate because that's
15 the nature of regulation. I mean, it becomes an
16 issue only when somebody takes issue with it.

17 MS. HAMEL: But the manufacturers have
18 different interpretations, too.

19 MR. WILSON: But the manufacturer, the
20 interpretation -- I mean, this is what I'm trying
21 to understand, is that we're not really
22 regulating -- or the individual tribal gaming
23 authorities are setting the standards for the
24 manufacturers. So if in my jurisdiction, I'm
25 saying that here is what this means, boom, boom,

1 boom. Well, that manufacturer, if they want to
2 do business with me, then they have to conclude
3 whether they can meet whatever that standard is
4 that we have agreed for our particular
5 jurisdiction that you need to meet. But it may
6 be that down the road, at another site they have
7 a different interpretation. And I guess
8 fundamentally in my mind, this issue becomes if
9 you want the tribal regulating authorities to
10 have the flexibility, then they have to be able
11 to interpret regulations to their particular
12 operation, or you have to be very specific in the
13 regulation and state, Here is exactly what it
14 means and nothing else. And I think that's the
15 challenge that we're faced with.

16 MR. FISHER: Leo, and then Robin.

17 MR. CULLOO: To Tom's point, I think the
18 problem is we're an operational side, not a
19 regulation side. Ambiguity may be good at times,
20 but it's not good when large costs are
21 potentially involved. In your jurisdiction, you
22 may interpret it on Kathi's behalf, but say
23 you're replaced when someone else comes in, and
24 they say, In my opinion, you've been wrong all
25 along and you got to change it. So I think in

1 certain areas, you do need to be specific to
2 protect the investment of the operation and the
3 tribe. And this might be one of those areas,
4 particularly in Kathi's case. I'm hearing it's
5 important to them.

6 MR. WILSON: Just a -- is there a
7 disagreement in your jurisdiction between a
8 regulating authority and the operations about the
9 interpretation of this?

10 MS. HAMEL: I can't say there's a
11 disagreement, but we both interpret it
12 differently, and the manufacturer interprets it a
13 different way. And so often the manufacturers
14 say, well, that's not what happens in other
15 casinos. And we would never change our approvals
16 by our TGRA because of what goes on in other
17 jurisdictions, but it is vague. It isn't
18 specific and it does not give clear guidance to
19 the TGRA on what happens with grandfathered and
20 fully compliant systems. And I don't know how we
21 get -- I don't know how to recommend we get to
22 clarifying that if it's not in the regulation;
23 how do we communicate it in such a fashion that,
24 yes, indeed, you can add a grandfathered
25 component to a fully compliant system that does

1 not change the status of the system because it's
2 the system that plays the game of bingo, not that
3 component? And we keep getting hooked up into
4 thinking that component plays bingo, and it
5 doesn't. And nothing -- it's not specific.
6 That's my point.

7 MR. FISHER: Robin, then Nimish.

8 MS. LASH: I think it goes back to the
9 sovereignty of the tribe and the TGRA to make
10 these determinations, and then they are presumed
11 correct and upheld by the courts, unless shown
12 otherwise. And I think the determination needs
13 to be made by the Tribal Gaming Regulatory
14 Authority as primary regulator versus NIGC
15 answering the question.

16 MR. FISHER: Nimish.

17 MR. PUROHIT: I just wanted -- the
18 manufacturer in this particular case, someone
19 said it's not necessarily a nationwide issue. It
20 could be because this manufacturer is nationwide,
21 just so everyone is aware as well. So from that
22 perspective, this is also a design standard
23 document as well. It could have impact in other
24 jurisdictions. And from one manufacturer's
25 perspective, they're interpreting it in a

1 different way as well. To back up Kathi's point
2 that we're talking about. If that makes sense.

3 MR. WILSON: Just so I understand -- and
4 I'm hearing two different things here. Adding a
5 component to an already-certified machine is
6 something that happens --

7 MS. HAMEL: System.

8 MR. WILSON: System. Is something that
9 happens at the local level, or does that happen
10 at the manufacturer level? Do you request the
11 manufacturer to add a component to the system?
12 Or do you do it on the floor, so to speak? I
13 mean, you do it at your facility?

14 MS. HAMEL: Well, operationally, you look
15 for player interface offerings that are
16 competitive, and there can be those components
17 that are grandfathered, yet our system is fully
18 compliant. So you want to be competitive. And
19 if the manufacturer, again, does not see the
20 benefit of making those changes to that
21 component, then potentially you cannot offer that
22 product, that component.

23 MR. PUROHIT: The certification letter
24 from the independent test lab is generally issued
25 to the manufacturer, and then any of their

1 stricter regulations on top of 547 that the
2 tribal jurisdictions have adopted, it will say it
3 was also tested to that and then it will list it
4 to that tribal regulatory jurisdiction as well.
5 That's one of the tenants. Like there's no
6 stricter standards for 547 adopted anywhere than
7 those certifications are transferrable from one
8 jurisdiction to the other. At least that's the
9 way the independent test tabs that write the
10 certifications. And you might want to -- it
11 could be an nationwide issue from the
12 manufacturers' design standpoint.

13 MR. MORGAN: My question is, is it a local
14 issue or is it a nationwide issue? Because
15 depending on that answer, kind of predisposes
16 what the appropriate response is. So, I mean, is
17 this a conjecture, it could be a national
18 problem, or, yes, this is a national problem that
19 we need to fix. That's maybe where I'm getting
20 stuck.

21 MR. PUROHIT: The manufacturer has reached
22 out to me for clarification on this because of
23 the issue. The manufacturer reached out. So
24 from that perspective, it is a nationwide issue
25 because they are nationwide. However, the

1 jurisdiction that they are inquiring about is a
2 singular jurisdiction, but that perspective is
3 not. That's why I'm saying it could turn into
4 it, and that's the reason I'm focusing on the
5 "could" part. When the manufacturer first
6 reached out to me, they said they have "a
7 jurisdiction," and this certification is for
8 their whole system which is being used in all
9 these places as well. And they want to make sure
10 they don't run into it at other places because
11 one jurisdiction is bringing it up. Does that
12 answer?

13 MR. MORGAN: Sort of. But they still
14 could potentially run into a problem. Just
15 because one jurisdiction says it's okay, you
16 still have to deal with each individual
17 jurisdiction. So just because you say it's okay
18 and Kathi's regulator says it's okay, doesn't
19 mean Mia says it's okay. You still have that
20 risk somewhere. To me, is it a local issue or is
21 it a broad, this is a disagreement, and it's
22 affecting multiple jurisdictions because
23 everybody is confused on this question? Because
24 while I heard the question in theory, and I agree
25 there's some ambiguity in theory, I don't know of

1 the practical aspect on why -- a wider issue, you
2 know, among several tribes, and that's where, I
3 guess, I'm looking for. Is anybody else having
4 this issue or is this such a niche problem that
5 we haven't heard about it yet?

6 MS. HAMEL: Well, I just know that we go
7 through audits. We're under scrutiny that maybe
8 other jurisdictions aren't, and these questions
9 come up. So I'm bringing it to the table because
10 it's out there. And maybe the other
11 jurisdictions aren't under the same amount of
12 scrutiny that we are.

13 MR. CALLAGHAN: Kathi, by whom?

14 MS. HAMEL: By NIGC, by --

15 MR. CALLAGHAN: It's your fault.

16 MR. MORGAN: So you're getting questions
17 from your field staff on whether the legality of
18 running a particular theme on a particular --

19 MS. HAMEL: Of managing the 547.

20 MR. MORGAN: Back to the response,
21 couldn't they clear that up with a phone call to
22 their field staff?

23 MR. LITTLE: Could you repeat that? I'm
24 sorry.

25 MR. MORGAN: If the issue is her field

1 staff of how to interpret that, couldn't you guys
2 come to an agency opinion that says, This is our
3 stance on this and direct it to your field staff
4 and say, This is our determination?

5 MR. LITTLE: That is our standard
6 practice, yes, we can.

7 MS. HAMEL: But I'll go back to what Leo
8 just said, if that changes --

9 MR. FISHER: You mean, if the commission
10 changes?

11 MS. HAMEL: If the commission changes and
12 now it's a different group --

13 MR. MORGAN: But the new commission has
14 the ability to withdraw that bulletin, too.
15 Reliance on a guidance document is tenuous at
16 best. I mean, it does give you comfort. I'm
17 trying to figure out what is the proper response
18 to your issue. Because I agree with you, if you
19 have that issue, I want to help you try to
20 clarify it in a way that you want it to be
21 clarified. Because, again, I think you have the
22 right to do that.

23 MS. HAMEL: I guess if it's not affecting
24 everyone, then I will withdraw my comments. But
25 it's not clear.

1 MR. WILSON: Well, I mean, to Mia's point,
2 if this statement were added to the regulation,
3 that would provide the clarity on this issue. I
4 guess my concern would be that -- well, we'll
5 just have to wait and see how many other issues
6 there are where this level of clarity has to be
7 defined. Do you see what I'm saying? In other
8 words, to do that -- I mean, I personally, I see
9 nothing wrong with this wording up here, and I
10 would have no problem with it being in the
11 regulation because I think everybody has
12 discussed that the TGRA should be able to approve
13 that, and that that approval shouldn't affect
14 certification of that system to the extent that
15 you're using a previously-approved grandfathered
16 component in that system that still has to meet
17 the four criteria. I mean, I don't know that
18 anybody has any objection to that, that that's
19 what --

20 MR. MORGAN: I agree with that.

21 MS. HAMEL: Well, and I think this
22 morning, that's where we started. And the
23 recommendation was to come up with a bulletin.
24 So that's --

25 MR. LITTLE: You could write an opinion

1 letter to the commission on this particular
2 subject. You can clarify. I'm not going to
3 guarantee you what their response is going to be,
4 but that might be an avenue that might work for
5 your tribe.

6 MS. HAMEL: Okay. I'm just recommending
7 we move on then.

8 MR. FISHER: So do you want to test
9 whether there's -- I mean, people around the
10 table have said they're willing to help try to
11 solve the problem. It's just really a question
12 of what's the right vehicle. We've had a number
13 of suggestions about different ways to do it,
14 bulletins, opinion letters, phone calls, or
15 whether there should be something in the --
16 proposed in the regulation. So do you want to,
17 as a part of kind of concluding this, do you have
18 a preference, would you like to ask the TAC to
19 support something, a regulation or in the
20 bulletin, or what would you like to do?

21 MS. HAMEL: I'll just go back to what I
22 said this morning, in 547.4(b)(3), it's
23 written -- if you read it the way it's written
24 literally, you can only modify, repair or replace
25 individual components of the gaming system that

1 are grandfathered. No new components can be
2 added. And, for example, the gaming system
3 software is fully compliant, but if you want to
4 add a new theme or a new interface to the
5 existing four that are grandfathered, there isn't
6 -- there's no language to support that. This
7 talks about repair and replace to ensure
8 functional and secure.

9 MR. WILSON: What changes specifically in
10 that wording would meet with clear ambiguity for
11 you guys?

12 MS. HAMEL: I believe if there's
13 clarification between adding new, not just
14 repairing or replacing, but there's -- and that
15 it doesn't change the classification of the
16 system. If it meets the four components of or if
17 it's fully compliant. If it doesn't change the
18 overall intent of the system and the compliance
19 of the system. Because it just talks about
20 repair and replacing. It doesn't talk about
21 adding new.

22 MR. FISHER: So, Tom, were you asking to
23 try to figure out if there was a recommendation
24 around the regulation itself or --

25 MR. WILSON: Yes, in other words, if --

1 for purposes of this particular issue, is there a
2 recommendation of wording to change the proposed
3 regulation so that it resolves that, or are we
4 going to go with the guidance document approach
5 on this particular issue?

6 MR. MCGHEE: I think when you were filling
7 out the group, does the group think this should
8 be a direct letter for this specifically? Does
9 the group think it should be a regulation? Does
10 the group think it should be a bulletin? Can we
11 decide where that is? At least the majority, we
12 could at least focus our attention on that.

13 MR. FISHER: Okay. So what I was doing,
14 because Kathi said she was willing to drop it, I
15 just wanted to check to see if people had a
16 suggestion. So usually it's a -- if you think we
17 need to do something about this, raise your hand,
18 I mean, address this issue. And if so, we'll
19 figure out what people think about the vehicle.
20 Or we could just say if you think we should do
21 this in a bulletin or in the regulation, raise
22 your hand.

23 MR. CALLAGHAN: Kathi, wouldn't this be
24 more appropriate, particularly based on what I'm
25 seeing, for you to make this response for NIGC so

1 you can present that to the manufacturer? Again,
2 keeping with the spirit of what Matthew had
3 mentioned, if you open it up globally, then it
4 may end up being -- this appears to be local
5 politics that you're dealing with here, and maybe
6 going around that local -- that regional office
7 and going through NIGC may be beneficial to you.

8 MS. HAMEL: We'll take it off.

9 MR. FISHER: So if it remains an issue and
10 you want to bring it back, let us know.

11 MS. HAMEL: Okay.

12 MR. FISHER: Okay. Back to the TGWG
13 document. And I got that. I got the real thing
14 up there. Okay. We're done with this one,
15 right, because the recommendation is to do what
16 the TGWG recommended. So then were we done with
17 what was on Page 2 of the comparison document?

18 MR. LITTLE: Minimum probability.

19 MR. MCGHEE: You did 547.5 and then the
20 next section is 547.4. And did we talk about
21 that yet?

22 MR. PUROHIT: It's just referring --

23 MR. MCGHEE: Minimum probability
24 standards.

25 MR. PUROHIT: Like it's just making sure

1 that the reference to 547, the fairness
2 requirements are still there. The only reason we
3 put that in there is just so you know that
4 also -- it also --

5 MR. MCGHEE: All we did is recommend
6 language for fairness. We didn't say -- by
7 accepting that, in turn, that has to be fixed.

8 MR. PUROHIT: Exactly.

9 MR. FISHER: We were talking about the
10 thing at the bottom. Everybody ready to move on?

11 So now we're on Page 3 on the TGWG
12 comparison document. And I'm just going to
13 scroll down here to 547.7. How do you want to do
14 it, do you want to do it the way we were doing it
15 before, somebody from the TGWG says, Here's what
16 we were trying to accomplish and why? You want
17 to do it some other way?

18 MR. MCGHEE: I have a comment here. I
19 could read the comment here of why they changed
20 it. With this deletion of the general
21 requirement section, the remark was, Other
22 federal agencies are responsible for establishing
23 and enforcing electrical product safety
24 standards. Accordingly, promulgation of such
25 standards is beyond the scope of NIGC

1 jurisdiction. However, subpart 547.4(a)(3)(i) is
2 proposed above to reflect that this is an
3 industry standard for the laboratories to make
4 note or include other laboratory certifications
5 as provided by the manufacturer in their report.
6 And that's the remark as to why that was struck.

7 MR. FISHER: Anybody got any comments?

8 MS. LASH: Just another comment from the
9 Tribal Gaming Working Group is that this
10 requirement, the UL requirements is not required
11 in any other kind of gaming except for ours. And
12 this UL is a nonprofit business. You know, they
13 create testing requirements and everyone has to
14 spend lots of money to do that. And, you know,
15 they create a -- by having this language as a
16 regulation, it is giving a monopoly to a
17 nonprofit business that other gaming forums don't
18 have to -- they don't have to do this. So it's
19 -- we just would like to take it out. Your
20 Tribal Gaming Regulatory Authority can always put
21 in some sort of requirement. But these -- the
22 other federal regulations cover these safety
23 requirements. So those are just additional
24 comments.

25 MR. FISHER: Okay. Tom?

1 MR. WILSON: So somebody help me
2 understand the proposed language, Operate in
3 compliance with applicable regulations with the
4 Federal Communication Commission. I would guess
5 that there's a zillion regulations the FCC has.
6 That seems awfully broad. And then in my mind,
7 it brings out all kinds of questions about, well,
8 who interprets the applicable -- what applicable
9 regulations are. I don't know, this just seems
10 odd to me what this is all about. I mean, what
11 is the risk that is trying to be mitigated in
12 terms of meeting some standard? And is there not
13 a better standard than the FCC?

14 MS. LASH: One thing is, if you notice
15 this first part, is that it mirrors the language
16 over here. It's in red here, but it reads the
17 exact same, the FCC comment. Then we struck out
18 the rest of it, just saying that this -- the UL
19 testing is unfair on our gaming business; that we
20 shouldn't have to have that requirement.

21 MR. WILSON: I understand that, but this
22 first part is confusing me in terms of compliance
23 with applicable FCC -- I mean, in my mind, that's
24 in there because somebody has thought that
25 there's something applicable in the FCC

1 regulations that apply to Class II systems. So
2 my question is, is that true or not because I
3 don't even know that referencing the FCC is the
4 right reference or if anything needs to be
5 referenced. I mean, is the risk they don't want
6 somebody to get zapped when they touch the
7 machine? I don't think that's an FCC issue.

8 MR. RAMOS: I guess, my statement or
9 comment would be with or without this regulation,
10 do tribes still have to -- are they still
11 obligated to follow the Federal Communications
12 Commission's requirements? I mean, it seems to
13 me that they probably do. And I don't think we
14 need it necessarily outlined in a regulation if
15 it's already out there.

16 MR. MORGAN: Tribe response. I'll preface
17 it that way. A lot of our discussion back from
18 what I recall when this was originally proposed
19 in 2007, and also the Tribal Gaming Work group is
20 we akin this to almost like tribal 31. It's
21 regulations you do have to follow. And instead
22 of the NIGC trying to set forth some jurisdiction
23 over a law they have no authority to enforce, we
24 just pointed to, hey, the FCC has some
25 regulations here on this subject, you should go

1 refer to that, whatever that may be. Because we
2 don't want to tie you down in this document to
3 some specific language or this version as they up
4 it. Just like we would as the Bank Secrecy Act
5 or Johnson Act. So it was pointing to a note to
6 go look somewhere else. But I do understand your
7 question, what is applicable. Probably a sea of
8 regulation the FCC has. I agree with Jason's
9 comment, there's no way to get around it, if it's
10 a requirement, you have to meet it. But I think
11 the point of it was just a point to, you know,
12 hey, you got to go look somewhere else because,
13 tribe, you have to follow it. NIGC, you may not
14 have the authority to enforce it, but tribe, you
15 still have to follow it.

16 MR. PUROHIT: I've spoken to a few
17 manufacturers about the TGWG issue. It's about
18 six manufacturers I spoke to, and they all pretty
19 much said that when you put in the words
20 "Underwriters Laboratory," even though it says
21 Underwriters Laboratory or Equivalent, it does
22 seem like a lot of jurisdictions only take a look
23 at that first part. And it's like saying
24 independent testing lab -- instead of saying
25 independent testing lab, you're not saying GLI or

1 equivalent or BMM or equivalent. That's the
2 first part of it.

3 The second part of it, in nearly every
4 jurisdiction you go to, I understand it's still
5 the box. But every single jurisdiction you go
6 to, there's a common requirement that I think
7 this was trying to capture. And this is based on
8 my regulatory experience and testing experience.
9 And those are things that are not required
10 necessarily by federal law, which is liquid
11 spills testing, electrostatic discharge, magnetic
12 interference. These are three, like, the most
13 common hazards requirements that are not
14 necessarily minimum federal requirements, but
15 they're put in a gaming environment to replicate
16 casino environment for that. And the UL or its
17 equivalent, as it points out, they go well above
18 and beyond, and that's why it's very expensive to
19 make it compliant like that. These manufacturers
20 said instead of having just a specific reference
21 to that, outline the three or four tests that
22 nearly every jurisdiction that's a universal
23 requirement and put those in there, instead of
24 just saying UL, which encompasses a wide array
25 and a lot of them might not be applicable so

1 what's the point of in incurring these costs as
2 well. That's the manufacturers' side of this
3 thing.

4 MS. HAMEL: Doesn't our facilities'
5 license cover safety and electrical shock and
6 live safety and water, and do we need to spell it
7 out again just for us, too? And just player
8 interfaces and not all of the equipment
9 associated with the facility.

10 MR. PUROHIT: Kathi, from the tests that I
11 was just naming out, they're not necessarily for
12 -- and this is going to be hit right at the box
13 issue. They're not necessarily for player safety
14 only. The minute you plug something into an
15 electrical outlet, it has to pass a whole slough
16 of laws. This is geared toward the integrity of
17 the overall gaming system environment. But if
18 you do expose it to any kind of an
19 outside-of-normal operation things, hazards, it
20 shouldn't malfunction and give a \$42 billion
21 jackpot or anything along those lines. That's
22 what this is referring to. Colorado is a
23 specific example. Sorry. That's what this is
24 referring to, as far as equipment malfunctions or
25 anything that compromises the integrity of the

1 environment. It's the issue of the box as well,
2 from that particular perspective. That's why
3 comparing it, we are comparing it like as far as
4 the box is concerned from both issues, so on
5 safety and a malfunction point of view, but the
6 malfunction won't apply here because if
7 everything doesn't reside on there and
8 malfunction voids all plays anyway. In this
9 particular instance, what are they going to test
10 for? That's what the manufacturers, they're
11 saying that given specific tests, but at the end
12 of the day, how do those tests apply to a Class
13 II gaming environment.

14 MR. WILSON: And I think that's where I'm
15 getting at is that -- I mean, I will tell you as
16 a regulator, I don't have a clue what all the FCC
17 things may or may not be, but I'm guessing that
18 one of them doesn't have anything to do with
19 spills on the machine, but that's really relevant
20 in the casino environment. So it does make more
21 sense to me to outline what is it that this
22 machine needs to meet to protect the integrity of
23 the game, assuming that personal safety issues
24 are already addressed in the manufacturing
25 process that they know that they can't make the

1 machine that somebody is going to get
2 electrocuted when they touch it. It seems to me
3 that the technical standard here should be
4 addressing the integrity of the game issues that
5 that system needs to meet as opposed to these
6 general UL, you know, type of things, that it
7 would be doubtful that anybody is making a
8 machine that I wouldn't say isn't UL compliant,
9 but the fact of the matter is that basically
10 people manufacture to a standard anyhow,
11 otherwise they can't be competitive. So if their
12 machine plugs in and people are getting
13 electrocuted, my guess is that's going to be
14 addressed and corrected after you, you know, deal
15 with that. So it seems to me the integrity of
16 the gaming issue is what the technical standards
17 should be addressing, not the entire
18 manufacturing process of every component of this
19 machine.

20 MR. FISHER: Where does that leave us?

21 MR. MCGHEE: We took it out because it
22 wasn't applicable to the integrity of the game.

23 MR. PUROHIT: It's not -- I want to say
24 something else. The game integrity as far as the
25 software is concerned, yes. As far as the math

1 models, that's going to be on the game server.
2 But you can't forget about the bill acceptor
3 software, that's still critical to the integrity
4 as far as paying out and generating the payments.
5 That's still happening, if it does exist, inside
6 of a Class II cabinet as well. The software on
7 the bill acceptors that is actually being
8 validated at the terminal, that's still happening
9 at the terminal level, too, in some cases. So in
10 that perspective, that needs to be protected as
11 well. That does compromise the integrity
12 somewhat. Not in the sense as far as the ball
13 draw, the random number generator, but that also
14 is still a factor in the integrity environment as
15 well. I'll give you an example of a very common
16 scam that has been going on for a couple of years
17 now, and the reason for the radiofrequency
18 requirements, is there is a cartel, if I may, out
19 there that goes in and has a radiofrequency
20 transmitter that when you aim it at the bill
21 acceptor, it registers a hundred times the credit
22 of the bill you're putting in. I'm sure a lot of
23 you, if not all, have heard of that scam. That
24 does compromise the integrity of the environment
25 even though it's not directly hitting at the

1 source in the software on the server itself.
2 That's why the manufacturer is saying that when
3 you do something, we want to make sure that it's
4 still some testing being done at the terminal
5 level, because it's a primary interaction point
6 at the end of the day.

7 MR. WILSON: Is that testing that you're
8 referring to -- again, you're identifying some
9 specific risks, which I think makes perfect sense
10 to me. My whole issue with this is that there's
11 more than just the FCC. I'm just hung up on this
12 that they've referenced the FCC as the compliant
13 piece you have to be compliant with. I certainly
14 as a regulator am not going to be able to go to
15 that machine and determine whether it is fully
16 compliant with all of the applicable FCC
17 requirements, but I certainly can determine if
18 certain standards -- if the machine meets certain
19 standards that we've defined in the technical
20 standards, it has to be A, B, C and D resistant
21 or whatever it happens to be. So I don't know if
22 we're saying the same thing --

23 MR. PUROHIT: We are.

24 MR. WILSON: -- or not.

25 MR. PUROHIT: We are saying the same

1 thing.

2 MR. WILSON: But when we talk about
3 striking this whole piece, that doesn't make
4 sense to me either because it seems to me that
5 there does need to be certain standards dealing
6 with -- I don't want somebody to walk in with
7 their radio device. I don't want somebody
8 walking in with a big magnet and be able to do
9 something. I don't know where those standards
10 currently sit. If they sit somewhere in the
11 federal world of -- whether it's the FCC or
12 whatnot. But that's what I would be most
13 interested as a regulator knowing that that
14 machine met those high risk items and not that
15 it's fully compliant with the FCC because I don't
16 know what that means.

17 MR. PUROHIT: I thinks we're talking the
18 same thing. It has to be a specific test, not
19 just a blanket or umbrella that could be a whole
20 bunch of things that definitely don't apply to
21 the Class II terminal either.

22 MR. MCGHEE: So can you tell us which
23 tests? Because if we took it out, the whole FCC
24 reference, and said prior to approval by the TGRA
25 pursuant to whatever, the Class III gaming system

1 shall have attained relevant certification for
2 blank, blank, blank test.

3 MR. PUROHIT: Right. I'll give you an
4 example. This is from ADOG, as I like to call
5 them, Arizona Department of Gaming, compacted
6 jurisdiction, Appendix A. I always refer to
7 Appendix H in a couple other jurisdictions. Here
8 is something that they specifically identify, no
9 federal requirements or anything else. These are
10 pretty much common to every state regulated
11 tribal compact regulated jurisdiction that you go
12 to for cabinet security, because they're also
13 built on the GLI 11 series as well as far as
14 cabinet security. Few examples: electromagnetic
15 interference gaming devices shall not create
16 electronic noise that affects the integrity or
17 fairness or neighboring gaming devices. Very
18 specific. You can't really go in and expose it.
19 The other one is the electrostatic interference,
20 you know, don't tase a terminal in order to make
21 it go haywire. Even though the software might
22 not be there, some other components inside of it
23 may malfunction as well. Radiofrequency
24 interference testing, magnetic interference, and
25 finally liquid spills. These are some examples,

1 specific tests. They're very common in multiple
2 jurisdictions out there.

3 MR. FISHER: What was the fourth --

4 MR. PUROHIT: Magnetic interference,
5 radiofrequency interference.

6 MR. MORGAN: Is that what you were getting
7 at, is you want to say, give me four tests and
8 say this is what you have to meet so I can
9 verify?

10 MR. WILSON: Right, because I can't verify
11 the FCC regulations.

12 MR. MORGAN: The other thing is, Nimish,
13 you want to put something in, or any other
14 additional requirements as required by the TGRA,
15 and then that captures it? Is that -- because
16 and then the Tribal Gaming Work Group, this is
17 the one that I struggled with the most as well,
18 and I kept asking people what tests are the most
19 common out there. Everybody keeps saying
20 industry standard. What's the industry standard?
21 That's the four or five. I'm fine with that
22 proposal if that meets your --

23 MR. PUROHIT: There's one more in here
24 that wouldn't apply to Class II environment.
25 It's the security of a random number generator.

1 That doesn't apply here. It has to be shielded
2 and all that stuff. I'm only bringing up ones
3 that are applicable here.

4 MR. MORGAN: Don't put a lock on an empty
5 box.

6 MR. LITTLE: We're just providing
7 technical assistance. We're not making
8 recommendations for the group. You guys take it
9 any way you like.

10 MR. FISHER: Jeff?

11 MR. WHEATLEY: I like where we're going,
12 but my concern is these tests are probably going
13 to change over time, so are we going to have to
14 go back and change these as new cheats come out
15 and, you know, con artists have new ways of
16 coming in and manipulating a machine or device to
17 try to and gain some type of advantage? How are
18 we going to address that in the future? Is there
19 a way that we can write in the language that,
20 like Matthew said, the industry standard tests,
21 but those industry standards change over the
22 course of two, three, four years. I don't know
23 how to address that, or is this the direction we
24 want to go to?

25 MR. MCGHEE: Could it be any other TGRA

1 requirement were to cover that? Because if
2 something would be to develop, we can add it.

3 MR. PUROHIT: Might be jurisdiction
4 specific as well, like in Oklahoma and Kansas
5 City Tribes, but it hasn't perpetuated beyond.
6 And the independent test labs, too, once they
7 discover something, I know all three labs, they
8 incorporate that into their test description as
9 well. Especially because the bulletins go out
10 from the manufacturers.

11 MR. FISHER: So what's the right lead-in
12 language to this? I've been playing with this,
13 but this might not be right.

14 MR. MCGHEE: Take the "from" away.
15 Obtained relevant certifications.

16 MR. FISHER: Okay. Got it. Does that do
17 it?

18 MR. MORGAN: Now my only question is --
19 okay. They have to obtain relevant certification
20 because -- just because they obtain it, do they
21 have to give it to someone, and if so, who are
22 they giving it to, to the lab or TGRA? How do we
23 ensure?

24 MR. PUROHIT: I liken it to Arizona, for
25 example. It says the laboratory shall determine

1 whether or not outside influences affect game
2 fairness to the patron or create cheating
3 opportunities. The gaming device shall be able
4 to withstand the following tests, and then it
5 leads into it.

6 MR. MORGAN: That is my only concern.
7 Because as technical standards, checklists for
8 the labs, and if this is where we're putting it,
9 then I want to put responsibility on the labs and
10 say you check it. If you see certification, this
11 is all good.

12 MR. FISHER: So the recommendation could
13 be --

14 MS. HAMEL: Is it the wrong place, because
15 right now it's in hardware, not testing.

16 MR. FISHER: Yes, that's correct.

17 MR. MORGAN: I was just speaking to 547.

18 MR. FISHER: Let's skip the lead-in
19 language first and then we can figure out where
20 does it need to go.

21 MR. CULLOO: In order to address Jeff's
22 concern about new technology or new ways,
23 wouldn't you say that as a minimum relevant
24 certification? So it gives an ability for the
25 TGRAs to build upon that if something else comes

1 out in the future.

2 MR. WHEATLEY: Is "certifications"
3 necessarily the right word? Is the independent
4 testing lab going to have to come out with a
5 separate certification? Wouldn't it be things --
6 there's things they're going to test for
7 inclusive of their overall certification?

8 MR. PUROHIT: It will be in their
9 certificate of testing that they release to you,
10 and these will be comprehensive of all the tests.
11 Kind of like what Matthew said, that they check
12 it off, and they'll just give you a final report
13 that you act upon. It won't be a separate series
14 or anything along those lines.

15 MR. WHEATLEY: To me that kind of sounds
16 like it would be a separate certification.
17 That's why I brought it up.

18 MR. FISHER: Okay. So you want to read
19 that? What was the Arizona language?

20 MR. PUROHIT: Here's the lead-in. It
21 says, A laboratory shall determine whether or not
22 outside influences affect game fairness, and that
23 can be reworded here as well. I don't know if
24 you're caught up?

25 MR. FISHER: No. Now I am.

1 MR. PUROHIT: Game fairness to the patron
2 or create --

3 MR. MCGHEE: When you were reading it
4 earlier, you even expounded a little bit upon
5 what electromagnetic interference was. Can you
6 paste that to him, and it will pop up so
7 everybody can see it?

8 MR. PUROHIT: Yeah. Each one of them has
9 their own testing requirements as well.

10 MR. FISHER: Maybe we should take a quick
11 break because we have a little technical thing to
12 do. So there's brownies and drinks at the back.

13 (Recess taken at 2:33 p.m. to 2:49 p.m.)

14 MR. FISHER: The Arizona language is up on
15 the screen. It doesn't fit the whole thing
16 because it's -- but that's the lead-in language
17 and then all the information about the specific
18 tests. But then, Nimish, do you want to say --

19 MR. PUROHIT: I also gave him an example,
20 like talking with Jeff and Jason just had a
21 brainstorm, if you want to call it, and I was
22 like, wait, we have Washington State and I
23 remember their technical standards. They
24 actually specifically referred to everything as a
25 player terminal as far as their terminal

1 requirements, and that's just their testing
2 requirements for the terminal itself. And they
3 don't go into detail.

4 MS. LASH: That's perfect.

5 MR. FISHER: It basically collapsed all
6 that other Arizona stuff into one sentence.

7 MR. CALLAGHAN: That in a nutshell is
8 Nevada as well. You would similarly say spills
9 and human electronic dischargers rather than
10 someone coming in with a taser.

11 MR. WILSON: Just to be clear, we're
12 discussing here about the standard for the box,
13 not the server?

14 MR. PUROHIT: Correct.

15 MR. CALLAGHAN: Good job, Leo.

16 MR. CULLOO: That's the definition of a
17 player terminal there.

18 MR. CALLAGHAN: Basically it's a bingo
19 system, Class II. Not much inside.

20 MR. FISHER: So what do people think of
21 this?

22 MR. CULLOO: Use Washington.

23 MR. FISHER: Is that the right term? Is
24 that the same term?

25 MR. WHEATLEY: Player interface.

1 MS. LASH: You want interface, terminal,
2 what?

3 MR. PUROHIT: For consistency it would
4 have to be electronic player interface.

5 MR. FISHER: So this would now be this.
6 And this is in place -- so where does this go?
7 So is it the part that's in --

8 MS. LASH: 547.7(a)(1), right?

9 MR. FISHER: So the TGWG language was to
10 eliminate 547.7(a) and make a change to
11 547.4(a)(3). So what's our recommendation?
12 Matt?

13 MR. MORGAN: I got a lawyer thing. Just
14 want to make sure. What's defined is player
15 interface, not electronic player interface.

16 MR. PUROHIT: I was just making sure of
17 that. The electronic player interface, I think
18 that's what -- the definition is just player
19 interface. Thank you for that, Matt. Yeah, we
20 have a definition for player interface in here.

21 MR. FISHER: Okay. So back to my question
22 about what's the recommendation, given the TGWG
23 recommendation was to delete certain parts and
24 make changes to other parts. Matt?

25 MR. MORGAN: My recommendation would be if

1 you look at the tribal gaming board group
2 suggestion is that that language replace what was
3 2. So you still have Class II gaming systems
4 operate in compliance with applicable regulations
5 and the Federal Communication Commission. Then
6 2, the operation of each player interface must
7 not be adversely comprised or affected by static
8 discharge, liquid spills, or electromagnetic
9 interference, period.

10 MR. WILSON: So I'm still hung up on the
11 FCC thing.

12 MR. MORGAN: I thought we struck it. I
13 was just reading what was there.

14 MR. LITTLE: I don't know if there was a
15 wrong or right in there. There's not really a
16 wrong or right. You state it or take it out. My
17 only point I'd raise is does it help a tribe that
18 may not necessarily know how to comply with it,
19 or just a reminder, or I mean, is it helpful to
20 leave it in there? I mean, it's not wrong to
21 have it in there. It's not right to have it in
22 there. But does it help the folks remain in
23 compliance with not necessarily just our
24 recommendations but other regulations? I'm just
25 asking the question that way.

1 MR. WILSON: Well, I don't know. I just
2 get back to the thing that I'm just trying to
3 think in Class III, and maybe independent say it
4 says somewhere about the FCC or whatnot. This
5 FCC thing is throwing me, and I don't know why.
6 But it appears that you're all comfortable that
7 there's something in the FCC requirements that
8 pertain to Class II interface devices.

9 MR. MORGAN: I think it's general product.

10 MR. CULLOO: Electronic product. Not
11 specifically gaming device. Probably referring
12 to electronic devices in general, not
13 specifically gaming devices.

14 MR. MORGAN: My point is I kind of fall
15 where Dan does, in that it doesn't really hurt
16 and it may be helpful for some. And that
17 language is for the independent testing lab, to
18 send me their certificate of -- what do you call
19 it, whatever their certificate is, and say, yes,
20 we verified that it does meet that.

21 MR. WILSON: The testing lab is going to
22 verify that the component meets the applicable
23 requirements of the FCC, is that what -- is that
24 what that's saying?

25 MR. MORGAN: Something for that \$25,000

1 charge they do. I want them to stand behind
2 something that says, yes, that's --

3 MR. PUROHIT: Can I clarify something,
4 too? In Part C of the same hardware standard as
5 well, by the way, there is an electrostatic
6 discharge requirement which specifies the voltage
7 ranges and all that other stuff. If you want to
8 remove that part from here and keep that so that
9 there's not other changes involved in there.
10 This is the Underwriters Laboratory reference, is
11 (a)(2), and if you look underneath printer
12 circuit boards, and then go to (c), there's a
13 specific reference to electrostatic discharge
14 there as well.

15 MR. MCGHEE: And we add that language to
16 this language?

17 MR. PUROHIT: Exactly. You can do that as
18 well. That does define what the parameters of
19 electrostatic discharge are.

20 MS. LASH: I would like to ask that we
21 leave in the FCC language because specifically
22 with Rocket games, they're broadcast between
23 locations, and so we are comfortable with that
24 language being in there just as a -- for that FCC
25 language to remain in there. Some manufacturers

1 have local signals, but ours are broadcast, so I
2 think it should stay in there.

3 MR. FISHER: Okay. Go ahead. Daniel.

4 MR. MCGHEE: Okay. The only difference
5 that I see leaving in or taking it out means that
6 I have to be sure that the gaming lab tests
7 checklist now has this -- I guess in compliance
8 with FCC. If it stays in there, that's why I
9 have to make sure it's on the certification. If
10 it's out, then I don't have to. So I think it's
11 not a big issue either way. I mean, if it's an
12 issue to one or the other, then that's fine that
13 it stays. I'm more interested in where -- if we
14 put that over here with this other static
15 discharge stuff, can we then see where we are
16 voting-wise and move on?

17 MR. FISHER: Yes. So do you want to try
18 what's -- first of all, with number one with the
19 FCC, do you want to check that first? So the
20 proposal is basically is to leave it as in the
21 current regulation, right, so not to adopt the
22 TGWG recommendation, to delete it, to leave it as
23 in the current recommendation. So if you're in
24 agreement with that, raise your hand.

25 MR. WILSON: Say it again.

1 MR. FISHER: Leave it as it is in the
2 current regulation. Number 1. Leave it as it
3 is. So if you're in agreement with that, raise
4 your hand.

5 MR. MCGHEE: It reads, the Class II gaming
6 system shall operate in compliance with
7 applicable regulations of the Federal
8 Communications Commission.

9 MR. FISHER: Communications Commission,
10 period.

11 MS. LASH: Applicable.

12 MR. MCGHEE: It was originally just struck
13 from the whole document.

14 MR. FISHER: I have to try this again
15 because we're still -- okay. So the suggestion
16 is to leave it as in the current regulations just
17 the way that Daniel read it. So if you are in
18 agreement with that --

19 MS. LASH: I'm leaving it. All right.

20 MR. FISHER: If you're in agreement with
21 leaving it in, raise your hand.

22 (Indicating.)

23 MR. FISHER: I need you to do it again
24 because I can't see everybody. I know there are
25 some people that don't have their hands raised.

1 So if you are not in agreement with doing it,
2 which I count at least three or four people,
3 what's the -- what's the -- what's the reason or
4 what needs to change in order for you to be in
5 agreement with that? So anybody that didn't
6 raise your hand yes?

7 MR. RAMOS: I'm not so sure that I
8 understand what the applicable Federal
9 Communications regulations are. And I think I'm
10 already -- that those are already subject to my
11 facility anyway. I'm not so sure why we need it
12 as a technical standard.

13 MR. WHEATLEY: I would say that listed as
14 it has to be tested at the independent testing
15 laboratory to meet those standards. Otherwise I
16 think you're going to, like Thomas made reference
17 to, I think you're going to confuse the tribal
18 gaming regulators, they're not going to know how
19 to ensure compliance with that. If they have a
20 certification from the lab that says it is
21 compliant with that, then I think that's usually
22 good enough for the tribal gaming regulators.
23 But how is a regulator -- are they going to go
24 and say, okay, are we meeting this provision.
25 They're not going to know what applicable

1 regulations to test for or even if they have the
2 ability to test for them.

3 MR. FISHER: Tom?

4 MR. WILSON: Yes. I agree with Jeff. I
5 mean, for me, you know, honestly, it's not
6 whether that the term is in there or not. I just
7 -- it strikes me as odd that of all the
8 particular things that we could talk about that
9 the federal government has regulations over, that
10 we pick out the FCC. But why not any number of
11 other -- I mean, that's what bothers me, is I
12 keep trying to get at what is the concern with
13 the FCC pertaining to Class II devices versus any
14 other number of things that are out there that
15 people in the manufacturing world comply to. So
16 I guess that's where I'm struggling, is nobody
17 has convinced me yet why the FCC was singled out
18 as a point of reference for this as opposed to
19 any other number of things. Because the question
20 it raises to me is that, well, if it's applicable
21 to the FCC commission, well, what about other
22 things then? And it seems to me it's like a
23 rabbit hole; you start going down and saying
24 that. So nobody has yet articulated for me what
25 it is about the FCC component being in there that

1 is so important, which is why I'm leaning towards
2 taking it out, because I haven't seen the risk of
3 why it's in there.

4 MR. FISHER: I don't know which one is
5 first.

6 MR. MORGAN: I'm looking at him. My, I
7 guess, point would be the FCC is going back to
8 Rocket, Megamania games, some of those older
9 games that relied on low level satellite
10 communications that have to be in conformance
11 with the FCC requirements. Now we're using wide
12 area, using the internet. The FCC may have some
13 authority over that, but back to the mid '90s
14 when you had low level satellite games
15 broadcasting the signal around reservation to
16 reservation, you needed to be in compliance with
17 FCC regulations. That's my recollection of why
18 FCC is there.

19 MR. PUROHIT: As I studied regulations in
20 my spare time, one of the things that I've
21 collected as one of the best practices go as well
22 is kind of like put the onus on the manufacturer
23 and require attestation from them saying we're
24 attesting to the fact that we are complying with
25 all applicable federal laws including federal

1 compliance. It might be something that can't
2 even be tested by an independent test lab because
3 they're not going to know how when it goes into
4 effect and like if it goes into a wide area
5 network, if it goes into a single property. But
6 as long as the device is built by conforming to
7 those standards -- there's other ones like OSHA
8 is a requirement as well. But as long as it's a
9 requirement saying that they built it to these
10 standards, they're good to go. I'm just giving
11 an example. They're attesting to that fact. And
12 it might not be necessarily something that's
13 certified or whatever else it might be.

14 MR. WILSON: I would rather be able to
15 come back to the manufacturer, the onus on them;
16 it meets, you know, 22,000 standards out there.
17 Okay. Well, I'm not going to be able to test
18 that it does, but when something goes wrong, then
19 I want to be able to have the hook back to the
20 manufacturer that you said that it met all these
21 things. Because, again, you know, FCC -- but I
22 see all kinds of things. And if it's more of a
23 statement that it meets all applicable things,
24 you know, whatever those are, would make sense to
25 me. I just -- I'm just not understanding the

1 particular thing about the FCC being the only
2 thing that we would be concerned about for
3 purposes of this because then it implies in my
4 mind that maybe there's a bunch of other things
5 that they don't have to meet.

6 MR. FISHER: Okay. So there are two cards
7 out, and then let's decide whether this is
8 something that we want to put aside to come back
9 to or whether this is something that we're going
10 to declare we're not able to reach consensus on
11 right now and want to just explain what the
12 reasons are. Because that's the procedure when
13 we've gotten into a thing like that. So Mia and
14 then Robin, and then we'll check where we are.

15 MS. TAHDOOAHNIPPAH: I agree, I don't want
16 to get into writing a document that refers to the
17 federal government on any level. If it starts
18 here, where might it end in referring to
19 different agencies of the federal government?
20 You know, we talked about that earlier, referring
21 to Title 31 and then other parts that could
22 change. And I just think we can write our own
23 safety controls if needed.

24 MS. LASH: I think that the FCC emphasis
25 is important with the Class II games. It's an

1 important part of the history, and it's also an
2 important part of their internet potential to
3 have a reference to the FCC and with Class II.
4 So I propose leaving it in.

5 MR. FISHER: Okay. So here would be one
6 way to do this, is to check to see if we have
7 agreement on leaving it in. If we don't have
8 agreement, then figure out what to do. All
9 right. Because we've heard people who weren't in
10 agreement the first time explain why they weren't
11 in agreement. So let's check to see if we have
12 anybody who's not in agreement, and then if so,
13 we'll figure out what to do.

14 MR. MORGAN: Can I make one suggestion?
15 Because Jeff had language and basically clarified
16 whose responsibility it was to test. Can we
17 check that language? Because I was in the group
18 that said, yeah, I want to leave it in, but I
19 don't have a problem leaving it in with that
20 suggested change. And if that has more binding
21 from the group -- because that was a little
22 different. If that's a sticking point on leaving
23 it in, is that we're explicitly stating the lab
24 must check for -- Jeff, I'm sorry if I'm
25 butchering language. I could get on board with

1 that suggestion.

2 MR. WHEATLEY: Either way, and I don't
3 feel that strongly about it. I'm just -- my
4 thought process was that a tribal -- a local
5 tribal gaming regulatory authority is not going
6 to have the ability to test for that, so they're
7 going to feel like their hands are tied. They're
8 not going to know how are we complying with this
9 regulation. I thought it better to leave it at
10 the hands of the independent test lab.

11 MR. FISHER: So the recommendation would
12 be?

13 MS. HAMEL: Not be in the hardware
14 section, but be in the testing section?

15 MR. WHEATLEY: I would just say the
16 independent test labs shall test that the Class
17 II gaming system is operating in compliance with
18 applicable regulations of the Federal
19 Communications Commission.

20 MR. CALLAGHAN: Building for the future,
21 handhelds? There's interruption for -- that's
22 why I think to a degree that concept of -- and I
23 don't know, it's got to be the FCC controlling
24 internet or broadband, telephone, and all that.
25 So when you start looking at handhelds and with

1 ability for interference in the gaming
2 environment, it may be worth tabling this and
3 doing research of the FCC and controls they have
4 so we could come up with a language. I could see
5 from a tribal standpoint not wanting to put a
6 federal agency in there as having some control
7 over what we have. There's that visceral aspect.
8 But maybe we could come up with some other
9 parallel just as we did with Leo's suggestion on
10 adopting language that doesn't identify
11 particular jurisdictions, but we're using it
12 because it benefits us.

13 MR. FISHER: So your suggestion is to put
14 it on hold?

15 MR. PUROHIT: Do research on the
16 frequencies and all that.

17 MR. FISHER: And basically research the
18 impact on future technology?

19 MR. CALLAGHAN: It is there right now. I
20 think, Nimish, you've seemed like you've dealt
21 some -- with some of the manufacturers. There's
22 a few of them that have the handhelds and they're
23 testing it right now. We may want to see what
24 standards they're testing those to. Somebody
25 must have the standards.

1 MR. PUROHIT: There's wi-fi requirements.
2 There's wireless, in general, requirements, and
3 they can only broadcast on certain frequencies.
4 So there are requirements. And that's why you'd
5 say leave it a general requirement on the
6 manufacturer to make sure that they're building
7 to that. That's why I was just talking about it
8 from a session legal point. I'm not talking
9 about internet. I'm not talking about that at
10 all.

11 MR. LITTLE: There's a hearing on
12 Thursday, by the way.

13 MR. WILSON: Just to --

14 MR. MCGHEE: I mean, I hate to put
15 something on hold and research it. Who's going
16 to do the research and handle it? But, I mean,
17 couldn't we just generalize it enough to say that
18 the standards are the -- you know, that these
19 systems will operate in compliance with all other
20 federal and applicable federal regulations and
21 laws that are out there?

22 MS. TAHDOOAHNIPPAH: But isn't that what
23 the proposed language says?

24 MR. MCGHEE: No, it says the Federal
25 Communications Commission.

1 MS. TAHDOOAHNIPPAH: No, on the proposed
2 document on the summary, TGWG, it says that they
3 struck from that and then they added in 547.4 to
4 require that the testing lab provide TGRA with a
5 formal report, and the testing laboratory written
6 report shall note the submission of any other
7 compliance with applicable federal laws or
8 regulations.

9 MR. MCGHEE: So basically we struck 547.7
10 and moved it to 547.4 -- so that fixes it. They
11 took it from somewhere, put it somewhere else to
12 correct it. Is that okay? Do you see that
13 language?

14 MR. FISHER: So that might fix the
15 problem. So let's just check if it does.
16 Because we might be trying to solve multiple
17 problems that are giving us contradictory
18 results. Tom.

19 MR. WILSON: Is what we're looking at the
20 proposed change not correct?

21 MS. LASH: No, I think it is correct.

22 MR. FISHER: Okay.

23 MR. WILSON: You struck the whole thing?

24 MR. MCGHEE: We struck the whole thing.

25 MR. WILSON: Because the problem is with

1 the document, it only shows in the proposed
2 changes; it doesn't show that you struck the
3 whole thing unless you read down, I guess.

4 MR. WHEATLEY: It looks like there's two
5 different versions.

6 MR. FISHER: Two different versions?

7 MR. MCGHEE: It's in red on his document,
8 but then it's struck out.

9 MR. WHEATLEY: Jason has a version where
10 the FCC portion is not struck, and it sounds like
11 other people have that, too.

12 MR. MCGHEE: It's red, but it's not a
13 strike-through.

14 MR. FISHER: Do you not have that?

15 MR. WHEATLEY: That's what I have.

16 MR. FISHER: So he has -- so Jason has a
17 version that -- where did you get that version,
18 off the web?

19 MR. RAMOS: No, that was distributed from
20 the Tribal Gaming Work Group.

21 MS. TAHDOOAHNIPPAH: Some of those have
22 mistakes, if you notice on ones that we already
23 covered. Like there's misspelled words and it
24 doesn't match the summary that the other one has,
25 so --

1 MR. WILSON: This is an issue we've got to
2 respond to in terms of what version.

3 MR. FISHER: So we all have to be working
4 from the same version. So, first, is it easiest
5 to work from the comparison document that the
6 NIGC prepared?

7 MR. LITTLE: You're saying there's errors
8 on that one?

9 MR. FISHER: Where's the error, is it in
10 the NIGC document or is it in the --

11 MS. TAHDOOAHNIPPAH: I think it's in the
12 working group.

13 MR. WHEATLEY: I believe what happened, I
14 didn't read them, but I saw that the Tribal
15 Gaming Working Group submitted documents with
16 comments regarding NIGC's comments, and I believe
17 that's the version that doesn't have the FCC
18 portion struck through. The stuff that we got
19 solely from the NIGC, it is struck through. So
20 it looks like it was -- there's a difference
21 there somehow.

22 MR. MCGHEE: The one that was submitted to
23 the NIGC officially by Horse Creek is this
24 document. It's just a copy of it. And it's
25 struck.

1 MR. WHEATLEY: And I think the Tribal
2 Gaming Working Group just recently added comments
3 to the NIGC's portion, the summarization and the
4 comparison document. They added comments
5 explaining why they did some of that. And it
6 sounds like that version is a little different.

7 MR. PUROHIT: Exactly. We're going back
8 to what was submitted to us, back in May of --
9 whenever Stephanie submitted it to us.

10 MR. FISHER: May 12th.

11 MR. PUROHIT: There's a different version
12 that was submitted to them by TGWG that's wrong.

13 MR. FISHER: So what are we working from?

14 MR. WILSON: So the version that I am
15 looking at is the one that's 11/9/11.

16 MR. FISHER: Wait a second. One
17 conversation going at a time. Okay. Tom.

18 MR. WILSON: Okay. The version that I'm
19 looking at is dated 11/9/11 which is the one that
20 came out I think in the last e-mail from you, was
21 the proposed -- the summary of proposed changes
22 to Part 547 Travel Gaming Working Group Review
23 dated 11/9/11.

24 (Discussion held off the record.)

25 MR. FISHER: So we definitely need to make

1 sure we're working from the same document.
2 However, what we do know about this particular
3 provision is there was a recommendation to delete
4 it and there was a recommendation to keep it, or
5 a proposal, I should say. So we just need to
6 figure out what we're doing with it.

7 MR. MCGHEE: I like how it was deleted and
8 then Mia, which I'm glad she did, pointed out
9 that it was actually addressed somewhere else.

10 MR. WHEATLEY: Without the FCC language,
11 but just all applicable federal.

12 MR. MCGHEE: I like that. If we can maybe
13 see how we feel about that.

14 MR. FISHER: For those of you that said
15 you wanted to keep it the way it was, or in other
16 words, not delete it, does the way that the
17 working group prepared moving it -- moving that
18 provision into 547.4, does that take care of what
19 you were trying to accomplish? So, Robin, the
20 question would be to you because you said you
21 wanted to leave it in.

22 MS. LASH: Well, you know, we have the
23 reference in 547.4 about meeting federal
24 regulations, so -- and maybe we can just add the
25 specific FCC language just to make sure because

1 of the nature of Class II and the broadcast
2 that's going on that we could say, you know,
3 federal regulations including the FCC maybe to
4 specify it?

5 MR. FISHER: Okay. So -- let me find this
6 in here so people can see this.

7 MR. PUROHIT: Do you have the comparison
8 document that we circulated?

9 MR. LITTLE: That's on our website?

10 MR. FISHER: Yes.

11 MR. LITTLE: Could you pull that up?

12 MR. FISHER: For what purpose?

13 MR. CULLOO: So we're all looking at the
14 same.

15 MR. PUROHIT: To make sure that everyone
16 is looking at the one that has the struck-out
17 language. If you have it available.

18 MR. LITTLE: Can you get on the internet?

19 MR. FISHER: No.

20 MR. WILSON: Robert, you know, for the
21 group, this is one of my concerns about getting
22 information from multiple people from the TAC.
23 So I know that we've got Oklahoma, you know, the
24 group that sends out versions of changed
25 documents. But it seems to me for purposes of

1 the committee, we need to have one definitive
2 repository where we can go to get this because
3 I'm, frankly, bothered that I'm working off of
4 apparently a version that isn't the same version.
5 And now that I hear discussion about, you know,
6 is the version that everybody thinks is the
7 version, was that really the version or whatnot.
8 And it seems to me that NIGC has to say here is
9 the version for purposes of discussion here that
10 we're talking about. Because, you know, I've
11 identified now what looks like five versions of
12 this document floating around, and I'm not sure
13 which one now I'm supposed to be using.

14 MR. FISHER: That's a really good
15 question.

16 MR. CULLOO: Can I ask why copies were
17 sent on the TGWG on the 9th, why this was set up?
18 Why did we get this sent to us?

19 MS. LASH: You're asking why?

20 MR. CULLOO: Why we got another copy?
21 Where the confusion is is this copy that was sent
22 out 11/9 is the wrong copy.

23 MS. LASH: My understanding of what
24 occurred was that the comparison document was
25 looked at by the Tribal Gaming Working Group.

1 There were several telephone conversations last
2 week about the comparison document looking at the
3 NIGC's comments, interpreting the work that the
4 Tribal Gaming Working Group did. And the Tribal
5 Gaming Working Group wanted to provide to the TAC
6 their explanation of why the Tribal Gaming
7 Working Group made the changes that they did
8 because that's one of the columns that you're
9 looking at. I can't explain why this is
10 un-struck, this 547.7(1). I don't know. Because
11 the only thing that the working group did was add
12 comments below so that it would be more
13 informational. And it was sent around just in
14 case you were curious as to why the Tribal Gaming
15 Working Group made the changes.

16 MR. CULLOO: But we don't know if there's
17 any more things that might not have been changed
18 in here.

19 MS. LASH: It makes no sense to me why
20 that was different because they worked off of the
21 comparison document, as far as I understood, you
22 know. That's weird. I can't answer that.

23 MR. WHEATLEY: But, I mean, there may be
24 different versions. There may be a bunch of
25 different language. I think that's all

1 irrelevant. Our job here is to present and
2 recommend to the NIGC what we feel as a group is
3 the best language and the best set of
4 regulations. So, I mean, the two versions from
5 Tribal Gaming Working Group, those are both
6 options. What we've discussed here, those are
7 options. It's upon all of us to come up with
8 what's the best solution, not is option one from
9 Tribal Gaming Working Group the best solution or
10 option two from Tribal Gaming Working Group.
11 It's what we believe is the best option. So I
12 think it's irrelevant what version we're working
13 off of. What's the best language.

14 MR. FISHER: To Tom's thing, we want to
15 make sure we know which documents we're working
16 from and where the repository for those documents
17 is.

18 MR. WILSON: You know, we were instructed
19 that there was a document submitted that was
20 going to be used as the basis for discussion. I
21 just don't want to be spending time discussing
22 something that's in a version that I have that
23 isn't in a version you have.

24 MS. LASH: It helps now that it's up here.
25 Now we all are looking at the same thing.

1 MR. WILSON: Yeah. And that's all I'm
2 saying, is as a point of reference, I'd like to
3 make sure that we're at least all at the same
4 starting point.

5 MR. MCGHEE: I think if we can just, like
6 you say, focus on whatever NIGC sends you because
7 that's what's going to be looked at. What I'm
8 looking at over here and what there was some
9 concern about was making sure -- because NIGC's
10 documents does not provide TGWG's comment as to
11 why they made a change, but the submission to
12 NIGC did have them. Okay. This document is on
13 the NIGC website as the official document with
14 the TGWG's comments, not any new comments, just
15 the comments at the time of submission. And then
16 you have the thing that -- those are two official
17 NIGC documents now. And those should be the only
18 two which we look at, which are all on the
19 website.

20 MR. WHEATLEY: If there are additional
21 comments, I think those members should bring
22 those with us and not distribute copies. That
23 will cut down on the confusion.

24 MR. MCGHEE: Or send them to NIGC and say
25 I would like to provide them to the TAC and then

1 NIGC --

2 MR. LITTLE: Send them to Robert.

3 MR. MCGHEE: At least we know where
4 they're coming from.

5 MR. FISHER: Send them to us, and we'll
6 take care of distributing them if you wish.

7 MR. LITTLE: Is everybody clear on where
8 these documents are located on the website?
9 There's a tribal advisory tab on the website and
10 then at the bottom we'll be adding all the
11 documents on there.

12 MR. FISHER: What's on the screen now is
13 the comparison document that NIGC prepared that
14 was distributed by Rita Homa in advance of the
15 October meeting. This is the document that was
16 sent to everybody.

17 MR. PUROHIT: Show everyone where
18 everything is real quick.

19 MR. FISHER: I was asked to pull up the
20 one that Rita sent. Rita didn't send me a color
21 version, which we did manage to get posted on the
22 NIGC website.

23 MR. LITTLE: Also point out where the
24 proposal submitted by Poarch Creek is on there.

25 MR. PUROHIT: There's like a special tab

1 as I clicked on it. I know our website is not
2 the best in the world. On the bottom part of it
3 there's comments received from the tribe. That's
4 where the Poarch Band of Creek Indians, that's
5 the Tribal Gaming Working Group as part of the
6 official submission, and that's the copy that we
7 were going off of as far as these comments go.
8 In the color comment as well, there's a resource
9 materials section where we have all the
10 comparison documents and everything. That will
11 be the most updated, and that's what's going to
12 be circulated. So if I click on that, you'll see
13 changes to 547. And these are the color PDF. I
14 think that's what the request was in the last one
15 as well. You didn't get this one?

16 MR. WHEATLEY: I didn't pull the color
17 ones. I have the same document, just not in
18 color.

19 MR. PUROHIT: This one also, because of
20 comments received last time, there was no
21 reference to comments as well. We just copied
22 and pasted the tribal -- from that working group
23 document, the comments as of 5/13/2011 and what
24 their justification was for recommending the
25 changes.

1 MR. FISHER: Pause for a second. What I
2 just heard you say is that the color version
3 that's on the website is different than the black
4 and white version that was sent in the October
5 meeting?

6 MR. PUROHIT: I don't know when that was
7 circulated.

8 MR. CULLOO: What's the date of the most
9 current one?

10 MR. FISHER: There's no remark on any of
11 these.

12 MR. GARVIN: The color version is
13 different than the black and white version?

14 MR. FISHER: It is. There are two
15 differences. Two differences. One is the color.
16 And two is what?

17 MR. PUROHIT: Two is right on the bottom,
18 where it says what their comments were. So it's
19 all been put in here as opposed to having two
20 different sections that you have to keep
21 referring back and forth. As far as the
22 substance goes --

23 MR. FISHER: Wait. I can tell you right
24 now by looking at it, the black and white version
25 has 12 pages, and the color version has 16 pages.

1 MR. PUROHIT: Correct. I'll go print them
2 off. But none of this -- just so that you're
3 aware, whatever is in here, the language
4 proposed, nothing has changed from there. That's
5 verbatim from what was submitted in the TGWG
6 submission.

7 MS. TAHDOOAHNIPPAH: You're saying the
8 green in the Poarch Creek version has been taken
9 out and put on a bottom page?

10 MR. PUROHIT: Exactly. So TAC can refer
11 to that, what their reasoning is for the change.

12 MS. LASH: Can you scroll down to 547.7,
13 let's see what the box is on that. I can't
14 understand why it's not crossed out on this one.
15 It is. It is all crossed out on that one.

16 MS. TAHDOOAHNIPPAH: Robin, look on the
17 end of -- there was a misspelled word on there,
18 too. On the very bottom of 547.4, federal, like
19 the word "federal" is misspelled, and it's not
20 misspelled in here. It's not just there that it
21 got messed up.

22 MR. MCGHEE: Maybe she was working on a
23 little earlier version than was submitted.

24 MR. FISHER: Can I make a suggestion that
25 whatever you need to do figure out what happened,

1 that you do that off line; that we take the two
2 suggestions that the official documents are the
3 ones that are posted on the NIGC website, those
4 are what we'll be using. And that if people have
5 documents that they want to circulate to the TAC,
6 that they send them to us and then we'll send
7 them out. And then they can get posted up on the
8 website under, you know, TAC member documents
9 distributed to the TAC. And so we can just keep
10 track of all the stuff that's floating around and
11 make sure we're all working from the same set of
12 documents.

13 That said, we still have -- if we go back
14 to that provision, we have some people who said
15 take it out, some people who said leave it in,
16 some people who said take it out with the change,
17 the other change that in here. So let's go back
18 to 547.7(a)(1) and see if we're striking that and
19 adopting that other suggestion, and then we can
20 move on to (2). So Daniel.

21 MR. MCGHEE: I would like to, if you don't
22 mind, just propose if anyone has an issue with
23 what's listed right up there on that right-hand
24 column as it's written, both sections, just like
25 it's written, and see what people say. I think

1 with that, it may be all fixed.

2 MR. FISHER: Okay.

3 MS. LASH: And I was in agreement, except
4 I had asked that FCC be specifically referenced.

5 MR. MCGHEE: Such as FCC.

6 MS. LASH: Yeah, and then it's covered.

7 MR. FISHER: Okay. So I can't do that on
8 here, because this is a PDF.

9 MS. LASH: Like I said, FCC.

10 MR. FISHER: Including regulations in the
11 Federal Communications Commission.

12 MR. WHEATLEY: I thought we also had good
13 comments with the static discharge, liquid spills
14 and stuff. So would it be applicable to make
15 that number (2) of 547.4?

16 MR. FISHER: You mean (ii)?

17 MR. WHEATLEY: Yeah, (ii). There might
18 already be that somewhere. But, yeah, the
19 language that we came up with, that we modified
20 from the Washington language.

21 MR. FISHER: It's no longer Washington.

22 MR. WHEATLEY: But I think there's value
23 in having that in there as well.

24 MR. MCGHEE: Are we going to put that in
25 the static discharge section?

1 MR. WHEATLEY: This one is specifically
2 talking about testing, right?

3 MR. FISHER: Can I ask you to hold that
4 question? Because what happens is, generally
5 speaking, you can only kind of hold two options
6 -- you can only choose between two options at one
7 time. You can have multiple options, but it's a
8 lot easier to say A or B and B or C or A or C.

9 MS. HAMEL: Eye doctor test. This one or
10 this one.

11 MR. FISHER: Exactly. That's why they do
12 it that way. People can hold a lot of options at
13 one time. So can we stick with what we're going
14 to do to (a)(1), so (a) first and then move on.

15 MR. MORGAN: I have a problem with that in
16 that if we agree on something and then we move
17 on, because for me, I'm fine with moving that
18 with (a) if you add it down here in little (i).
19 But if you're not going to add it to (i), then
20 I'm not okay with leaving it.

21 MR. FISHER: But that's the suggestion. I
22 just want to test -- I want to see if we can come
23 to agreement around that and then move on to the
24 spill provision. And maybe it's all connected
25 and we have to do it all at once. So the

1 suggestion is to -- no, that's not the right one.
2 Sorry, I got too many documents open now. Okay.
3 So the suggestion is to do what the TGWG
4 proposed, which is in red and blue, with the
5 addition of the provision in (1)(i) there of
6 specific reference to the Federal Communications
7 Commissions. So if you support doing that, raise
8 your hand.

9 (Indicating.)

10 MR. WHEATLEY: Which one is this?

11 MR. MCGHEE: What you referred to as a
12 separate issue.

13 MR. WHEATLEY: I know.

14 MR. FISHER: So what's your question?

15 MR. WHEATLEY: This is the language we're
16 talking about?

17 MR. FISHER: This is the language, with in
18 addition right here because I can't type it in
19 here, right here, that references the Federal
20 Communications Commission regulations.

21 MS. TAHDOOAHNIPPAH: Would it be in
22 addition?

23 MR. FISHER: It would say including the
24 regulations of the Federal Communications
25 Commission, such as.

1 MR. CULLOO: Why would you just put the
2 one? It puts more weight on one than the others.
3 People would interpret that the FCC is the --

4 MR. FISHER: Right. So the reason that
5 got suggested is because Robin has said she wants
6 a specific reference to the Federal
7 Communications Commission.

8 MS. LASH: Because of the nature of Class
9 II gaming and broadcast issues. That way
10 definitely one of the situations covered one of
11 the statutes looked at.

12 MR. WILSON: Before I can vote, I need one
13 point of clarification. Nimish, the issues of,
14 you know, those four or five criteria that we
15 looked at about spills and static discharge and
16 whatnot, are those in fact addressed somewhere
17 else in -- because I keep hearing that there's a
18 static discharge section.

19 MR. MCGHEE: That's another issue.

20 MR. FISHER: That's the next thing we were
21 going to take up.

22 MR. WILSON: Okay. My question is that --
23 we haven't forgotten that piece. I don't want to
24 vote yes for this if that precludes us from
25 discussing those other components.

1 MR. FISHER: No, I was trying to put that
2 on hold to do next. Maybe we can't. Maybe we
3 have to see the whole thing. I don't know. So
4 who else said -- anybody else say no to this
5 change?

6 MR. WHEATLEY: Well, if we are going to
7 add the FCC at the end of that, I don't know why
8 we don't keep the original language.

9 MR. FISHER: There might be -- well, this
10 is in -- they're in different sections trying to
11 get at different things. Wait a second. We
12 really need one conversation going at a time. So
13 there are people that have questions up. So
14 Daniel, who raised his hand, and then Michele and
15 then Jason.

16 MR. MCGHEE: My card is up. So just
17 because -- the two concerns I heard was FCC be
18 added and then other people say why get that one
19 person. So in this one, which this is Arizona
20 said FCC and OSHA, so could you say such as FCC
21 and OSHA standards?

22 MR. RAMOS: Why not bring the EPA in it,
23 too? Honestly for the construction of the
24 circuit boards, you don't want to be using
25 mercury switches and hazardous material. How

1 many federal agencies you want involved in this?

2 MR. MCGHEE: I don't think the way it's
3 going that we're going to convince the one to
4 take FCC out.

5 MR. RAMOS: My question is, what is it
6 about the FCC specifically that you think needs
7 to be added; why?

8 MS. LASH: Because of the nature --

9 MR. RAMOS: Because of the nature of Class
10 II. That doesn't tell me it, though.

11 MS. LASH: Well, specifically Rocket
12 broadcast.

13 MR. RAMOS: If you say, Shall abide by
14 federal regulations, that's not enough? It has
15 to specifically name the FCC?

16 MS. LASH: We're more comfortable with
17 specifically naming the regulatory body that
18 relates the broadcast signals.

19 MR. FISHER: This is a really funny thing
20 to get hung up on. I mean, I know it's really
21 important, but it's -- for some reason, we're
22 cycling back around the same questions. Every
23 single time somebody says take it out, somebody
24 says leave it in. And over time somebody says
25 leave it in, somebody else says I don't

1 understand where you want to leave it in.

2 MR. WILSON: Only one is advocating.

3 MR. FISHER: Let's go, so it's Michele,
4 then Mia, then Kathi.

5 MS. STACONA: We went from just having the
6 FCC in there to now opening up to God knows what
7 federal laws and regulations out there. That's
8 what bothers me right now, is what the heck are
9 all the applicable laws that are out there then?
10 I wouldn't have a clue. We just made it worse
11 with that language.

12 MS. TAHDOOAHNIPPAH: Yeah, I agree with
13 Michele. But I also feel like the language as it
14 is includes the FCC.

15 MR. FISHER: Okay. Kathi?

16 MS. HAMEL: Does everybody have the issue
17 or just Rocket?

18 MR. FISHER: And so, Tom, you're next
19 then.

20 MR. WILSON: I just want to say in answer
21 to -- I don't think that it's a question that it
22 opens up or doesn't open up by saying all
23 federal. For me, I want the manufacturer to be
24 on the hook. I don't want to be on the hook as a
25 regulator. I want to be able to hold the

1 manufacturer accountable that you're ensuring
2 that this system is in compliance with whatever.
3 And if it's not, then I hold you responsible. I
4 know, though, as a regulator I do not have to go
5 out and figure out what all these things,
6 potential requirements are. I'm putting that
7 ownership by this wording on the manufacturer
8 where I think that's the appropriate place it
9 should be. And that's what you're paying them
10 for, to figure that out. And then if you have
11 questions about a specific thing that may be of a
12 concern in your jurisdiction, you can ask did
13 that -- have you in fact ensured that it complies
14 with the FCC. And if they tell you yes, then
15 there we go. Again, it just seems to me that,
16 you know, your concern is FCC. I got it. My
17 concern might be the FAA. Your concern might be
18 the DEA or whatever, so I just -- I would rather
19 have the language that says, you know, I can
20 leave it at that and then make it my concern
21 locally as to what specific agency I want to have
22 a concern about.

23 MR. MCGHEE: And I guess by leaving it
24 out, you still win because it includes the FCC.
25 So I don't understand the need for it to be

1 MR. FISHER: But we got through it. Who
2 would have guessed that the FCC --

3 MR. WHEATLEY: I didn't think anybody
4 liked the FCC.

5 MR. FISHER: All right. So, moving right
6 along, the next suggestion had to do with this
7 language, right, and so we have this language and
8 -- okay. What do you think?

9 MR. MORGAN: You got two questions. One
10 is whether you agree with the language, and two
11 would be where does the language go.

12 MR. FISHER: Correct. And then there was
13 a suggestion about the language that is -- just
14 hold on a second -- that is down here in the
15 printed circuit board section. Also it has --
16 wait a second. It's right -- do you mind if I
17 just take this out for one second? It's an
18 electrostatic discharge. All right. So, Jeff,
19 you have your card up.

20 MR. WHEATLEY: Yes. So I think if we make
21 (ii) with that, the language that we spelled out
22 right there, that you could actually strike the
23 electrostatic discharge portion that's a little
24 bit farther down. Because the electrostatic
25 discharge portion down there is very specific on

1 to what degree variance, plus if the independent
2 test lab tests the fact that the components are
3 not affected by static discharge, that covers it.

4 MR. FISHER: Okay. So your suggestion is
5 take this language and strike this?

6 MR. WHEATLEY: Yes.

7 MR. FISHER: And it would become (ii)
8 right there?

9 MR. WHEATLEY: Uh-huh.

10 MR. FISHER: Okay. Everybody follow that?
11 Everybody follow that? So I'm not sure everybody
12 followed it.

13 MS. LASH: Yeah.

14 MR. FISHER: Everybody did. Okay. So,
15 Kathi and Dan, you have your cards up. So --

16 MS. HAMEL: I just have a question for the
17 whole group, and they may not -- my questions may
18 not be by the TGWG document, but testing seems to
19 show up in the document in more than one section
20 and in more than one form. And right now, what
21 we're talking about is 547.4, limited immediate
22 compliance. And we seem to be talking about what
23 needs to be tested. But if we go on, under
24 (a) -- if we go on to (c), there's a section
25 called submission, testing and approval that

1 look at the grandfathering provision where it
2 says that you have to be certified pursuant to
3 paragraph (a), and this was one of those big
4 things that we talked about everything needs to
5 have done immediately is safety testing, and
6 that's why it points back to (a), not (c).
7 Because (c) is not something that has to be done
8 in a grandfathering situation. So only --

9 MS. HAMEL: So does this have to be done
10 before grandfathering?

11 MR. MORGAN: Under (a), yes. Am I reading
12 that wrong?

13 MS. HAMEL: This has been added.

14 MR. MORGAN: I'm reading under
15 grandfathering provisions where it says, All
16 Class II gaming systems manufactured, and I know
17 we've changed some of that language since, but
18 basically it says, And certified pursuant to
19 paragraph A of this section are grandfathered
20 Class II gaming systems to which the following
21 provisions apply. You need that
22 electromechanical and spill testing done on both
23 grandfathering and non-grandfathering machines,
24 so I think it is important that it goes there. I
25 don't have an issue if you want to put it

1 somewhere else, but --

2 MS. HAMEL: So if you're testing a fully
3 compliant system, you don't have to do this?

4 MR. MORGAN: No, you should have to. But
5 grandfathering only points back to certain
6 subsections that you have to meet. And (a) is
7 one of those subsections it points back to.

8 MS. HAMEL: Okay.

9 MR. WHEATLEY: And I think the reason that
10 we developed this language was to counter the UL
11 stuff, and that just happened to be in that
12 section that was about technical hardware
13 requirements. So this addresses those technical
14 hardware requirements, but I guess it doesn't
15 address it for the grandfathering stuff, if I
16 understand it correct.

17 MS. HAMEL: Okay.

18 MR. FISHER: That answer your question?

19 MR. WHEATLEY: So how do we address that
20 then?

21 MS. HAMEL: It still confuses me.

22 MR. WHEATLEY: I think it needs to be
23 addressed for both grandfathered and fully
24 compliant systems.

25 MS. HAMEL: Because it's not an immediate

1 -- it's not a limited -- it's any system in any
2 player interface.

3 MR. PUROHIT: I think you put it in the
4 hardware section and then refer it, like Matthew
5 pointed out, and that will address your issue,
6 that it's going to be tested for fully compliant
7 systems, and oh, by the way, there's also a
8 requirement here. However, it's grouped under
9 general hardware testing requirements.

10 MR. FISHER: Isn't that where it is right
11 now, the electrostatic?

12 MR. PUROHIT: Correct.

13 MR. FISHER: It is in the hardware
14 section?

15 MR. PUROHIT: Correct. Everything else,
16 like what Kathi is saying, is being moved under
17 just the specific grandfathering, which is
18 referring to the hardware section before.

19 MS. HAMEL: Wasn't that the recommendation
20 to now bring it down part of testing, before
21 grandfathering?

22 MR. MCGHEE: No. I mean, all he did was
23 add it to the hardware section at the top, right?

24 MR. WHEATLEY: Uh-huh.

25 MR. FISHER: Daniel, you had your card up.

1 MR. MCGHEE: Well, we're not anywhere on
2 there. We're on the next -- that's done. That's
3 been approved and voted on, right?

4 MR. FISHER: Yes, but Jeff suggested we
5 add this language in here. Yes. Right here. As
6 right here. That's why that was up there.

7 MR. WILSON: Jeff's issue is that if it's
8 only referenced elsewhere pertaining to
9 grandfathered machines, it needs to also pertain
10 to compliant machines.

11 MR. MCGHEE: I was thinking it was in the
12 place where we deleted the static discharge and
13 just the extent of that, this was the new
14 language.

15 MR. FISHER: That's what Nimish suggested,
16 that it be in the hardware section. So it could
17 substitute for that language in the hardware
18 section.

19 MR. WHEATLEY: I'm fine with that. Rather
20 than making it the two, we could change that to
21 now the same line item, the electrostatic
22 discharge.

23 MR. FISHER: Right. So it would in
24 essence take the place of that highlighted
25 language. In the old one it was (2)(c) but now

1 it's (b), because we eliminated (a).

2 MR. MCGHEE: They can't see that because
3 there were no changes made to that.

4 MR. FISHER: Right. It's a little hard to
5 follow sometimes. All right. So the suggestion
6 is to replace -- take this language, minus this,
7 to take this language, and substitute it for this
8 language -- let's make the whole thing because
9 the title would change, too. In 547.7, which is
10 the hardware section -- everybody with me? Okay.
11 So I know that doesn't address the question that
12 Kathi raised directly, but let's -- should we
13 check it?

14 MR. CULLOO: Earlier Nimish said there
15 were five areas of concern. This is only three.
16 Was there something else you need to add to that?

17 MR. WHEATLEY: One of them was the RNG.

18 MR. PUROHIT: There's a few others from --
19 like the Arizona specific ones.

20 MR. MCGHEE: You checked the title.

21 MR. RAMOS: Electromagnetic covers both of
22 those.

23 MR. FISHER: Then we have electrostatic.
24 So it's this --

25 MR. PUROHIT: It's not necessarily both of

1 them. It's slightly different testing for both
2 of them. Electromagnetic discharge is taking a
3 look at the shielding. The other one is taking a
4 look at quote, unquote, "magnetic interference"
5 of the different components as well. So one is
6 grounding, the other one is shielding. It's an
7 engineering thing.

8 MR. RAMOS: Electromagnetic radiation.
9 There's no difference between magnetic and
10 electro.

11 MR. PUROHIT: I agree. But from a testing
12 perspective, they have two different series of
13 tests for both of them, though. One is they look
14 at the actual grounding part and see if it does
15 have any as a vulnerability in the grounding or
16 the cabinet itself. And the other one is taking
17 a look at the individual components and see how
18 vulnerable they are to magnetic --

19 MR. RAMOS: If you define them both as
20 electromagnetic, you're telling me it's a
21 different -- it's different the way that the
22 manufacturer will interpret it?

23 MR. PUROHIT: Not manufacturer. The test
24 labs, when they do the tests; they might not test
25 for one of the other requirements.

1 MR. RAMOS: They'll just say okay --

2 MR. PUROHIT: You can put it in there,
3 it's fine. I can't really speak for the
4 independent test labs, per se, but when I was
5 there, there are specific tests that we would do
6 which were correlated with the specific
7 conditions in here. Because the definitions of
8 the conditions themselves, they're put in there
9 as well. That's what we would actually test at.
10 But like I think you had --

11 MR. RAMOS: There's no difference between
12 electricity and magnetism. Electromagnetism is
13 the same thing.

14 MR. MCGHEE: Electromagnetic interference
15 is the same as magnetic interference, is that
16 what you're saying?

17 MR. RAMOS: I'm saying that
18 electromagnetic energy is the same, right, so if
19 you say electromagnetic, it covers both of them.
20 But he's saying in a testing laboratory, they
21 separate those.

22 MR. PUROHIT: Exactly. It's just from the
23 definition perspective. Because this script is
24 taken pretty much verbatim from existing
25 standards elsewhere. That's the only reason I

1 recommended breaking them apart, because they
2 have two different scripts for them. But I
3 agree, it in essence covers both of them. I
4 don't think from a testing part it will
5 necessarily --

6 MR. FISHER: Does that mean you have to go
7 down here and check this language here? Do we
8 have to add in here?

9 MR. WHEATLEY: RFI maybe, do we need to
10 add in here?

11 MR. PUROHIT: Yes. Was this included in
12 the Washington State one?

13 MR. CULLOO: No, it wasn't.

14 MS. HAMEL: Not in Washington, but --

15 MR. WHEATLEY: Radiofrequency?

16 MR. FISHER: Is that the only thing that's
17 missing? Those are the five right there.

18 MR. WHEATLEY: I don't know the difference
19 between electromagnetic and magnetic.

20 MR. MCGHEE: That's the thing we were
21 discussing right now.

22 MR. PUROHIT: I will be comfortable with
23 Jason's recommendation because at the end of the
24 day, the test will test for both. I'll be
25 comfortable with that. I think from a Class II

1 terminal perspective, I think it covers what
2 you're talking about as well as far as the
3 radiation.

4 MS. HAMEL: Earlier we talked about the
5 final requirement, and I don't remember who
6 brought it up, and I apologize, for future
7 technology and other tests or other requirements
8 of the TGRA. That was the ending, if technology
9 changed and now it became --

10 MR. FISHER: Right. It's right there.

11 MS. HAMEL: Yes.

12 MR. FISHER: Are you saying to add it
13 right here?

14 MS. HAMEL: Uh-huh.

15 MR. FISHER: Okay. It took me a while,
16 but I got there. Okay. So everybody ready to
17 test this one? And, again, the recommendation
18 would be that that -- the language in yellow
19 would substitute for this language in the
20 hardware section. Should we test it? Yes.

21 MS. HAMEL: But I'm going to -- I have to
22 go back and ask the question that Matthew brought
23 up. If the sequence of events is that it's part
24 of testing even grandfathering, how does the lab
25 know that or the operator? What gets tested for

1 grandfathering or what gets tested for
2 everything?

3 MR. MORGAN: My comment goes back to
4 Connecticut, and I thought Jason and Jeff both
5 brought it up in Connecticut, that this type of
6 safety testing needed to be testing for even
7 grandfathered. Hardware -- it's irrelevant
8 whether software is grandfathered. The safety
9 needs to be tested every time, and that was my
10 point of bringing it.

11 MR. CULLOO: What is different? The four
12 requirements, what's different?

13 MR. PUROHIT: As far as like the terminal
14 itself?

15 MR. CULLOO: Yeah.

16 MR. PUROHIT: The terminal itself was not
17 necessarily a part of the grandfathered
18 requirement. And I think, from what I'm hearing,
19 is that's what's changing over here in this
20 recommendation, that they're making it part of it
21 especially from a safety and hazard perspective
22 or from a -- the safety of the actual terminal
23 perspective as well so it doesn't make it a
24 requirement as opposed to just saying a generic
25 underwriter. The four things of a random number

1 generator has to be random. The software has to
2 be able to be checked as far as the authenticity
3 of it, the foundation of it. It can't have any
4 reflexive software. And I always forget the
5 fourth one.

6 MR. MCGHEE: Where are those at?

7 MR. PUROHIT: 547.4.

8 MS. TAHDOOAHNIPPAH: Probability.

9 MR. PUROHIT: Probability, thank you.
10 It's 547(b)(2).

11 MR. FISHER: It's (b)(4)(1)(i).

12 MR. PUROHIT: It's (a)(2). Sorry about
13 that. It says it requires a testing laboratory
14 to test the submission to the standards
15 established by 547.8(b), 547.8(f), 547.714,
16 547.5(c).

17 MR. MCGHEE: Why can't you just say
18 547(b) -- whatever that, add that to that list of
19 things? I'm just saying that would -- if that's
20 the concern, to be tested to these specific --
21 that just add that reference to that one
22 sentence, which would be --

23 MR. WHEATLEY: My only concern is that if
24 that wasn't tested in the initial grandfathering
25 aspect, what type of impact is that going to be

1 on manufacturers and current operations? Would
2 they then have to go send those boxes to an
3 independent test lab to be certified to those
4 standards? That might be problematic.

5 MR. MCGHEE: Yeah. But, I mean, it was
6 either suggested that we do test to it or we
7 don't. I thought we were leaning towards trying
8 to figure out how to test them. That's what we
9 need to get a poll on. I'm confused. Do we want
10 to test the grandfathered stuff to this or --

11 MR. FISHER: That's a good question. What
12 were people trying to accomplish, to require the
13 grandfathered machines to test to those
14 requirements, or test to the static discharge
15 requirements, or not?

16 MR. MCGHEE: And like you said, being the
17 cost of sitting on all the old boxes you've
18 already grandfathered to be tested, it's almost
19 too late for that.

20 MR. WHEATLEY: Exactly.

21 MS. LASH: Exactly.

22 MR. MCGHEE: So I move that you don't
23 require it now if it wasn't required before.

24 MR. FISHER: But the way, this --

25 MR. MCGHEE: This would apply to new

1 stuff.

2 MR. FISHER: So maybe get rid of this if
3 they want to make it compliant.

4 MS. LASH: Right.

5 MR. FISHER: So let's see, should we test
6 this? Because we were about to test it and then
7 we had the request about what applied to the
8 grandfathered provisions, right? So we've now
9 determined that this should not apply to the
10 grandfathered provisions, and it would be located
11 in the hardware section. And so the suggestion
12 is to replace this language right here with the
13 language in yellow. So if you're in agreement
14 with that, raise your hand.

15 (Indicating.)

16 MR. FISHER: Okay. So we have two people
17 who didn't raise their hand. And so Michele?

18 MS. STACONA: I'm still thinking.

19 MR. FISHER: Still thinking.

20 MS. STACONA: Yeah.

21 MR. FISHER: You could just pass, which is
22 to say you could abstain from this.

23 MS. STACONA: I'll pass. Abstain.

24 MR. FISHER: Okay. So Jason has a
25 question, and then I'm going to turn to Brian.

1 MR. RAMOS: One question for Nimish. Did
2 we cover all those areas in your experience that
3 required testing? I mean, how about lasers or
4 photons? I mean, do you find that at other
5 places? If we're going to tackle this thing and
6 hit it here, we might as well consider those. I
7 mean, in your experience, is there any others?

8 MR. PUROHIT: No, those are pretty much
9 it. The idea is they want to replicate the
10 casino environment and the clumsiness or
11 aggressiveness of patrons, and then any other
12 known vulnerabilities that are exposed that they
13 have around the chassis of the cabinet. It's
14 just to be sure that the cabinet is so robustly
15 built so nothing from the outside can influence
16 anything on the inside. That's the general
17 principle. And that's how they take a look at
18 the shielding and the radio interference and
19 everything else. And that's what they will test
20 it. It's like a brand new concept, for example,
21 for, like, wireless handheld in a session bingo
22 or CardMinder environment, they'll make sure that
23 nothing that is transmitting can be intercepted
24 either. So that's the security part of the
25 handheld itself, that it can't be compromised

1 just because it's not physically enclosed
2 somewhere behind the scenes.

3 MR. RAMOS: I say that because I remember
4 in the Class III world, people try to cheat the
5 hoppers with light devices. But that's not
6 really comparable in the Class II arena.

7 MR. PUROHIT: Exactly. Yeah, there's not
8 -- I'm not aware of many hopper installations
9 right now. But if it does have -- the only
10 electrical mechanical components that I've seen,
11 even for the benefit of the TAC here as well, are
12 the spinning reels, the stepper Class II games.
13 And those are already irrelevant anyway as far as
14 the payout mechanism goes. So from that
15 perspective -- and the only other moving parts
16 inside are the power supplies and all that other
17 stuff.

18 MR. FISHER: Brian, are you okay with
19 this?

20 MR. CALLAGHAN: Yes.

21 MR. FISHER: Okay. So then that one is
22 done. We're kind of knocking them right off now.

23 MS. HAMEL: Can I ask a question? Since
24 we circled around our concern of adding this
25 electrostatic discharge and how it could affect

1 grandfathering, doesn't the (i) that we've added
2 to (a)(3) affect grandfathering? Testing to
3 applicable federal laws and regulations, that
4 wasn't there before.

5 MR. MCGHEE: No, because we would have had
6 to test to those regardless. We didn't require
7 that. That was just another authority would have
8 had to say you haven't been tested.

9 MS. HAMEL: But this is coming -- this is
10 now being required to be grandfathered compliant.

11 MR. MCGHEE: Any other federal laws that
12 existed out there, they would have had to be
13 compliant with them anyway. Not just because --
14 we told them what we wanted.

15 MS. HAMEL: Are there grandfathered
16 systems out there that maybe don't comply with
17 that regulation? Because it wasn't there when
18 they were set --

19 MR. MCGHEE: The FCC was there and the
20 other UL. All those were there when those
21 machines were created.

22 MS. HAMEL: This is far more general. The
23 FCC was hardware, not A before B of
24 grandfathering. These are out of order. 547.7
25 is talking about hardware. 544 -- 547.4 is

1 talking about A, immediate compliance, and B,
2 grandfathering has to meet A, and we've added
3 that to A. It wasn't there before.

4 MR. WHEATLEY: So by changing it from
5 547.7, we have introduced it into the
6 grandfathering portion?

7 MS. HAMEL: Yes.

8 MR. WHEATLEY: It should have maybe stayed
9 under 547.7 where the FCC portion was originally?

10 MS. HAMEL: Or it needs to be down in
11 testing and submissions and not in A for
12 grandfathering because grandfathering says refer
13 back to A and make sure it's done. And that's
14 already passed and gone when we could have
15 grandfathered systems and grandfathered
16 components that are not compliant with that.
17 Yes?

18 MR. MCGHEE: Suggest moving it back?

19 MS. HAMEL: Or to testing maybe.

20 MR. FISHER: So this is a question that
21 you've brought up in the various different ways.

22 MS. HAMEL: I just brought it up because I
23 heard everybody saying that we couldn't stick
24 anything in here because there's already
25 grandfathering device systems out there, and

1 therefore they're not grandfathered because that
2 didn't take place. But then I went back and
3 said, well, we -- which was the static and the
4 all that. Now, we've put -- embedded this
5 statement and we have all these grandfathered
6 systems and components that may not -- that most
7 likely did not have a report that tested to those
8 other --

9 MR. MCGHEE: Where would you recommend
10 putting it?

11 MR. FISHER: Is this a question that the
12 working group addressed? This is a working group
13 suggestion to put --

14 MR. MORGAN: Not that I know of, because
15 my recollection of this is basically whether you
16 were in compliance with applicable federal laws
17 and regulations is not really the question there.
18 What the point was -- you want to put it on the
19 report, going back to Daniel's point of whether
20 you were compliant or not, is not that
21 requirement. The requirement is the testing lab,
22 you have to put it on the report. Now, old
23 grandfathering reports won't have it on the
24 report. But that still doesn't say do you have
25 meet something; it just says it's on the report.

1 that only addressed hardware if you put it where
2 it was. And they want it to address software and
3 hardware, so put it in the testing. Is what the
4 argument is?

5 MR. WILSON: In 547.7, if that is specific
6 to grandfathered machines --

7 MR. WHEATLEY: It's not.

8 MR. PUROHIT: Hardware only.

9 MR. WILSON: Hardware only. But then it's
10 547.4 that is specific to grandfathered machines,
11 no?

12 MS. HAMEL: 4(b), but 4(b) says you have
13 to comply with 4(a).

14 MR. WHEATLEY: So yes.

15 MR. WILSON: I don't know what I'm yes'ing
16 or no'ing to. But in my mind, it seems to me
17 that the grandfathered component should be very
18 clear. There should be no ambiguity about what
19 applies to it and what doesn't. So if the
20 hardware testing section, 5(c), only applies to
21 non-grandfathered machines -- correct? Then it
22 seems like that's where this federal requirement
23 should be. But not where it's confusing that
24 does this or does this not apply to a
25 grandfathered machine. Because I agree, they may

1 or -- whatever laws applied at the time when
2 those machines were manufactured could be
3 different than laws that exist now, which would
4 defeat the whole purpose of the grandfathered
5 machine. So from my simplistic standpoint, it's
6 just I want to know that a grandfathered machine
7 doesn't have to meet X, Y and Z, but all other
8 machines do have to meet whatever.

9 MR. MCGHEE: Okay. The grandfather
10 provision only addresses the four software
11 issues. But the new fully compliant section
12 address hardware and additional software issues.
13 So applying -- the comment about applying, making
14 sure you comply with applicable laws needs to
15 apply to software and hardware components of a
16 new system, just not the old system. So you
17 don't want to put it in the hardware section or
18 the software section. You want to put it in a
19 section that applies to all the new machines but
20 not the old machines. She's suggesting putting
21 in the testing section which actually addresses
22 testing of new machines and old machines, right,
23 the testing section does?

24 MR. WILSON: Right. I guess wherever it
25 goes, it needs to say that this applies to X

1 machines and not grandfathered machines. Now,
2 maybe I'm just confused in my mind and it all
3 makes sense.

4 MR. MCGHEE: What you're saying is right
5 where it goes. I think it's under the testing
6 section as it's separated.

7 MR. WHEATLEY: I don't, per se, see a
8 testing section.

9 MR. FISHER: 547.4(c), submission, testing
10 and approval generally. It could go in there.

11 MR. WHEATLEY: That's only for
12 grandfathered systems, right?

13 MR. FISHER: No, that's everything.

14 MR. PUROHIT: Bulletin 2008-3, there's a
15 section called Questions about grandfathering
16 testing. Question: How should hardware
17 components be tested for grandfathering? Answer:
18 Unless the TGRA adds specific hardware testing
19 requirements, there are no hardware tests that
20 must be performed for a Class II gaming system to
21 be grandfathered. And it goes on, the minimum
22 requirements of 547.4(a)(2) are only software
23 requirements. So there's existing language here
24 and existing guidance here that makes it
25 absolutely clear there's nothing unless the TGRA

1 goes above and requires that.

2 MR. WILSON: It tells me there's no issue.
3 Is that --

4 MR. MCGHEE: All it did is clarify what we
5 already knew, which was there was no hardware
6 testing in the grandfathering provisions. We
7 knew that. There was only software testing,
8 minimal software testing. So new provisions have
9 hardware testing and more complex software
10 testing, and they want that (i) to only apply to
11 the new stuff.

12 MR. FISHER: Michele and then Christinia.

13 MS. STACONA: I'm confused. Where are we
14 at?

15 MR. FISHER: Where we are is trying to
16 figure out where this -- where to give this
17 provision a home. Because it's currently in
18 547.4(a), which means it applies to the
19 grandfathering provisions. And so the suggestion
20 is to try to find a different home in testing for
21 this provision, notwithstanding the
22 clarification.

23 MS. STACONA: We're going to go back on
24 the consensus we made an hour or two ago?

25 MR. FISHER: Yep.

1 MS. HAMEL: That's my fault, because I
2 listened to what (b) says you have to comply with
3 (a).

4 MS. STACONA: I'm just reading our rules,
5 operating procedures. I believe we had in here
6 where once we reached consensus, we can't go
7 back. So are we going to --

8 MR. WHEATLEY: I think we realized we made
9 a mistake.

10 MS. STACONA: Even though in our rules we
11 said we can't go back?

12 MR. FISHER: I guess the question is if
13 you recognize -- some people believe that you
14 made a mistake. And so now we're trying to reach
15 consensus on how to fix the mistake. It could be
16 just leave it the way it is because that's what
17 you decided.

18 MR. WILSON: Well, that doesn't make -- I
19 mean, could we do a --

20 MR. FISHER: What?

21 MR. WHEATLEY: Closed session?

22 MR. FISHER: What do you want to do, Tom?

23 MS. TAHDOOAHNIPPAH: I think that's one of
24 the problems with using the summary document, is
25 that it's kind of choppy, so you don't get the

1 full picture of things that were before.

2 MR. WILSON: I get a sense, putting the
3 protocol aside because I agree that is exactly
4 what the rules say, that moving that section to
5 the hardware -- no, to the testing section, I
6 don't think anybody is going to have an objection
7 to that. I mean, that's just the sense I get.
8 So I'd be willing to throw it out to a vote and
9 then agree that we didn't follow protocol for
10 this one time and we'll be more careful in the
11 future.

12 MR. FISHER: Let's check that. So based
13 on everything that's been said, if you agree with
14 moving this provision right here, the one little
15 (i) provision to the testing section out of
16 section (a) into the testing section, raise your
17 hand.

18 (Indicating.)

19 MR. FISHER: Two people.

20 MS. THOMAS: I'm wondering if doing that
21 now is still going to make the grandfathered and
22 the new stuff have to comply with it putting it
23 in the testing section.

24 MR. WILSON: I was told the testing
25 section, my understanding is the testing section

1 as it exists now only applies to new machines,
2 compliant machines, not grandfathered machines.
3 And that that's a generally accepted
4 understanding.

5 MR. PUROHIT: I'm lost right now, too.

6 MS. LASH: Does the testing section only
7 apply to the newer stuff, not the grandfathered
8 stuff?

9 MR. PUROHIT: Are you talking about
10 existing regulations or the TGWG document?
11 Because that's what I'm lost at right now.

12 MR. FISHER: The existing regulation.

13 MR. PUROHIT: Okay. In that particular
14 case -- do you have a citation for the testing
15 section?

16 MR. FISHER: I believe it's 547.4(c).

17 MR. PUROHIT: Thank you. Right. It's
18 testing generally with any additional
19 requirements for grandfathering. So anything
20 that applies for fully compliant systems.

21 MS. LASH: That's where we move it.

22 MR. PUROHIT: Yeah.

23 MR. FISHER: If you really wanted to be,
24 as they say, adults in suspenders, you could just
25 make sure you have a note that says this is not

1 intended to apply to grandfathering provisions,
2 right? If you really want that clarification.

3 MS. LASH: Test it again now that we
4 clarified.

5 MR. WILSON: Can we vote again?

6 MR. FISHER: So the recommendation is to
7 move this to the testing provision, testing
8 provision, right? So raise your hand if you're
9 in agreement with that.

10 (All hands raised.)

11 MR. FISHER: Voila! Was that a question
12 or a late vote?

13 MS. STACONA: That was a late vote.

14 MS. TAHDOOAHNIPPAH: For clarification,
15 that is not applicable to the grandfathering
16 provisions.

17 MR. LITTLE: Yes.

18 MR. PUROHIT: I'll make sure they work on
19 that, too.

20 MR. FISHER: How about we take a short
21 break?

22 (Recess taken at 4:27 p.m. to 4:45 p.m.)

23 MR. FISHER: Okay. There are seven
24 technical standards proposals left to talk about.
25 That means ten minutes per proposal, if you want

1 to do it that way.

2 MR. LITTLE: Or we can go late.

3 MR. FISHER: Assuming that we don't get
4 through all the technical standards tonight
5 before we adjourn, we can pick up where we left
6 off.

7 So what is on the screen is what is next
8 on the TGWG list, which is Page 6, I believe.

9 MR. MCGHEE: The TGWG comment as to why
10 they made those are at the bottom.

11 MR. FISHER: I can project that because
12 it's on this document there. All right.

13 MS. HAMEL: Can we go to (f) and then --
14 did we ever talk about (c)?

15 MR. MCGHEE: Were there changes?

16 MS. HAMEL: I just have comments, I guess,
17 as always.

18 MR. FISHER: So, Kathi, did you have
19 something on (c) so we can make sure we cycle
20 back to it. Don't give it to us right now. Do
21 you have something on section (c)?

22 MS. HAMEL: Yes. But I don't see that the
23 TGWG talked about (c).

24 MR. FISHER: It did not, so we'll talk
25 about (c). All right. Daniel, you had your hand

1 up.

2 MR. MCGHEE: Yeah, I did. You may have
3 just fixed it, because I was going to suggest if
4 we could just stick to the script of it, and then
5 anything that wasn't addressed by the TGWG at the
6 end, if we get done, we can go back.

7 MR. FISHER: All right.

8 MR. MCGHEE: Secondly, can we work on the
9 premise of show us up there and ask anybody if
10 they object so we can get to the heart of it.

11 MR. FISHER: We could try it that way,
12 yeah, if everybody is willing. All right. So
13 that would mean that the next thing I would say
14 is if you support this change, raise your hand.
15 We have a couple of waits, so put your hands
16 down, because some people aren't quite ready yet
17 and some people have some questions. So maybe we
18 should start there and say if you have any
19 questions, let's take the questions and then we
20 can check it.

21 MR. MCGHEE: Start with do we have any
22 objection and then let them raise their hands.

23 MR. FISHER: That's given. We did that
24 and we didn't get everybody's hands up. All
25 right. So any questions? Do you have a

1 question, Jason?

2 MR. RAMOS: I got a question about
3 (f)(iii) or letter number 3. Are we saying there
4 that a tribe -- if a tribe is a testing
5 laboratory, can they or can they not test their
6 own devices?

7 MR. MCGHEE: They cannot test their own
8 devices, but if they own -- if their tribe owns
9 the, whatever you call it, the software or
10 whatever, they can't test their own.

11 MR. WHEATLEY: Because they're considered
12 the manufacturer at that point?

13 MS. HAMEL: That it's not independent.

14 MR. MCGHEE: They still would be
15 independent from what they're testing.

16 MS. LASH: So if Miami had a testing
17 company, we can't test Rocket.

18 MR. WHEATLEY: So if my tribe had their
19 own testing laboratory, they could test my
20 operation's machines as the independent testing
21 laboratory?

22 MR. MCGHEE: As long as if they weren't --
23 if they didn't have ownership.

24 MR. WHEATLEY: But they're still a member
25 and entity of the tribe?

1 MR. MCGHEE: Yes.

2 MR. WHEATLEY: Is there any concern that
3 that could be construed as not having a
4 separation of duties or powers?

5 MR. MCGHEE: It would be construed that if
6 your testing lab -- your testing laboratory was
7 crooked. But there's no benefit to really -- to
8 the tribe. I would say if your gaming commission
9 is your testing lab, I would assume part of your
10 testing lab, then they would be no more apt to
11 allow this than to allow any other technical
12 standard to slide.

13 MR. WHEATLEY: Can you really say at that
14 point it's an independent test lab?

15 MR. MCGHEE: It's an independent test lab
16 -- I say it's an independent test lab if you're
17 not testing something that you have a financial
18 gain in or financial interest in.

19 The way it was written before, so you
20 know, was that you could not test to any type
21 of -- my understanding, to anything you were
22 going to have in your casino, all right. So in
23 essence by putting that on the people that did
24 have testing laboratories would now be out of
25 business.

1 MR. WHEATLEY: They couldn't test other
2 tribes?

3 MR. MCGHEE: They were primarily testing
4 their own.

5 MR. WHEATLEY: Right.

6 MR. MCGHEE: Stuff that was not their own
7 tribes'. Stuff that was coming into their casino
8 had to come to them first as a commission to be
9 tested before it would be allowed on the floor.
10 So I guess it's the same thing about procedure
11 has to go to the commission before it's allowed
12 to be implemented. So you're giving them the
13 same credibility as you've always given them
14 throughout the document, except all of a sudden
15 why would this be any different just because
16 they're a testing laboratory; that they would not
17 test to the standard that should be tested. Now
18 it's a question throughout the document.

19 MR. PUROHIT: I just want to answer Jeff's
20 question. As the standards stand right now,
21 there's nothing that really prohibits a
22 tribally-owned lab to test for any other
23 jurisdiction. The only thing it prohibits them
24 testing is in their own jurisdiction regardless
25 of where that laboratory lies. That's the only

1 clarification I wanted to make to your question.

2 MR. WHEATLEY: It doesn't necessarily
3 prohibit them from testing it. They wouldn't be
4 the independent test. They would still have to
5 have an independent, GLI, BMM, Eclipse, whoever,
6 and then they could do their own testing.

7 MR. PUROHIT: Correct.

8 MR. MORGAN: In Class II, the tribe is the
9 primarily regulator, and they are deemed as
10 independent from your operation in every other
11 regulatory function. I don't see how that bleeds
12 over into restricting a tribe from testing its
13 products from the independent point because I
14 think I agree with Daniel, it does go back to
15 credibility of that testing. And, you know, this
16 perception of Indians can't regulate Indians is
17 wrong. It's just wrong in my opinion. I don't
18 know why a prohibition is there. Not to say that
19 you're going to do it, but at the same time you
20 shouldn't prohibit unnecessarily for some reason
21 to do that. I guess that's my issue with
22 currently written.

23 MR. FISHER: Right.

24 MR. CALLAGHAN: The way I read this is
25 they met -- as Matthew had mentioned, is our

1 access where we're independent of tribal council.
2 And we got a gaming authority and there's --
3 there have been some questions by some vendors
4 even who came in and said the tribal council is
5 going to see if my personal file and things like
6 that were independent of that. They don't see
7 that. The way I interpret this is it's owned or
8 operated by the tribe. The testing laboratory
9 must be independent from the manufacturer and
10 gaming operator. I'm independent of the gaming
11 enterprise; therefore, if I had a testing lab
12 that was adjunct to the gaming commission, we
13 would be independent of the gaming operation
14 and/or the gaming manufacturer. So the way I
15 interpret this is they may be one in the same, in
16 essence, of under the tribal umbrella as long as
17 they could demonstrate their independence.

18 MR. MCGHEE: Independent from the
19 operations?

20 MR. CALLAGHAN: Correct. So that's the
21 way I interpret it.

22 MR. FISHER: Shall we test it to see if
23 everybody is ready? Kathi, you have a question?

24 MS. HAMEL: I have a question on the
25 language in (f)(1). It says that the testing lab

1 may provide. But shouldn't the regulations say
2 that the TGRA must require the testing lab to
3 provide?

4 MR. MCGHEE: Say again.

5 MS. HAMEL: Right now it starts out that a
6 testing laboratory may provide the examination,
7 testing, and this is all about the TGRA.
8 Shouldn't it say the TGRA must require the
9 testing lab to -- but it's the TGRA that must
10 request the testing lab to demonstrate its
11 integrity.

12 MR. MCGHEE: I don't know if anywhere that
13 it has to be a testing lab that performs the
14 tests, is it? Does it ever say that anywhere? I
15 don't think it does. And I think what they were
16 trying to do is saying a testing laboratory, if
17 there's some other kind of way of testing, as
18 long as you can still do it, you can use that
19 way. It's just generally accepted that there's a
20 testing lab, and there's only three or four out
21 there. But I don't think it was ever required
22 that it had to be someone that considered
23 themselves a testing laboratory.

24 MS. HAMEL: But it's still the TGRA is
25 requesting that of who's ever doing the testing,

1 not -- this isn't a regulation for a lab. It's a
2 regulation for the operations and TGRA to
3 implement.

4 MR. FISHER: It you look at the whole
5 regulation, the TGRA part is in little (iv),
6 starts in little (iv).

7 MS. HAMEL: But is it the lab's
8 responsibility to provide the examination -- but
9 is it the lab's responsibility to demonstrate its
10 integrity, or is it the TGRA that requires the
11 lab to do such?

12 MR. FISHER: Depends on how you read the
13 requirements of (iv).

14 MR. MORGAN: The way I understand it is to
15 qualify the testing agency -- or, you know, you
16 may provide these if you do these things. And a
17 big shift in concept is that -- I'm going to pick
18 on Dan and Nimish. This is the first time the
19 NIGC has come in from a vendor and said, I'm
20 going to make you do something, Tribal Gaming
21 Regulatory, to your vendor. That's a big shift.
22 That's never happened before that says you now
23 have to license the labs. Now, they give you an
24 out that says, well, you can rely upon another
25 jurisdiction's license of it if you want to. And

1 I know a lot of regulatory bodies did that and
2 say, I'm not going to go in and perform this; I'm
3 going to rely upon your Nevada lab certification.
4 So they kind of give them an out. That's a big
5 shift in paradigm of, hey, NIGC, we talked to the
6 tribal regulators, tribal regulators you talk to
7 your labs and your manufacturers. This now tells
8 you that you have to do something to one of your
9 labs. So it does speak to the TGRA having to do
10 something, but it's basically saying, lab, you
11 can qualify to do this testing if you demonstrate
12 these things to the TGRA, and this is how you
13 demonstrate them. You can do it directly to your
14 jurisdiction, or your jurisdiction can rely upon
15 some other licensing of this lab, and that's how
16 you say you're okay to provide testing to my
17 jurisdiction.

18 MS. HAMEL: Okay.

19 MR. FISHER: Okay. Are there any other
20 questions or suggestions before we test this
21 proposed change? Okay. So if you are in
22 agreement with what's up on the screen as
23 proposed by the TGWG, raise your hand.

24 (All hands raised.)

25 MR. FISHER: Okey-dokey. Done. Okay.

1 Next on the list here, is -- that was 13 minutes.
2 Tracking the time. Okay. So the next on the
3 list here is the -- this is Page 7 in your
4 document, and it is 547.7(g). This just takes
5 you down. So do you want me to display the TGWG
6 -- yep. That is -- that's it.

7 MR. PUROHIT: It was the same remark three
8 times over, so I put it up there once.

9 MR. FISHER: Okay. Right. Get it up
10 here. There we go. Okay. Anybody from TGWG
11 want to say anything more than about this one
12 other than what was in the remark? Anybody have
13 questions?

14 MS. HAMEL: Just semantics, isn't it?

15 MR. MCGHEE: It said -- the comment down
16 there stated to not get into the operation of
17 what a financial component does so much as the
18 design, the financial component. So that's why
19 they changed that.

20 MR. MORGAN: The technical standard has to
21 do with the document. And that's more of an
22 internal component, not a technical component.

23 MR. FISHER: Okay. So if you are in favor
24 of this change up on the screen, raise your hand.

25 (All hands raised.)

1 MR. FISHER: Another one. That one only
2 took 90 seconds.

3 Okay. So next on the list would be this
4 section on Page 8. Entertaining displays. I
5 don't think I can get the whole thing on there.

6 MR. MCGHEE: Do you want me to read what
7 the TGWG said?

8 MR. FISHER: Yeah.

9 MR. MCGHEE: In video gaming systems game
10 outcome is displayed on the bingo card located on
11 the player interface which is independent of and
12 separate from any entertaining display. Because
13 an entertaining display cannot in any way affect
14 the player outcome of the game, it is irrelevant
15 for regulatory purposes. Furthermore, in
16 conclusion of regulatory language concerning the
17 entertaining display creates false appearance of
18 legal relevancy that enhances the potential for
19 patron disputes. We therefore have proposed the
20 removal of that language.

21 MR. FISHER: That's what this
22 accomplishes?

23 MR. MCGHEE: Yes.

24 MR. FISHER: Okay. So people are still
25 reading. Just give them a second. Anybody have

1 any questions about this?

2 MR. CALLAGHAN: So what you're saying is
3 what this says is you're strictly relying on the
4 bingo replay, the card draw rather than the
5 entertainment display? So if that is wrong,
6 you're not misleading the public. If it doesn't
7 correlate, if the graphics don't match the ball
8 draw results, you're saying that won't be a
9 player dispute?

10 MS. HAMEL: They create a dispute.

11 MR. MCGHEE: It could create a dispute,
12 but they have no basis. Legally we can't even
13 rely on that entertaining display to do anything.
14 We have to show the bingo card and the bingo card
15 equals you should have won this much regardless
16 of the display.

17 MR. CALLAGHAN: That falls in line of
18 being electronic, I understand that. But I would
19 be inclined, and I like what Tom says, is holding
20 the manufacturers' feet to the fire. If that
21 entertainment display is misleading, as a
22 regulator I would have a concern with the
23 outcome. Manufacturer puts the wrong button
24 panel in, player has got a dispute over whether
25 he was hitting as opposed to what was being

1 played, I would hold the manufacturer's feet to
2 the fire. But conceptually --

3 MR. MCGHEE: By law, you only refer to the
4 bingo. That's what this is.

5 MR. RAMOS: The tough part about that,
6 though, is the player never disputes the bingo
7 card. It's the little thing on the side.
8 They're going to try to dispute the reel. If
9 somehow those don't match, you know, I've got
10 concerns as a regulator that it -- that you'd be
11 tough to field those disputes.

12 MR. MORGAN: It's not tough, to be quite
13 honest with you. And, again, we do preserve it
14 to the individual jurisdictions. What we're
15 saying as a federal basis -- and you can't start
16 anywhere without bingo; this is the common game
17 of bingo. It's the basis how legal was started
18 to make entertaining displays. As soon as you
19 give those reels legal significance, you've
20 changed the fundamental meaning of bingo, and
21 that completely borders that line between Class
22 II and Class III. Now, for your jurisdiction, if
23 you come in and you think the manufacturer did
24 something wrong there and you feel like holding
25 their feet to the fire at a local level, that's

1 within your prerogative to do. And you do see
2 that sometimes where players actually don't win
3 and then the dispute, the regulator, or whoever
4 the administrative body is, still may find for
5 the patron in that dispute. But that's up to an
6 individual regulator at a local level. On a
7 federal level to provide any legal significance
8 to entertain the display, you've almost wiped out
9 the total distinction between a Class II and
10 Class III game.

11 MR. MCGHEE: We've -- as a gaming
12 commission, we'll say if there was a win, you did
13 not win, you did not win. And based on the bingo
14 pattern, what was awarded was what you should
15 have gotten. And then we may make a
16 recommendation to the operation of that for
17 customer services for this kind of thing, you may
18 want to offer them something. Legally from the
19 gaming commission standpoint, there was no win,
20 done.

21 MR. MORGAN: You have to do some
22 education.

23 MS. TAHDOOAHNIPPAH: We have come across
24 where patrons do win their bingo patterns.
25 Believe me, they know what a winning pattern is

1 and they won on that bingo pattern but their
2 reels didn't say that it was a jackpot, and so
3 you have the opposite true. And so if they win
4 on that bingo pattern, they win. They win the
5 jackpot.

6 MR. CALLAGHAN: You're never going to get
7 the money back on something like that. And I'm a
8 big fan of predetermined outcome, and that does
9 happen with bonusing. You can actually cash out
10 on some of these lottery things without going to
11 the bonus round. And I may be getting ahead.
12 When we get back into game recall, are you guys
13 looking to cut back on that as well? I thought I
14 saw something in here.

15 MR. MCGHEE: Game recall for the bingo
16 patterns. It doesn't require the entertainment
17 display be recalled because it should have no
18 significance. So to make it be required is
19 almost saying why do you need to see that if it
20 has no bearing on if they win or not. Yeah, you
21 might want to as TGRA say it, but you don't want
22 it to be in this law.

23 MR. CALLAGHAN: So if I'm hearing you
24 correctly -- well, because these manufacturers
25 are going to test to a standard. And I don't

1 know -- well, I don't know, but I probably
2 should, what they're currently doing as far as
3 game recall. But I've only got Rocket right now.
4 I don't know what the other manufacturers are.
5 I'm a real advocate of game recall because in the
6 Class III world, even though it was a
7 predetermined outcome of the bonus, I've still
8 ruled in favor of the patron and against the
9 manufacturer because the rules weren't adequately
10 displayed and some other things.

11 MR. MCGHEE: It's a good idea as a TGRA,
12 you might want that just to demonstrate, you
13 know, that, yeah, there was a problem that the
14 reel did not match the bingo pattern. You do
15 want to at least be able to show that. And you
16 as a TGRA should require the manufacturer to add
17 it to your procedures, but don't put it in this
18 law because then you start giving credit to the
19 entertaining display.

20 MR. FISHER: So Robin and then Dan,
21 Nimish, Matt. You're done. Robin.

22 MS. LASH: And the entertaining display
23 can be dealt with in the fairness section, but as
24 Matt said and as Daniel said, it cannot be in
25 this section because this -- it changes this from

1 a Class II game. It is the legal -- the outcome
2 of the game is the bingo pattern, end of story.
3 That's what decides the game, and it cannot be --
4 you can't give legal relevancy to an entertaining
5 display, or it's not going to be Class II.

6 MR. PUROHIT: I just have a question.
7 This is something that I've come across in the
8 past as well. And it's somewhat of a complex
9 issue, and I think it's relevant in this matter,
10 but just for the TAC to think about and consider,
11 there's some manufacturers out there that allow
12 the patron to turn off the bingo card display
13 altogether and go completely into an entertaining
14 display part of it. And the key word there is
15 the option is up to the player to turn off the
16 bingo card display.

17 MS. HAMEL: It's just the opposite. Turn
18 off the entertainment display.

19 MR. MORGAN: They don't turn it off. What
20 they do is they allow you to hide it. It's still
21 there.

22 MR. PUROHIT: Wrong choice of words. You
23 can hide it. You can hide the actual bingo card.
24 It just goes up. But the point of the word is
25 when tribal regulators have asked me the question

1 in the past, I just want to put it for your
2 consideration out there, what's the remedy there
3 when the patron has that option, does the
4 disclaimer that says the actual prize is
5 determined by bingo or equivalent signage like
6 that, does that take care of that issue in your
7 experience, or how does that work out when they
8 have the option to hide the display?

9 MR. MORGAN: I'll actually address that.

10 MR. FISHER: You're next.

11 MR. MORGAN: One is you do have the game
12 recall that shows your patterns. Most of them
13 are common, at least the last ten. You can go
14 back in there and pull up your last ten plays
15 that show you how much you bet, what the pattern
16 was, what you should have won, and you can go
17 back and it's line by line and you can show them
18 what they actually won. Whether they're seeing
19 or not doesn't matter. The system still logs all
20 that information, so it's there. And as a
21 regulator, you have access to that information.
22 So you can recreate what happened play by play
23 for at least the last ten plays on those systems.
24 But going back to some of those entertaining
25 displays, because -- and I'll agree, Brian, a lot

1 of regulators like the comfort of looking at it.
2 Especially if you come from a Class III
3 background and that's what you're used to because
4 that is the sole significance. So some part of
5 it is educating your players, educating your
6 staff, educating people on the floor. But those
7 early cases that allowed you to plug in machines
8 and said this is Class II were solely based on
9 the fact of what does this machine do. It simply
10 reads the predetermined outcome and displays what
11 it is. That's all it does. And in some of those
12 early cases, you couldn't even have it in your
13 machine. You had to have a separate box for it
14 just so the judge understood that, and this was a
15 big key difference. What is the purpose of this.
16 Just to give your players some entertaining --
17 entertainment value of it so they're not looking
18 at a bingo card. Because that's what players
19 look to when they want to play. And from
20 Oklahoma's perspective, like Mia was saying
21 earlier, they will watch the bingo card and they
22 will know what the payout is before the display
23 even stops. In other jurisdictions,
24 predominantly Class III, it does require some
25 education to your players to make sure they

1 understand that difference.

2 MR. CALLAGHAN: We do that with the Class
3 III. As you very clearly articulated, Class III
4 world malfunctions void all play. And I'm not
5 recalling in the help screen or anything like
6 that, does it state in there bingo device
7 controls?

8 MR. MORGAN: Put that sticker on there.

9 MR. CALLAGHAN: There's a lot of our rules
10 that you have to be able to go on the help screen
11 and find the rules. Nonetheless, but it does say
12 it does control.

13 MR. PUROHIT: There's two requirements for
14 disclaimers. There's one that says malfunction
15 voids all pays. And the second one is actual
16 prize determined by the bingo or its equivalent
17 signage.

18 MR. CALLAGHAN: I'm satisfied.

19 MR. PUROHIT: That's only for a fully
20 compliant gaming system and terminals. It's not
21 for grandfathered terminals.

22 MR. CALLAGHAN: I'm fully compliant.

23 MR. FISHER: I don't see any other cards
24 up with questions. So do you want to test this
25 one? Are we ready? Yes? Okay. So if you

1 support and agree with the change on the screen
2 proposed by the TGWG, raise your hand.

3 (All hands raised.)

4 MR. FISHER: All righty, then. That was
5 about 12 minutes, and we had a full discussion;
6 12 minutes. We're picking up speed. All right.

7 Next on the list on Page 10 is
8 Section 547.3. This is in the definitions
9 section. Anybody have any questions about this
10 one?

11 MR. MCGHEE: Are you talking about .3 or
12 all of it?

13 MR. FISHER: All of it. What's up on the
14 screen. Might as well do all of it.

15 MS. HAMEL: Can we do each one of them
16 separately?

17 MR. FISHER: Okay. Let's do that one.
18 Okay. So should we test it? Ready? So if you
19 support the change in the definition to reflexive
20 software, raise your hand.

21 (Indicating.)

22 MS. TAHDOOAHNIPPAH: I'm still looking.

23 MR. FISHER: Put your hands down for a
24 second. Mia, did you have a question?

25 MS. TAHDOOAHNIPPAH: Oh, no, still

1 reading.

2 MR. FISHER: Okay.

3 MR. WILSON: While Mia is reading that,
4 can somebody give me an example of, you know, the
5 change that was put in there, deprives a player
6 of a prize to which the player is otherwise
7 entitled to based on the random outcome of the
8 game. What's an example of software that would
9 cause that to happen and isn't already taken into
10 account as far as any software that manipulates
11 -- I'm just trying to understand the rationale
12 for that additional piece in there.

13 MR. MORGAN: It actually strengthens where
14 it comes from, and the rationale was that and
15 this is -- I heard this third party. It's an
16 explanation from Mr. Mater. That when you're
17 playing a bingo game and you bought in at a
18 particular level and you're playing for a
19 particular prize, what the technology says is
20 just because you're getting close to the win, I
21 can't take you and knock you down to a lower
22 probability somewhere. I would be depriving you
23 of some prize that you are otherwise entitled.
24 However, if you're playing at that level and you
25 haven't played for a while, nothing says that I

1 can't give you better odds. Because that's the
2 way the game was intended to play. So if you've
3 put \$10 in and you went down to 5 and you're
4 about to hit something big, it can't say I'm
5 going to change out the odds all of a sudden and
6 change the game you're playing. That's wrong
7 because now we're depriving you. But if you play
8 down to that \$5 and you haven't won for a while,
9 say I'm going to move you up into a higher
10 probability and I'm going to make you win and
11 otherwise you may not because of what you were
12 playing, that's okay because in session bingo
13 that was allowed. Somebody had to hit a jackpot
14 and you're trying for a blackout, and you've gone
15 for two hours, they may say in the next five
16 numbers, if somebody hits it, we're going to add
17 \$500 to the pot. Great. That gives me a better
18 chance of winning. That's okay. From a player's
19 perspective, they like that. And instead of
20 saying in the next five calls, if somebody
21 doesn't win, then we're going to take you out or
22 I don't want to end that game, so you might have
23 won, but I'm going change that somehow. So the
24 Tribal Gaming Working Group actually thought they
25 strengthened this provision that some

1 manufacturer said we can live with. But
2 Mr. Mater's point to us was you can always better
3 the odds for a player. You just can't deprive
4 them of a prize they'd otherwise be entitled to.

5 MS. TAHDOOAHNIPPAH: In here, in the
6 working group, it says deprives or endows a
7 player of a prize, but it doesn't say that up
8 here.

9 MR. WILSON: What page are you on in the
10 tribal group?

11 MS. TAHDOOAHNIPPAH: 5. It's in the
12 definitions actually.

13 MR. MCGHEE: I don't see where it says
14 endows.

15 MR. PUROHIT: Which version are you
16 looking at? Do you have the date stamp on the
17 top?

18 MS. TAHDOOAHNIPPAH: 5/13.

19 MR. MCGHEE: The 5/13 is the one.

20 MR. FISHER: That's the one that's up on
21 the screen.

22 MR. MCGHEE: Are you reading the green
23 language, is that where that is? Because I don't
24 see it. Help me find it.

25 MR. PUROHIT: You know the page number, is

1 it Page 4?

2 MS. TAHDOOAHNIPPAH: I have comments, but
3 it's in the definition.

4 MR. FISHER: It says Page 5 on the screen.

5 MR. MCGHEE: Any software that has the
6 ability to manipulate and/or replace a randomly
7 generated outcome for the purpose of changing the
8 results of a Class II game or deprives a player
9 of a prize --

10 MS. LASH: So just going off this screen,
11 that's what we're talking about. So how does
12 everyone --

13 MR. RAMOS: I had one question for
14 Matthew, just so I get a better kind of grasp for
15 it. You said that you couldn't deprive a player,
16 right, you couldn't change the odds to deprive a
17 player, but you could change it in their favor.
18 Is it somehow later on reflected in overall
19 machine hold, I mean, how do you get that back?
20 Why would a manufacturer ever do that? Why would
21 you make it -- just the increased play on the
22 machine or what's the --

23 MR. MORGAN: Practically if I put in 20
24 bucks, I want a certain amount of play going back
25 and forth before you may take my 20 bucks. So I

1 want to win every third or fourth spin. I don't
2 want you to go down, down, down. And you may be
3 in that cycle of that, that you're going down,
4 down, down, down and you didn't win. Because if
5 I put in \$20 and I didn't win anything, I'm
6 probably not coming back to that machine. So it
7 may be in their interests to say if you've lost
8 20 bucks in I row, then I can raise you up
9 because I've actually increased your odds.
10 Maybe. That's just --

11 MR. MCGHEE: I think what we're talking
12 about here, that's just the kind of software that
13 can be both. It can raise it or it can decrease
14 it. And when it was in there before, it wasn't
15 real clear that it could totally deprive you of
16 winning to that kind of software. Whether later
17 on when we start talking about what reflexive
18 software isn't able to do is where we get into
19 what you're allowed to do as far as making it go
20 up and down. That's what that software can do.
21 It can deprive you or give you or take away.

22 MR. FISHER: Mia, have you figured out
23 your --

24 MS. TAHDOOAHNIPPAH: I'm fine.

25 MR. FISHER: Are you good with the change?

1 MS. TAHDOOAHNIPPAH: Uh-huh.

2 MR. FISHER: So that means everybody was
3 good with it. And so then the next part of this
4 is okay.

5 So 547.8(b).

6 MS. LASH: All that was struck was just
7 redundant language.

8 MR. FISHER: Say what?

9 MS. LASH: That was the comment we had.
10 This was taking out just the redundant language,
11 and redundant and confusing language was the
12 working group's comment. Taking out for bingo,
13 games and games similar to bingo being, you know,
14 we just say the Class II gaming system shall not.

15 MR. FISHER: Right.

16 MS. LASH: And then our perpetuations --
17 or commutations for game rules used for. We took
18 out "for game rules."

19 MR. PUROHIT: I have a question on behalf
20 of the commissioner as well. What's the main
21 reason that -- I think there's always been
22 confusion for that. But the main reason to take
23 out the rules being changed in the middle of game
24 play. Is there a reason that that was taken out,
25 or is it just the fact that a reflexive decision

1 is already going to take care of it, that once
2 the game play starts, what you see is what you
3 get; is that the reason it was taken out?

4 MR. MCGHEE: They thought it said the same
5 thing.

6 MS. LASH: I don't remember the
7 conversation on that because I'm not -- Daniel,
8 do you remember?

9 MR. MCGHEE: The reason it was taken out
10 is because in our opinion, it said you had to not
11 deviate from a constant set of rules provided for
12 each game. Which means any changes in rules
13 constitutes a different game. You can't make
14 changes in rules. Before you said you couldn't
15 deviate, so why say what happens if you do.
16 Because it says you can't in the first sentence.

17 MR. PUROHIT: It deprives the word itself.
18 I'm thinking of a scenario, back to the games
19 that might be played over international waters,
20 cruise ships. If you have a game that when you
21 read the game rules that says if you get an X
22 pattern in the first seven balls drawn, whatever
23 it might be, you get the jackpot. You get that.
24 You go back to the game rules, and it was
25 actually eight balls, and it changed out the game

1 rules. Does that meet the --

2 MR. MCGHEE: You deviated from a constant
3 set of rules.

4 MR. PUROHIT: That's the reasoning you
5 strengthened the definition in the first part to
6 capture for scenarios like that, right?

7 MR. MCGHEE: We didn't strengthen it. All
8 we did was delete.

9 MR. PUROHIT: I'm talking about the
10 reflexive software definition itself.

11 MR. MCGHEE: Yeah, yeah. I'm confused
12 now. I thought you were talking about this.

13 MR. PUROHIT: I am talking about that. It
14 seems like one part has been strengthened.
15 That's what you put in the comments as far as the
16 effect of the current provision. It does prevent
17 that first scheme, as it says over there, which
18 was the initiation in play, but it doesn't
19 necessarily prevent that other example I just
20 gave. Going back and retroactively changing the
21 game rules, not necessarily the outcome of the
22 game itself. Not necessarily the ball draw that
23 happened, but changing out the game rules, it
24 does prevent that from happening, too.

25 MR. MCGHEE: All it does is define

1 reflexive software.

2 MR. PUROHIT: I just want to make sure --
3 the reason for the amendment. Cool.

4 MR. FISHER: Okay. So any other questions
5 or comments on this before we check to see
6 whether people support this change? Okay. So if
7 you are in agreement with the change proposed by
8 the TGWG projected on the screen, raise your
9 hand.

10 (All hands raised.)

11 MR. FISHER: Okey-dokey. That takes care
12 of that one.

13 All right. So by my clock, it is one
14 minute before 5:30, or in other words, 5:29. And
15 at 5:30, we're scheduled to have a public comment
16 section. So I don't -- I don't think anybody has
17 signed up for the public comment section since
18 this morning, so why don't we check to see if
19 there's anybody in the audience that wants to
20 give public comment.

21 MR. GREEN: I didn't sign up.

22 MR. FISHER: I'm just checking. There
23 isn't anybody that wants to. Because if you
24 don't, we can use the next half hour to keep
25 going.

1 MR. GREEN: As long as you don't need me
2 interfering, I'm going to sit here quietly.

3 MR. FISHER: It's on the record. So let's
4 keep moving through this. And the next one on
5 the list is on Page 11, and it is on the
6 downloadable software. 547.12. Page 11.
7 Page 32.

8 MR. MCGHEE: The big document. Okay.
9 Kathi, you got your card up?

10 MS. HAMEL: Yes. Isn't this an internal
11 control?

12 MR. MCGHEE: Well, I think it used to be
13 an internal control. And to try to address the
14 reason they put it in there to begin with, and it
15 took any connotation to an actual control and
16 moved it to the MICS. So with the strike-out
17 version, do you still think it's a control?
18 Because it used to be very obviously a control
19 because it said the gaming commission had to
20 verify something and do this. Now it says the
21 system has to more or less be capable of
22 verifying, but nobody has to do anything.

23 MS. HAMEL: It doesn't say the system has
24 to be capable. It just said it must verify.

25 MR. MCGHEE: Downloaded software on a

1 Class II gaming system shall be verified by the
2 Class II gaming system.

3 MS. HAMEL: It says it's got to be
4 capable. But it's written in an internal
5 control. If it's a technical standard, it has to
6 have --

7 MR. MCGHEE: Downloaded software on a
8 Class II system shall be capable of verifying by
9 using -- download by using software signature
10 verification methods, something like that?

11 MS. HAMEL: Only if it's downloadable.

12 MR. MORGAN: Downloaded software on a
13 Class II gaming system shall be capable of being
14 verified by the Class II system using a software
15 signature verification method that meets the
16 requirements of Section 547.8(f); is that your
17 concern?

18 MS. HAMEL: Yes.

19 MR. MCGHEE: I'm cool with that.

20 MR. FISHER: Let me just go in here and do
21 this.

22 MS. TAHDOOAHNIPPAH: The whole section is
23 procedural. You know, like all of (a) where it
24 talks about the Class II -- on (6), the Class II
25 gaming system or the TGRA shall log each

1 download. So there that's giving -- saying that
2 the TGRA has to log a download of any downloaded
3 package. I mean, that's giving me procedure that
4 I have to do physically.

5 MR. MCGHEE: Where are you saying?

6 MS. TAHDOOAHNIPPAH: On (a)(6).

7 MS. HAMEL: 547.12.

8 MR. PUROHIT: You're referring to the
9 scratched-out portion?

10 MS. TAHDOOAHNIPPAH: No, I'm referring to
11 the actual --

12 MR. MORGAN: Mia is in 547.12, not (b).
13 She's just up above. She's just making a comment
14 that it's procedural in nature.

15 MS. TAHDOOAHNIPPAH: All of 543.12 is
16 procedural.

17 MR. MCGHEE: So basically where you said
18 the Class II gaming system or TGRA should log,
19 really it should be the Class II gaming system
20 shall be capable of logging each download.

21 MR. MORGAN: It is two issues. I was
22 thinking can we take care of one before we go to
23 the next? Because I agree with Mia, it is. But
24 I want to finish one before --

25 MR. PUROHIT: Can I ask the TAC a general

1 question about downloads in general, keeping in
2 mind I read the preamble and everything else and
3 have experience in the field. Downloads, like
4 when you regulate the downloads, are you
5 referring to downloads that exist as far as even
6 from the definition of the approved content that
7 you put into the system, install into the system
8 at some point and now once you introduce it in
9 the system, it can go anywhere? Or you're
10 referring to downloads for that scenario plus
11 anything that's introduced from remote access as
12 well? Because that's been the interpretation
13 that I've always seen. I just wanted to see what
14 everyone sees the interpretation of downloads in
15 general. Is it something within the system or
16 also extend to something that's coming into the
17 system from an external connection such as remote
18 access?

19 MR. MCGHEE: The last part.

20 MS. HAMEL: And I would say both.

21 MR. MCGHEE: It's both, it's the internal
22 and external. There's probably a definition in
23 here.

24 MR. MORGAN: I agree. My situation has
25 been both because I read the first sentence of

1 547.12, and it says for downloading on a Class II
2 gaming system, and a Class II gaming system is
3 more than what's taken from the server and
4 downloaded onto that terminal. It's what's
5 downloaded onto the system. So if it's remotely
6 downloaded, you download onto the system. It
7 means to self verify and a person has to come in
8 and verify the signature as well.

9 MR. PUROHIT: Going to Mia's observation
10 about 547.12 in general, do you think that even
11 putting it into a procedural context in terms of
12 putting it into the MICS altogether, or just the
13 fact that it is procedural in nature, do you
14 think it adequately addresses the areas where you
15 had the tools to verify the downloads both that
16 are coming in externally and internally based on
17 the current standards? Because I've heard
18 arguments to the contrary as well that going back
19 to the original conversation about grandfathered
20 systems, this may not necessarily be something
21 that's required by grandfathered systems.

22 MS. HAMEL: That's correct.

23 MR. PUROHIT: That goes to what I brought
24 up, I think, when Tom, you had asked the question
25 at the last meeting as well about what's the risk

1 factor here.

2 MR. WILSON: Well, this is -- I guess
3 coming back to the concern that I have of not
4 being as familiar with this document in totality
5 as the tribal working group, but are we really
6 clear throughout that grandfathered is
7 grandfathered and here's what applies to it, and
8 this -- the rest doesn't? Because now what I
9 hear you saying is that potentially this ability
10 to -- for the machine to self-validate after the
11 download, but there could be grandfathered
12 machines that don't even have that capability to
13 do that. But that this procedure -- you know,
14 we're dealing with now yet another section of
15 that is it -- is the implication that this
16 applies to both grandfathered and not machines?

17 MR. PUROHIT: That's what I wanted to
18 bring to your attention, this does not apply. If
19 you're looking at the downloads in their
20 entirety, something coming from outside of the
21 system, this would only apply to fully compliant
22 systems. The capability to offer that to the
23 tribal operator and regulator to test for
24 anything that's coming in as far as approved
25 content, that's only for fully compliant systems;

1 that doesn't apply to grandfathered systems. But
2 the one requirement that does apply to anything
3 is the ability to verify software in general.
4 But that doesn't include downloaded software. So
5 I wanted to bring that to your attention here.

6 MR. WILSON: So I was good up until the
7 last sentence. So we're saying that the
8 criterion here doesn't apply to grandfathered
9 machines, but it could apply to grandfathered
10 machines if software is downloaded onto them?
11 No. Okay.

12 MR. PUROHIT: No. Okay. Let me --

13 MR. WILSON: How could a grandfathered
14 machine -- is there a scenario where this could
15 apply to a grandfathered machine?

16 MR. PUROHIT: 547.12 is not reference to
17 as far as any requirements for grandfathered
18 gaming systems and their components. So from
19 that perspective, none of this applies unless the
20 TGRA says it applies to it. What I was trying to
21 say is if the software that is downloaded is
22 critical to the integrity of the environment of
23 the gaming system, then there has to be -- that
24 triggers the other clause from the grandfathered
25 requirement that says there has to be a way that

1 the TGRA can go in and verify the software, the
2 signature. That's the only thing that would be
3 triggered in this particular case. But there's
4 somewhat -- I guess the concerns I've heard is
5 there's somewhat of a disconnect between those
6 two. Because even though there's critical
7 software that might be downloaded, the only
8 requirement is there has to be an ability to
9 verify that. But there's nothing that says it
10 has to be approved software that's downloaded
11 onto the system. Like all the requirements in
12 the download section here, they don't apply to
13 grandfathered systems. I think I still lost you
14 from your smile over there.

15 MS. TAHDOOAHNIPPAH: Can you explain how a
16 Class II gaming system verifies -- or how does --
17 because it just makes it sound like the way it
18 reads, that it will be verified by the Class II
19 gaming system. Like, how does the downloaded
20 software -- explain how that would happen.

21 MR. PUROHIT: All right. I'll give you
22 the really simple scenario from my experience
23 with manufacturing and the testing side as well.
24 What would happen is like let's say you're
25 pushing out some artwork, for example, to the

1 Class II terminal as well. Once that's pushed
2 out, it would keep a log of the software that had
3 checked on its own. The assumption is when that
4 software was installed in the system itself, it
5 was approved. That's in the definition as well.
6 It's approved content that's been put in there.
7 And then once it transfers somewhere into the
8 system, it will make sure that it keeps a log of
9 everything as far as all the changes that are
10 made to the software.

11 MS. TAHDOOAHNIPPAH: Checking itself?

12 MR. PUROHIT: Exactly, self-verification,
13 right. And then the log -- the requirement at
14 the end of it, and it says that, you know, when
15 the TGRA sees appropriate, you have to go and
16 audit that log to make sure that all these
17 changes that happened to the download and whatnot
18 were within your requirements.

19 MR. CALLAGHAN: It's matches one another
20 signatures and that's how it checks itself.

21 MR. MORGAN: It's in the check -- did you
22 download what you said and it sends it back.

23 MR. PUROHIT: It's a handshake.

24 MS. HAMEL: If it's looking for A and it
25 receives B, it should shut down.

1 MR. CALLAGHAN: Exactly.

2 MR. MCGHEE: Then as far as on the
3 procedural side, there are things in the MICS
4 about downloads and stuff that do apply to
5 grandfathered, whatever. This is just saying if
6 you're going to put the machine on, we want to be
7 able to do this so we can better do our job of
8 tracking your downloads. We understand the older
9 ones are not. But there are still things we're
10 going to have the ability to go in and do to make
11 sure they were done fairly. They're not capable
12 for automatically because they were
13 grandfathered. The MICS is going to take care of
14 us still having to do that. It's just we want
15 the new ones to be more automatic and more
16 tracking of itself, more self-sufficient in the
17 sense of keeping track of all this so we can pull
18 up paper.

19 MR. WILSON: I get all that. I'm still
20 back to what you brought up and why. I'm not
21 understanding what you brought up as to --

22 MR. PUROHIT: The scenario is -- the
23 concern is, like this section, for example.
24 Let's say there is approved content. And when
25 someone comes in and physically installs it at

1 your property, you can go in and verify on the
2 game server, the software that was installed on
3 it. The downloaded part of it -- that's why I
4 added the generic definition of it from a concern
5 perspective, is it can be downloaded by the
6 manufacturer, in their case uploaded, from their
7 facility because they can't physically come in,
8 which is understandable. I'm a big proponent of
9 that. But once it comes in there, are there any
10 requirements for logs, especially for
11 grandfathered systems, that say there has to
12 exist a log out there that keeps track of all of
13 this stuff that the TGRA can go in and verify
14 that. And from what Dan is saying that that's a
15 requirement.

16 MR. MCGHEE: In the remote access log
17 MICS.

18 MR. MORGAN: Server systems, it requires.

19 MR. WILSON: And that makes sense. My
20 concern was that you were saying for
21 grandfathered machines, you can just download
22 whatever the hell you want and nobody verifies it
23 and --

24 MS. HAMEL: Only on Fridays.

25 (Laughter.)

1 MR. WILSON: Because my concern was right
2 now you've got to be able to verify anything that
3 is being downloaded off a machine.

4 MR. PUROHIT: There is that catch-all that
5 says you can go in and there has to be ability to
6 verify the critical software. My concern was
7 from a download perspective, also, like, you
8 know, there's one requirement in there -- let me
9 just find it. I think there's -- and I might be
10 butchering the exact verbiage of it. But it
11 requires for a secure connection for downloads,
12 for example. That's not an inherent requirement,
13 and that goes to the risk question. Like going
14 back to the grandfathered system, if there's no
15 requirement for remote access and download to do
16 that, then it doesn't have to meet the security
17 requirements either. You can still go and verify
18 that, but anything else that was introduced into
19 the system -- this could kind of propose that
20 risk in there. But it sounds like they're
21 addressing it in the MICS section of it anyway.
22 That's the reason I pointed this out. Like you
23 want to be wary that this 547.12 in general does
24 not apply to grandfathered systems in general.

25 MS. HAMEL: And much of it is procedural,

1 not a technical standard.

2 MR. WILSON: Well, and procedure makes
3 sense to me especially with the grandfathered
4 machines that don't have the ability to automate.

5 MS. HAMEL: Then it would be a MIC not --

6 MR. WILSON: I'm understanding that. My
7 concern is on the technical standards that saying
8 that this device has to comply with certain
9 things, and it sounds like many of the new
10 devices do or would, are capable of complying
11 with this. And it's clear that the grandfathered
12 machines -- this does not apply to the
13 grandfathered, but the MICS component certainly
14 does because that's the only way you can get to
15 verifying what's happening on the verified
16 machine.

17 MS. HAMEL: In the TGWG there is no
18 reference to fully compliant and grandfathered in
19 the MICS, right? We don't care how we control
20 and how we -- what procedures we have to follow
21 to have internal controls.

22 MR. WHEATLEY: They're the same.

23 MS. HAMEL: There's no reference to
24 grandfathered or fully compliant.

25 MR. WILSON: As long as the procedure

1 doesn't rely on certain automated functionality
2 that doesn't exist in a grandfathered machine.

3 MS. HAMEL: Well, if it doesn't exist,
4 then it would be non-applicable.

5 MR. MCGHEE: If it doesn't exist,
6 assuming --

7 MR. WILSON: I think I'm okay. I'll sleep
8 on it.

9 MS. HAMEL: This is a big -- this is a big
10 section.

11 MR. FISHER: Sleep on that question also
12 that you raised about what applies to being clear
13 or specific about what applied to grandfathered
14 machines and what doesn't. Because that's been
15 raised a couple of times, and maybe there's
16 something we need to do around that. I don't
17 know. Think about it. All right. So why don't
18 we check the -- it's not working anymore because
19 the guy snuck in the back while nobody was
20 watching and took the mixer. Apparently there
21 was something more important than us at 5:30 and
22 he needed it. All right.

23 So let's see if we can finish off 547.12.
24 So there's two things about 547.12. One was
25 verifying the downloads, which it was part of the

1 TGWG proposal; and then the other is back to
2 Mia's question about Section 12(a), so we'll come
3 back to that in a moment. So we had two
4 suggestions on the verifying downloads provision.
5 The first one up on the screen in the red and the
6 blue is what the TGWG proposed, and the second
7 one in the yellow is the -- reflects the
8 discussion that we had about a design standard
9 capable of doing the verification. So why
10 don't -- you want to test them? Where do you
11 want to start, yellow or red and blue?

12 MR. WHEATLEY: Yellow.

13 MR. FISHER: Let's test yellow. Everybody
14 follow where we are with this? Okay. So if
15 you're in agreement with the recommendation
16 that's in yellow up on the screen, raise your
17 hand.

18 (All hands raised.)

19 MR. FISHER: All right. There we are.
20 Okay.

21 So now back to the question that Mia
22 raised.

23 MR. MCGHEE: Could we go back to that at
24 the end like we told Kathi?

25 MR. FISHER: We're on the subject, so you

1 want to stick with it, or you want to -- Daniel
2 is saying that what we had said we're going to do
3 was work through all the TGWG comments first, and
4 then go back to anything that was additional. So
5 we could put Section 547.12 aside, 12(a) aside
6 and move on to the TGWG. That's okay with you,
7 Mia? Okay. So I'll put it on the list to come
8 back to. Thanks for the reminder, Daniel.

9 Okay. Next on the list on the TGWG
10 proposals is on Page 12 of the comparison
11 document, and it's on the random number
12 generation, Section 547.14. See if we can get
13 this one done by 6 o'clock. This is too long to
14 put up in one single page.

15 MR. WILSON: I think this one is too -- to
16 try to cram it into eight minutes is maybe not
17 going to be enough time.

18 MR. FISHER: Okay. So what would you
19 propose, that we pick up tomorrow with this one?

20 MR. WILSON: Uh-huh.

21 MR. FISHER: Yes?

22 MR. WHEATLEY: Seems to be strengthening
23 everything.

24 MR. MCGHEE: It looks probably more
25 complicated than it is.

1 MR. WHEATLEY: Right.

2 MR. FISHER: Do you want to start the
3 discussion, or you want to break?

4 MR. MCGHEE: There's only two more changes
5 and then we're done.

6 MR. FISHER: Done with what's in the
7 document.

8 MR. MCGHEE: What's here.

9 MS. LASH: Let's tackle it and see how far
10 we get.

11 MR. WILSON: I recall my previous comment,
12 so I'm --

13 MR. FISHER: So all right. So let's see,
14 so people are taking a look at it. And anybody
15 -- we can go to the remarks about it, or if
16 people have questions about it, we can start
17 there.

18 MR. PUROHIT: I'm going to echo Jeff's
19 statements as far as what my experience with this
20 is. If anything, it actually strengthens the
21 minimum requirements here. And if NIGC is fine
22 with it, I think that's what the language here is
23 capturing, anyway. If you just notice, Tom, in
24 the first section, it goes from "which may
25 include," and it gives you, like, 11 tests.

1 That's a typical language from other existing
2 technical standards out there which says that
3 too. And the proposed language, what's that
4 doing, it's saying at a minimum, it has to do X,
5 Y and Z, and then in addition to that, you can do
6 whatever else that the TGRA and what the other
7 requirements are.

8 MR. FISHER: Which you like?

9 MR. PUROHIT: If I'm allowed to say that,
10 yeah.

11 MR. LITTLE: I think our initial reading
12 of the proposal is it does strengthen the
13 regulations.

14 MR. WHEATLEY: The only question I have is
15 the unbiased algorithm, why was that taken out?
16 I don't even know what is that is.

17 MR. PUROHIT: It was a bulletin. There
18 was flawed language in there. The bulletin
19 2008-4, I want to say, it's a bulletin right
20 after the grandfathered requirements. Let me
21 make sure I have the right. 2008-4. It pretty
22 much said that having that bias of 1 in 100
23 million, it was flawed mathematics as far as the
24 game of bingo is concerned and the way the ball
25 draws happened. And I was actually on the

1 independent test lab site when he reached out to
2 the NIGC and were talking to them about it.

3 MR. WHEATLEY: So it's basically
4 previously removed.

5 MR. PUROHIT: Exactly. It was unbiased,
6 the part of itself. I don't necessarily think it
7 should be removed altogether. It's just, you
8 know, the language of having the explicit number
9 need to be removed. I think that's what the
10 actual bulletin was talking about as well.

11 MR. FISHER: Are you in that section
12 that's right there on the screen?

13 MR. PUROHIT: Yes, the bottom part, number
14 4, that's the one that's struck out.

15 MR. FISHER: So the -- what you commented
16 on was the number, not the use of an unbiased
17 algorithm.

18 MR. PUROHIT: Correct. The bulletin just
19 advised that it can have better bias than 1 in
20 100 million. But it didn't say it should be
21 removed all together.

22 MR. FISHER: All right.

23 MR. WHEATLEY: Anyone else have algorithm
24 comments? I don't know enough about it to know
25 anything.

1 MR. MORGAN: What they removed was
2 547.14(f). There's still language there that
3 says that. What it reads is scaling algorithms
4 and scaled numbers. An RNG that provides output
5 scaled to given ranges shall (1) be independent
6 and uniform over the range; (2) provide numbers
7 scaled to the ranges required by game rules, and
8 notwithstanding the requirements of paragraph
9 (e)(3) of this section. So what it's saying is
10 you say it does this, does it really do that?

11 MR. CALLAGHAN: That's fine.

12 MR. MORGAN: And (3) be capable of
13 producing every possible outcome of a game
14 according to its rules.

15 MR. FISHER: I put that up on the screen
16 here. Just a second. I'm going to show you the
17 other (1) through (3). So there it is. Yeah,
18 it's (1), (2), and (3) and then removes (4).
19 That's the -- that's from the TGWG document.
20 Okay. All right. So are we ready to test this
21 one?

22 MS. HAMEL: I just have one comment. I
23 know in this section, we skipped over number (1)
24 of this section. And it has the same issue as
25 the TGWG suggestion in number (2). It says

1 numbers or other designations. Well, we didn't
2 make that change in number (1) that says numbers
3 produced by RNG. So I think throughout the
4 document if we're referring to numbers, it should
5 all be the same language. And I don't know if it
6 exists in other places and it just wasn't caught.
7 If you go to (b)(1), it has the same issue. It
8 just says numbers produced by the RNG.

9 MR. MCGHEE: Under (b)?

10 MS. HAMEL: That's not in this document.
11 It's only in number (2).

12 MR. MCGHEE: I see it right here in number
13 (1), though. I don't know, which one are you
14 looking at?

15 MS. HAMEL: The one he just handed us.

16 MR. FISHER: Maybe it didn't make the
17 comparison.

18 MR. MCGHEE: (b)(1) isn't even listed.

19 MR. FISHER: It's up on the screen.

20 MS. HAMEL: Wherever numbers are.

21 MR. PUROHIT: Exactly.

22 MR. FISHER: She's right. It's there, but
23 it's not on here. It's on the comparison.

24 MR. WHEATLEY: It's on the submitted.

25 MR. MCGHEE: I think if you agreed with it

1 here, then you would agree with it there.

2 MS. HAMEL: Since we have number (1) up,
3 can I bring up one other comment? Is the example
4 really necessary, since it's the first time we
5 have an example in the standards?

6 MR. FISHER: In other words, are you
7 asking to get rid of it?

8 MS. HAMEL: Uh-huh. Get rid of the
9 example. Because it really doesn't --

10 MR. WILSON: It seems like an example of
11 something you'd expect to see in a guidance
12 document.

13 MR. LITTLE: Not necessarily. The
14 bulletin is going to be changed. Regulations are
15 pretty -- they're there. You know, it's more
16 difficult.

17 MR. WILSON: What's the significance of
18 asking for this particular -- I mean, an example
19 implies to me that people just don't quite get it
20 in that first sentence, so we have to give an
21 example. So I'm trying to understand.

22 MR. PUROHIT: Here's another example,
23 547.5(b), only applicable standards apply.
24 Gaming equipment and software used with Class II
25 gaming systems shall meet all applicable

1 requirements of this part. For example, if a
2 Class II gaming system lacks the ability to print
3 or accept vouchers, then any standards that
4 govern vouchers do not apply. So they're kind of
5 littered throughout.

6 MS. HAMEL: I haven't got there yet.

7 MR. MCGHEE: I think it's just a matter of
8 where it seems complicated.

9 MR. PUROHIT: It's for public perception.
10 I think that's the reasoning for it.

11 MR. WHEATLEY: The algorithm thing, I'm
12 still struggling over. Nimish, you said that you
13 wouldn't have stricken the entire thing. Can you
14 tell me what the risks would be of striking the
15 whole thing?

16 MR. PUROHIT: Sure. The unbiased
17 algorithm part, what the bulletin recommended is
18 saying that we're not going to go with the
19 measure being better than 1 in 100 million. It
20 says that because of that technical data in
21 there -- there's something called off-the-shelf
22 random number generators, and there's something
23 that manufacturers develop. Usually they use the
24 so-called off-the-shelf because they met all
25 these tests, and if ain't broke, don't fix it.

1 So one of the issues that came with the bias
2 measure that they had there is that it doesn't
3 meet a majority of these off-the-shelf
4 requirements, which are known as 32-bit random
5 number generators. So what they said is that
6 that was not the intent for it to fail that and
7 create a measure of bias that might seem okay for
8 these other types of random number generators,
9 but it doesn't meet random number generators used
10 for bingo ball draw and shuffling. So the
11 language says the NIGC will shortly publish and
12 change the technical standards, which the number
13 was. Amending 547.14(4)(f) to read, Use an
14 unbiased algorithm. A scaling algorithm is
15 considered to be unbiased if the measured bias is
16 no greater than 1 in 50 million. So that's what
17 was introduced. In this case, the 1 in 50
18 million is much better than 1 in 100 million.
19 That's all I'll say. It's not like the
20 probability requirements where the higher number
21 means that it's looser. Here it's giving more
22 forgiveness when the random numbers are being
23 produced. That 1 in 100 million was not giving
24 enough of a flexibility for numbers to come out,
25 and it would have unnecessarily failed these

1 off-the-shelf random number generators.

2 MR. MORGAN: Who defines unbiasedness? Is
3 there a standard, I mean, could you say use an
4 unbiased algorithm? I mean, is that enough? Or
5 do you have to put in, say, unbiased means this?
6 Who determines that?

7 MR. WHEATLEY: Obviously it meant two
8 different things to two different people.
9 Somebody it means 1 in 100 million, and you said
10 the change was going to be 1 to 50 million, so --

11 MR. PUROHIT: The bias itself is referring
12 to the fact that when you have these raw numbers
13 that are spit out by a random number generator,
14 it's just random numbers, without getting into
15 too many technical details. But then they need
16 to be converted for use in a 75-ball draw game,
17 for example. When it's converted in there, there
18 might be a case where one number or one type of
19 number shows up more frequently than others.
20 That's the bias that it's talking about. So what
21 I was suggesting is not necessarily putting a
22 number in there, but saying that, you know, the
23 unbiased shouldn't be stricken altogether. I
24 think it should just be when the RNG is created,
25 there should be able to show there is no bias. I

1 don't think, in my humble opinion from the
2 testing side of it, getting rid of it altogether
3 might not serve a purpose.

4 MS. TAHDOOAHNIPPAH: Changing the numbers,
5 does that -- I mean, if you change -- we're
6 assuming that it's on 75 numbers in a 32-bit. If
7 you have 20 numbers or 5 numbers --

8 MR. PUROHIT: I think the language can be
9 corrected to capture what the intent here is to
10 make that robust random number generator. I
11 think it can be something along the lines of it
12 can't be biased for an application of the random
13 number generator in a particular game of bingo.
14 I think that would strengthen the RNG thing as
15 well.

16 MR. MCGHEE: And that would be in lieu of
17 putting a number?

18 MR. PUROHIT: Exactly. Putting a specific
19 range that, you know, just identifies a ball draw
20 of 75 numbers, 72 numbers.

21 MR. MCGHEE: Will you type that language
22 he said?

23 MR. FISHER: I'm trying.

24 MR. PUROHIT: If you do put an unbiased, the
25 onus is going to fall on the TGRA to determine

1 what your bias ranges are going to be. It's just
2 that the ITLs should report to you that, hey,
3 they did find a bias, here's what it is. And
4 then you can make that decision. But they have
5 enough to reveal on the certification letter and
6 explain to you that there is something there.
7 It's making sure it's capturing the propensity
8 for this to be completely random, however little
9 that might be.

10 MR. MORGAN: Is there not a third party
11 you can point to to say this is biased or
12 unbiased? Algorithms, that's above me, but I
13 don't want to put a number here that's
14 predisposed on a 75-number bingo just in case
15 that ever changes. But at the same time, if you
16 come back and say this is biased, where's your
17 range. I'm looking for somebody else to tell me
18 what is the industry-acceptable range. I don't
19 know if I'm qualified.

20 MR. WHEATLEY: By taking it out, does that
21 remove the testing requirements at the lab?

22 MR. PUROHIT: Yes.

23 MR. WHEATLEY: But by saying that they
24 must use an unbiased algorithm, they're going to
25 test it. And if there is a bias, they'll report

1 that to you, so like you said, the TGR, it can
2 make the determination if it's too much of a bias
3 or not.

4 MR. PUROHIT: Exactly. The independent
5 test lab should tell you what that is and how it
6 plays into it. I mean, there's plenty of
7 technical language in there that you might not
8 understand in addition to the RNGs. It's ITL's
9 job to tell you at the end of the day if you
10 don't understand something.

11 MR. WHEATLEY: So essentially they'll tell
12 you the risk involved.

13 MR. PUROHIT: Exactly. I think if you
14 leave it as an unbiased algorithm and any bias
15 should be reported to the TGRAs, something along
16 those lines.

17 MR. FISHER: It's getting late. All
18 right. So are we checking the whole TGWG
19 proposal with this change in yellow? Let's check
20 that. If you support the TGWG proposal with the
21 change in yellow, raise your hand.

22 (All hands raised.)

23 MR. FISHER: Okey-dokey. There's sections
24 we have to cite back to. We're not on the verge
25 of being done with the technical standards, but

1 we're close. We're close. All right. Are we
2 ready to -- you want to keep going, or are we
3 ready to pause?

4 MR. MORGAN: Next up is the variance
5 language. It's the same variance language you
6 will see later in the MICS. And the general
7 question is, do you buy into how you do licensing
8 right now? Because if you buy into the concept
9 on background licensing, that the tribal
10 regulatory body gets to make a decision, you send
11 it up to the NIGC, they have the ability to
12 disagree, you may have to justify that the final
13 decision resides at the TGR level. That's the
14 change in variances that you see, technical
15 standards and you'll see it come up on the MICS.
16 If that needs more discussion, then we may not be
17 able to finish. That's kind of it in a nutshell.
18 The TGWG tried to say we're going to treat it
19 just like you do your licensing investigators.
20 Where NIGC may object, but the final decision
21 rests with you, whether you decide to grant that
22 variance or not.

23 MR. CALLAGHAN: I like that, absolutely.

24 MR. RAMOS: I have one question there. On
25 one of changes that didn't make it over is number

1 8, where the commission's decision shall
2 constitute a final agency action. So in the
3 proposed version, where is the final agency
4 action -- for example, you go through this NIGC
5 about the vendor and who's going to be licensed
6 and who's not. At some point, if it goes to
7 federal court, they have to have a final
8 decision, a final agency action. And I don't see
9 that making it over into the change.

10 MR. MORGAN: Under the scenario, it falls
11 to individuals. If individual A comes and
12 applies and wants to be your employee, they have
13 something, you send it up and say I recommend
14 that you're going to grant you a license. NIGC
15 objects. While you do have to set forth the
16 reasoning for that objection, they may agree or
17 disagree with you, but at the end of the day the
18 TGR gets to make the final decision. NIGC gets
19 to provide you comments. They get to say I may
20 disagree with that. So there wouldn't be a final
21 agency action on that. The final action is at
22 the TGRA level. It takes it away from it. The
23 other thing it does is another big change in
24 there is currently is variance sections. You can
25 request the TGRA to grant a variance and then

1 send it up, or the tribe may send it up by
2 itself. Under this the way this language is
3 written, you have to go to your TGRA and get that
4 approved and then it goes to NIGC. If your TGRA
5 doesn't approve your variance, it never goes up
6 and the tribe or the operator can't go around
7 you.

8 MR. FISHER: Tom?

9 MR. WILSON: I'm with you on everything,
10 except we get to the end and unless there's other
11 documentation, you know, it talks about the NIGC
12 after their 14 days that they issue a -- you
13 know, their disapproval and they have to say a
14 reason why they're disapproving it and how it's
15 an imminent threat to the integrity of tribal
16 gaming, but then it ends there. So I was under
17 the impression that their disapproval is a
18 binding disapproval. But if that's not the case,
19 then --

20 MR. MORGAN: What they're saying is we
21 disagree with you and because we're not -- if
22 they do that, what you risk is an enforcement
23 action. And they always have that authority to
24 come and do an enforcement action. But if it
25 doesn't rise to the criteria of the enforcement

1 action --

2 MR. WILSON: An enforcement action based
3 on their concern or an enforcement action based
4 on a violation of the standard? I mean, I guess
5 that's where I'm trying to come from is if we're
6 saying for purposes of this document that we
7 can at the end of the day still say, well, we
8 hear everything that you've said, NIGC, but we're
9 going to move ahead and do this, and NIGC then
10 comes and says we're going to now take an
11 enforcement action against you, which my feeling
12 would be that if you've reached that impasse --
13 but if they take an enforcement action, then the
14 enforcement action is against what, that you
15 didn't take their advice?

16 MR. MORGAN: They feel like it's an
17 imminent --

18 MR. WHEATLEY: That you're violating the
19 standards because you did not get the variance.

20 MR. MORGAN: Imminent threat to the
21 integrity of gaming. I think in IGRA
22 regulations, they can only take enforcement
23 actions for certain specific acts, and they have
24 to tell you what you violated here. And one of
25 those is that imminent threat to the integrity of

1 gaming. If it doesn't rise to that level, they
2 should not be doing an enforcement action. You
3 may disagree with the policy decision, but it's
4 the TGRA's policy decision to make unless it
5 rises to that.

6 MR. WILSON: So just so I'm clear, though,
7 I mean, is this saying that if they -- I'm just
8 trying to look at it from a practical aspect. We
9 submit something, run it up the ladder, it comes
10 back, and let's say that NIGC does outline what
11 they believe is an integrity of gaming issue, is
12 the presumption here that then the Tribal Gaming
13 Regulatory Authority would in fact heed, then, at
14 that point and say, Oh, I see what you're saying,
15 or not?

16 MR. MORGAN: Depends on your local TGRA.
17 I would say the vast majority of people, if you
18 get that letter back, the vast majority would
19 say, You know what, I will change my variance
20 request so I meet your concerns and we're in
21 agreement. Because at the end of the day, you
22 want to be in agreement. But there may be an
23 individual jurisdiction out there, and I think
24 back about Chris, that says, hey, we
25 fundamentally disagree you have a right with

1 that, and we're going to take you to the mat over
2 this because we disagree we have that. There may
3 be a tribe out there that does that. A tribe
4 does have that ability if it so chooses.

5 MR. WILSON: I get it. And I just wanted
6 clarification of -- it just kind of ends at this
7 thing that the --

8 MR. MORGAN: Like a disclaimer, like if
9 you decide to proceed, proceed at your own risk.

10 MR. WILSON: I just wanted it to be clear
11 in my mind that there was no other effect beyond
12 that you get this notification back from NIGC,
13 but that doesn't mean anything from this standard
14 thing. I could still proceed on, no matter how
15 reckless it may or may not be.

16 MR. MORGAN: You could. I would think
17 almost anybody, if you read, in effect, NIGC
18 can't disagree, but you can only disagree if it's
19 an imminent threat to the integrity of tribal
20 gaming. And they will disagree with you and
21 that's what they have to stand on. If you decide
22 to take it to an appeals or take it to court or
23 just say, you know what, I ain't listening to
24 you, I'm moving forward. I would think most
25 tribes would say we're going to reconsider our

1 variance request and let me have the discussion
2 with you and figure out how I change this
3 variance request to fit your concerns and still
4 get to the goal where I think is lawful and
5 permissible.

6 MR. MCGHEE: You could as simple as refer
7 to any step after as this would be referred to
8 the section that deals with this as a violation
9 and how they're able to do this.

10 MR. WILSON: And maybe that's it, because
11 from a compact world, if we had the same
12 situation with the state, our compact says that,
13 okay, if we agree to disagree -- or it's not that
14 we agreed -- we can either agree to disagree or
15 we can go to some form of arbitration to work
16 through that. And I'm okay that that's not
17 there.

18 MR. WILSON: It's kind of like this
19 dangling thing.

20 MR. MORGAN: What they're trying to get to
21 was if the NIGC is going to agree to disagree,
22 this is your place to stand on it, imminent
23 threat. You can't disagree just because you
24 think it's a bad idea. It's the tribe's right to
25 do it, and you have your place in the federal

1 regulations to disagree. I disagree because
2 imminent danger to the integrity of gaming, if it
3 rises to that level. You can't just disagree
4 because you're not doing it the way we think you
5 should do it.

6 MR. FISHER: Okay. So do you want to test
7 this one? Okay. So it's too big to project the
8 whole thing on the screen, but if you support the
9 TGWG proposal on Section 547.17 on the variances,
10 raise your hand.

11 (All hands raised.)

12 MR. FISHER: Success. We worked through
13 the whole document. So now we know when we come
14 back in the morning, we have a couple of the
15 additional provisions on the technical standards
16 that were not in the document that we said we
17 would come back to, and it sounds like there are
18 a couple of other questions that we need to
19 discuss. So it sounds like we can plan to finish
20 off the technical standards tomorrow morning, and
21 then we will adjust our schedule to move into the
22 bingo section. Let's close out the day.

23 (The National Indian Gaming Commission
24 Tribal Advisory Committee was adjourned at 6:18
25 p.m., November 15, 2011.)