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NATIONAL INDIAN GAMING COMMISSION
TRIBAL ADVISORY COMMITTEE MEETING

NOVEMBER 17, 2011

VOLUME III

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. Tahdoohnippah, 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 17, 2011, at 8:05 a.m.)

2 MR. FISHER: Okay. Good morning. We are
3 going into the closed session.

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

6 MR. WILSON: So the one -- a couple things
7 first off. The TAC really -- these executive
8 sessions are beneficial for us. It helps us to
9 organize our thinking to ensure that we hopefully
10 meet the objectives of the agenda for the day and
11 what we're trying to do. So this is really more
12 just conversation amongst ourselves to ensure
13 that we're all on the same page so that we can
14 have a more effective meeting going forward. So
15 we just wanted to make that point.

16 The -- we would like to -- we know that we
17 need to revisit the technical standards. There's
18 one item outstanding that we need to take care
19 of. We would like to do that. We would like to
20 table any further discussion on 543.1, 2, 3, 4,
21 and 6 -- oh, not 3. 543.1, 3, 4, and 6 because
22 some of the members have requested that they're
23 not comfortable discussing that until they have
24 the red line version of any of that document. So
25 we'll just table that until next time. But that

1 will not preclude us from moving forward on
2 starting with 543.7 in bingo.

3 The other thing is that we are going to be
4 putting together a position paper on why we
5 believe that the -- what we will call the
6 risk-based approach to crafting regulations is
7 critically important to the whole success of the
8 Tribal Gaming Working Group document. In that
9 regard, I got a brief statement that I just want
10 to make to set a little more tone on the
11 risk-based thing. Matthew is going to follow up
12 with some additional conversation about some
13 historical things of the Tribal Gaming Working
14 Group.

15 I would like to refer the group to OMB,
16 Office of Management and Budget circular A-123,
17 which is a document put out by the White House,
18 that discusses internal controls and management's
19 responsibility for implementing internal controls
20 and how that is accomplished. Yesterday I had
21 mentioned that these are well-established
22 principles not only in private industry, but in
23 federal government as well. And I think it's
24 important that NIGC, as part of their
25 deliberations, incorporate in the direction that

1 has been given by both the White House and
2 Congress in terms of how you evaluate internal
3 controls and manage risk. In that regard, I will
4 just read a couple statements from OMB circular
5 A-123 just to give the flavor of this whole risk
6 concept. One area says that federal managers
7 must carefully consider the approach balanced
8 between controls and the risk in their programs
9 and operations. Too many controls can result in
10 inefficient and ineffective government. Agency
11 managers must ensure an appropriate balance
12 between the strength of controls and the relative
13 risk associated with particular programs and
14 operations. The benefit of controls should
15 outweigh the costs. Agencies should consider
16 both qualitative and quantitative factors when
17 analyzing cost against the benefits. Internal
18 control guarantees neither the success of an
19 agency or programs, nor the absence of waste,
20 fraud, abuse and mismanagement, but is a means of
21 managing the risk associated with federal
22 programs and operations. Managers should define
23 the control environment, i.e., the programs,
24 operational, financial reporting, and then
25 perform a risk assessment to identify the most

1 significant areas within that environment which
2 to place or enhance internal controls.
3 Appropriate internal controls should be
4 integrated into each system established by an
5 agency management to directing guidance
6 operations. Generally identifying and
7 implementing specific procedures necessary to
8 ensure effective internal controls and
9 determining how to assess the effectiveness of
10 these controls is left to the discretion of the
11 agency head.

12 The point here is that I view, and the
13 TAC, that NIGC's role is identifying the risks
14 that need to be mitigated as they pertain to the
15 integrity of gaming, safeguarding of assets. But
16 the entities, each individual government, should
17 be allowed to come up with the controls to
18 mitigate the identified risks. And so it's
19 critically important in our mind, this is
20 potentially a major mind shift difference from
21 how the agency has previously looked at creating
22 regulations, crafting regulations to the
23 opportunity that we see is before you now to take
24 a significant step in getting the agency kind of
25 up to the 21st century thinking that's being

1 expounded here even from the White House and the
2 government.

3 MR. MORGAN: Three topics, really. First
4 of all, Dan, thank you and your staff for
5 providing these books. I know it was a lot of
6 time and effort. We appreciate that very much.
7 I just want to say thank you for that.

8 And, two, we have asked the TAC members,
9 you know, we're going to use this document as our
10 reference. And if anybody is going to bring in
11 any other information from some other document,
12 no matter what, that they do like Tom did and
13 kind of tell you, this is where I'm getting it
14 from, whether it's a 2008 or 2010 draft,
15 wherever. The tribe has set that off so we're
16 not getting confused on documents. This will be
17 the document.

18 The second topic would be on the guidance
19 documents. My understanding -- our understanding
20 from our discussion is that our primary purpose
21 here is to provide you input on the MICS itself,
22 on this particular topic. While we believe the
23 guidance document is important in the overall
24 scheme and philosophy, we would prefer not to get
25 into questions in trying to debate the guidance

1 documents. They are an example. We do want the
2 NIGC to eventually adopt a guidance document as a
3 safe harbor provision, saying if you adopt this
4 guidance document, we believe you've met this
5 standard in this verbatim. But to go in to
6 debate the guidance document because it is only
7 an example, we think, would draw out this
8 conversation much long longer than the six months
9 we have. Saying that, if the NIGC feels that the
10 standard is deficient in an area and that
11 deficiency may be accomplished from something in
12 the guidance document, we feel that would be
13 different. So we wanted to make sure that we at
14 least got that out on the table, that our purpose
15 is to provide comments on MICS.

16 The third topic is we've had a request
17 that as we go into new sections, very much like
18 we did in the technical standards, we would like
19 to hear from the NIGC on your views of it. Maybe
20 whoever is -- I think maybe Mr. West, in this
21 case, his review of the sections and kind of his
22 thoughts and positions on why they thought
23 generally about this section before we get into
24 discussions. Because it helps us formulate our
25 thoughts knowing, you know, where you're coming

1 from and what type of comments you may have on
2 that section, and we hope we can accomplish that
3 as we go through these sections.

4 MR. LITTLE: Okay.

5 MR. FISHER: Is that everything? Great.
6 Thank you. I think it might be useful, because
7 we're on the record here, just to clarify a
8 couple things about what you have in front of you
9 and what the references were. So, Dan, if you
10 could, would you explain what you handed out and
11 what's in the binders that Matt referred to as
12 now the set of documents.

13 MR. LITTLE: We took the Appendix 1
14 directly from the website, directly from the
15 submission from the working group that was given
16 to us in July and made a copy. That's the red
17 line copy. However, I am understanding from some
18 members that the copy that may have been
19 submitted to us in July had some omissions in it.
20 I don't know how you guys want to deal with it,
21 but this was the copy that is on our website. So
22 my personal opinion is if there are some areas
23 that was not red lined that was submitted to us,
24 you can make a recommendation and make those
25 changes, like you would do anything else. I

1 think it's an easy way to get through that. The
2 other three documents are the comparisons, and we
3 cleaned them up to make them a little more user
4 friendly. They were off the -- primarily they
5 were viewed off the 2010 draft that's on our
6 website. We removed the 2008 notations because
7 it was just adding confusion. There was a couple
8 areas where there simply was nothing in the 2010
9 draft, so that's the only reason to reference
10 there. So we just removed it. For all intents
11 and purposes, we're working off the draft from
12 2010.

13 The thing about the comparison documents,
14 and as we go through today, if these don't work
15 for you, let us know and we will change them. We
16 will put them in any format that you all think
17 will help you better understand our, you know,
18 our thinking, our reason or our comparison. If
19 these work, that's fine. We'll continue to move
20 forward and we'll do the comparisons on the rest
21 of the subject items. But it would be helpful to
22 learn that today because Mike Hoenig and his
23 staff are going through that. Rust has spent
24 considerable time trying to compare, and it
25 hasn't been easy. It wasn't as easy as the 547.

1 That was a proposal. We've got 2008 -- we got
2 the 2008 proposal that's out there. It's been
3 delayed. We got the 2010. And then actually
4 there's a lot of new parts that the working group
5 put together that, you know, Rust was trying to
6 find a reference in the 542 regulations. So just
7 to try to find some common area to make an
8 adequate comparison. So it's been very, very
9 difficult on our part, and our staff has spent a
10 lot of time. That's why before we -- if there is
11 a better way that you think you can do it, we're
12 willing to, you know, justify and put that
13 together for you. So please let us know if
14 something is not clear, and we'll make that
15 change. Otherwise we'll get those all done
16 rather quickly and we'll get those out to you.

17 The other thing I will do is we will print
18 off the entire working group document submitted
19 to us that's on our website. We'll put it in
20 binders. Actually this document here, we'll put
21 it in a three-ring binder. And today, if you
22 take your Appendix 1 to make notes on that, we
23 won't make copies of that particular appendix, so
24 when you get the binder you can pop that in. And
25 then we'll get the comparison documents and we'll

1 try to get that mailed to you before the next
2 meeting, hopefully in the next couple of weeks.
3 If that's what folks think would be the most
4 helpful. And then that way we have one clear
5 document. Robert will put the red lines up on
6 the board as we go through them, and I think
7 we'll do well. We started doing that yesterday,
8 and I thought it was a pretty good perspective.
9 But like I said, if there's something that's not
10 working here, please let us know and, you know,
11 we want to provide to you whatever you need so
12 that, you know, everybody has a clear
13 understanding of our thinking and then if we're
14 making an appropriate comparison.

15 MR. WILSON: As a point of clarification,
16 did we not want, then, the guidance comments?
17 Because currently they're putting both the
18 comments about the material and then comments
19 also about the guidance documents. Is our
20 preference that we don't need the guidance
21 document comments in the comparison? I know
22 there was discussion about that, but I don't know
23 what the consensus was.

24 MR. CULLOO: Doesn't matter.

25 MR. LITTLE: We don't need to include the

1 guidance in the comparison?

2 MR. WILSON: Well, I'm not sure.

3 MR. MORGAN: It's how we feel. What we
4 talked about is we don't want to spend a lot of
5 time discussing those comments.

6 MR. LITTLE: And I could understand how it
7 could cause confusion there.

8 MR. MORGAN: If there is a particular
9 deficiency that you and the general NIGC feel
10 exists in the standards that are in that case, it
11 may be important to have that there. If you're
12 saying we think this language needs to be in the
13 standard itself and not in the guidance document,
14 in that scenario, it would be important.

15 MR. WILSON: I guess the thing is, as a
16 group, we're not going to spend a lot of time
17 necessarily discussing guidance document
18 comments.

19 MR. LITTLE: All right. I'm sure Mike
20 will be happy not to have to put that in there.

21 MR. HOENIG: We can take them out. I
22 think, Rest, if there were comments in our --
23 where it says NIGC comments, I'm not sure, but I
24 think some of those comments may have been on the
25 TGWG guidance document, as well as the text of

1 the suggested regulation itself. So we can
2 certainly take the guidance section out. That's
3 easy and not include it in the future and then
4 just have comments. But to the extent that any
5 comments may apply to the guidance versus the
6 text of the reg itself, I guess that's something
7 as you go through it, you can note or we can
8 discuss it at that point, however you want to do
9 it.

10 MR. WILSON: I don't think the issue is
11 whether they're there or not. I think there's a
12 benefit to them being there for us to understand
13 your thinking on things. I guess the point more
14 is that we as a group, though, don't want to --
15 are not planning on spending a lot of time
16 discussing the guidance document except in the
17 context of what Matt was saying.

18 MR. LITTLE: Thanks for the clarification.

19 MR. FISHER: Okay. So just to follow up
20 on one thing, Dan, the comparison documents in
21 the binders that were handed out this morning are
22 revised versions of what was distributed in
23 advance of the meeting, correct?

24 MR. LITTLE: Yes.

25 MR. FISHER: That means that the revised

1 versions of the comparison documents need to be
2 posted on the NIGC website.

3 MR. LITTLE: Absolutely. We'll get those
4 up.

5 MR. FISHER: Okay. And then of course as
6 we go through the day, if there are other
7 comments about the format, just let Dan and then
8 Dan will tell Mike and Rest. Okay. So we're set
9 on the paper documents that you have in front of
10 you.

11 What Dan also said was that the version of
12 the Appendix 1 that's in the notebook that was
13 handed out this morning is from the PDF document
14 that was sent to NIGC. We requested a Word
15 version of the -- of that PDF, so I got that this
16 morning. And then I -- because it's such a huge
17 document, electronically, to make it workable, I
18 took out of that Word document the Appendix 1,
19 the Part 543. So I shortened it up to like 40
20 pages roughly. And in the PDF, the PDF has in
21 that Appendix 1, Part 543. It has, you know, the
22 page, you know, the total number of pages for
23 Appendix 1, Part 543, plus what the page number
24 is. So it's like 1 of 35, I think. So we'll be
25 able to reference the pages in that smaller

1 document, and it will be easier for us to
2 maneuver around electronically using that shorter
3 version. But it does derive directly from the
4 PDF that was submitted.

5 The other thing that I heard was that --
6 and I think when I was reflecting on this after
7 the meeting ended, part of what we got wrapped
8 around yesterday was the -- what was the
9 comparison to and the use of the 2008
10 regulations, the 2010 draft. And now I think
11 we've solved that problem because we're going to
12 be referencing the 2010. Essentially it's a
13 comparison to the 2010 draft. And so for that
14 portion of the TGWG document that wasn't red
15 lined because there was not a comparable
16 provision in the 2010 draft, you just need to
17 make sure we don't skip over that part. So Dan
18 invited discussion and comments on that section,
19 even though it's not red lined and it won't be
20 red lined in the draft that will be projected on
21 the screen.

22 MS. HAMEL: Well, the question I would
23 have is, is the NIGC going to review those
24 sections and have comments?

25 MR. LITTLE: Absolutely. Got it written

1 down right here, .3, .4, .5 doesn't exist, and
2 .6.

3 MS. HAMEL: Okay.

4 MR. FISHER: All of that, as we heard,
5 will be deferred to the December meeting.
6 Perfect. So I think it sounds like we solved
7 what's the -- what documents are we using, where
8 did those documents come from, and how we're
9 going to move ahead. All right. So is there
10 anything else around that before we kind of shift
11 to a little bit of looking at how we're going to
12 spend the rest of our day today?

13 All right. So I think we had a request
14 that we take a break at roughly at a quarter to
15 12, even though we'll take a break before then,
16 but a break at a quarter to 12 will allow people
17 to check out. We are still scheduled to end at
18 2:00 p.m. for people to make flight arrangements,
19 and we have a bunch of kind of housekeeping
20 things that we're going to need to do. And so on
21 the agenda right now, those things are at the
22 very end, the planning for the next meeting and
23 getting the -- checking in about the agenda
24 planning group and a bunch of other housekeeping
25 tasks. So we have to probably set aside about a

1 half hour, maybe, towards the end in order to be
2 able to do that bunch of things to cover that.

3 Other than that, if I understand
4 correctly, we're going to start -- you want to
5 start back at the technical standards? Matt sent
6 me the language, so I can project that up on the
7 screen. And then once we do that, we'll then
8 move into the bingo MICS. Okay.

9 MR. WILSON: I don't know if you're
10 plugged in.

11 MR. FISHER: I'm not. First I have to get
12 it going again. Okay. So what's projected on
13 the screen is the language that -- the homework
14 from yesterday that Matt volunteered to give back
15 to the group. So, Matt, do you want to --

16 MR. MORGAN: Yes. Again, just for the
17 returns, the group has not actually seen the
18 verbiage yet. We talked about it conceptually
19 yesterday. My suggestion was this language to
20 replace what is currently in 547.2, if you want a
21 reference of where I'm at.

22 So the first, you know -- I did change up
23 the question. Before the question was purely
24 limited, was the information now you find in (c).
25 So the question will be what are the general

1 rules of application to this part? I've pulled
2 that similar language from 543.4. And so I'm
3 trying not to recreate language. I'm just trying
4 to shift language. That's where I got the
5 question, (a), minimum standards. That is
6 verbatim 543.4 language (a). That is exactly
7 what it says there. I pulled it over to say
8 basically it's minimal. It's a general thing.

9 MS. HAMEL: Why does it say 2? Oh, okay.
10 Sorry.

11 MR. MORGAN: 547.2(b), TGRA authority. I
12 did use some language in 543.3, as saying
13 recognizes that the TGRA is the primary regulator
14 of a Class II gaming -- nothing in this part is
15 designed to try to parallel that to what's in
16 (c). (C), state jurisdiction, that is the same
17 thing that makes up 543.2. That was my idea. I
18 know y'all haven't seen it yet, but I did want to
19 put it up there so you could see it so you could
20 say yes, or if there's tweaks that y'all think.
21 But that was my intent to try to get something to
22 y'all.

23 MR. FISHER: Let's pause a moment and let
24 everybody have a chance to read it.

25 MR. MORGAN: I know there needs to be

1 tweaks.

2 MR. FISHER: I could put one in here.

3 MR. MORGAN: I did tell the group this
4 morning, one of the things that we've talked
5 about and the reason that we were holding a TGRA
6 definition up, was there's this general concept
7 which we captured in the MICS but not in the
8 technical standards which basically defers all
9 decisions back to the TGRA for things. And I
10 tried to capture it in (a), but I wasn't for sure
11 I got there personally. But instead of me
12 sitting there and drafting and playing, I thought
13 it best to give it out to the group to see where
14 they are at.

15 MR. FISHER: This might be one where --
16 and I'm just checking. It might be one where
17 people really need to absorb it, test it, go
18 back. So we might get a preliminary read on it
19 and then let people have a chance between now and
20 the next meeting to reflect on it.

21 MR. MORGAN: Are y'all comfortable with it
22 and ready to go forward, or do y'all need to take
23 time? And, again, that's one of the reasons I
24 tried to use existing language and just bring it
25 over so that we wouldn't have to recreate the

1 wheel; that you've seen the language before. But
2 if anybody is not comfortable --

3 MR. FISHER: Or anybody have any questions
4 about it?

5 MR. CULLOO: Pretty straightforward.

6 MR. FISHER: So do you want to test it?
7 Are you ready to do that, or still looking at it?

8 MR. WILSON: My head is saying do I say
9 this, do I not say this, do I say this.

10 MR. MORGAN: Please have a recommended
11 solution, if you say it.

12 MR. FISHER: That's actually in the
13 operating procedures.

14 MR. WILSON: My struggle with the wording
15 in (a) is the same struggle that I have in the
16 current Class III MICS. When we talk about
17 establishing additional technical standards that
18 are at least as stringent or more stringent, it
19 gets into this debate about is what you're
20 proposing more stringent or less stringent. And
21 it just seems to me the mind-set is that if I
22 create an additional standard, is it in conflict
23 with something that's already established. It's
24 just this idea, I've had this debate on Class III
25 with our state regulators and even with NIGC in

1 terms of if I have to create something that is
2 more stringent, then we get into this whole
3 discussion about, well, how is this more
4 stringent or less stringent. So for me it's just
5 more of a term of I want to be able to
6 successfully argue for my tribe when we create
7 additional regulation on top of what's there;
8 that it's easy for me to do that and not diminish
9 the standard, but not have to hire a group of
10 attorneys to prove the word stringent, that this
11 could mean that or that. So my whole issue is, I
12 guess, that term "stringent" and is -- are we
13 saying the same thing, or is anything lost by
14 saying that creating additional controls that do
15 not conflict with the standards.

16 MR. MORGAN: I know Robert is trying to
17 provide an alternative solution, and I appreciate
18 that.

19 MR. FISHER: I can get rid of it if it's
20 distracting.

21 MR. MORGAN: I actually like that because
22 one of the things in law is because it's minimal,
23 it is implied, and you -- there's no way you can
24 go below that. So just restating that it's
25 minimal makes you in compliance with the law that

1 you have to have. And then I think the important
2 part is you may establish additional technical
3 standards. It's already implied, if you apply
4 minimum, it's a floor. You can't go below the
5 floor. And if Robert's language accomplishes it
6 better in your mind --

7 MR. WILSON: It absolutely does.

8 MR. MORGAN: -- I am okay with you
9 replacing what's in (a) with that language, from
10 my chair.

11 MR. WILSON: Yes.

12 MR. MORGAN: If that allows you to move
13 forward.

14 MR. WILSON: Absolutely. It's a
15 pre-acknowledge that I accept the minimums. I
16 know I have to meet that. But I just -- if I
17 need to do other things, then I want to be able
18 to do that, but not have to prove --

19 MS. LASH: That it's one more level up.

20 MR. WILSON: Right.

21 MR. MORGAN: Are we okay with replacing
22 (a) with what's highlighted?

23 MS. HAMEL: Does what's highlighted also
24 give the TGRA the power to establish a standard
25 that's different or only additional?

1 MR. WHEATLEY: I don't think you can say
2 different.

3 MR. MORGAN: Different means variance, at
4 least in my mind.

5 MR. MCGHEE: Are you saying that allows
6 them to do something different?

7 MS. HAMEL: To achieve the minimum a
8 different way, is that strong enough to say that?
9 Because that just says establish and implement
10 additional.

11 MR. LITTLE: To me, that adopts controls
12 that exceed the minimum, not --

13 MR. MCGHEE: It does say that.

14 MR. MORGAN: At least from the way I read
15 it, no, it does not. But I see it as two
16 different concepts. If you want to do something
17 different in the way that they prescribed it,
18 that's a variance question and you need to seek a
19 variance. If you want to do something in
20 addition, a higher standard than that, then that
21 does address that concept.

22 MR. LITTLE: That's the way I would look
23 at it.

24 MS. HAMEL: I think the new -- if the new
25 minimums don't have procedure in it, so this

1 should cover it.

2 MR. MORGAN: This is just a technical
3 portion of it. If we're comfortable with that --
4 I guess that's my question to the group, if
5 you're comfortable replacing the current
6 language, proposed language in (a) with what's
7 highlighted?

8 MS. HAMEL: Yes.

9 MR. MORGAN: So if we replace that, then
10 my same question, if you're comfortable with
11 that, are we comfortable with testing the
12 entirety of it, or do you want to go A, B, C?

13 MR. WHEATLEY: I have an issue with C. It
14 says, To extend the state's jurisdiction over
15 Class II gaming.

16 MR. MORGAN: I was hoping somebody would
17 pick that up. Again, I transferred that verbatim
18 from what's in 543 right now.

19 MR. WHEATLEY: I think 543 says, Class III
20 gaming.

21 MR. MORGAN: Does it? It could be a
22 Scribner's note. Did I miss it? If it is,
23 that's a very good catch.

24 MR. WHEATLEY: Just I don't want to apply
25 it if the state has jurisdiction over Class II

1 gaming in any form.

2 MS. TAHDOOAHNIPPAH: It does say Class II.

3 MS. LASH: How about adding another
4 sentence to the end of this one up here that
5 we're looking at, just add to the end of the
6 sentence, That do not conflict with those set out
7 at this part? So it would say these are the
8 minimum standards and the TGRA may establish and
9 implement additional technical standards that do
10 not conflict with those set out in this part.

11 MR. FISHER: Is that it? I might have put
12 in an extra "standards" there.

13 MS. LASH: Yes.

14 MR. FISHER: You would either say "those"
15 or "the standards set out in this part."

16 MS. LASH: Yeah.

17 MR. FISHER: Okay. So there's that
18 proposed change in (a). And then we have this
19 question here on (c).

20 MR. MORGAN: Jeff showed me on (c), it
21 does say Class III. That was my fault.

22 MR. MCGHEE: They don't have any
23 jurisdiction.

24 MR. FISHER: So that's a get rid of, or go
25 back and put it in, say, Class III.

1 MR. MORGAN: Yes.

2 MR. FISHER: Class III.

3 MR. MORGAN: That was the intent to say
4 that.

5 MR. FISHER: Got it. This became Class
6 III.

7 MR. MCGHEE: It did say Class III.

8 MR. WHEATLEY: We're talking about Class
9 II technical standards.

10 MR. RAMOS: We just don't want them to
11 apply to Class III, so I think that does work.

12 MR. FISHER: So that's the proposal.

13 MR. MORGAN: Are we comfortable with that
14 to test it?

15 MR. MCGHEE: Let's see. You'll know after
16 you test it.

17 MR. FISHER: He's testing the testing.
18 All right. Let's check it. So if you support
19 the changes to Section 547.2 displayed on the
20 screen as we changed them around, raise your
21 hand.

22 (All hands raised.)

23 MR. FISHER: Voila! It's done.

24 MR. MORGAN: Finished my homework.

25 MR. FISHER: Thank you, Matt, for doing

1 that.

2 MR. MCGHEE: You think the -- I think it
3 would go faster, if you don't mind, when we're
4 doing like a test like that, we just ask does
5 anyone object, raise your hand. Because it goes
6 a lot faster because then the person that objects
7 can get it out there, their problem. If nobody
8 objects, that means it's good.

9 MR. MORGAN: I think that's fine as long
10 as everybody is comfortable objecting.

11 MR. FISHER: If you're working together
12 and have the ability to do that, then we can
13 shift to that procedure.

14 MR. MCGHEE: I don't see anybody here
15 scared to say what they want.

16 MR. FISHER: There have been a couple
17 times where we've tested things and where people
18 haven't raised their hands.

19 MR. MCGHEE: When people are still trying
20 to look, at least they can say hold on a minute,
21 I'm not ready.

22 MR. FISHER: We've also had a couple of
23 occasions where people haven't necessarily
24 objected, but needed some more information to it.
25 It's up to you, whatever procedure you want to

1 use.

2 MR. MCGHEE: I think it will speed the
3 process up. Anybody object to that idea?

4 MR. RAMOS: Are we going to test it?

5 MS. LASH: Let's do what we've been doing.
6 We have a process set up. It's working.

7 MR. MORGAN: Just as a note, that language
8 in (a) that you changed, that will come up in
9 543.4 for y'all's purposes. It would be the
10 exact same language, and I assume Tom will have
11 the exact same change there as well, as a note
12 when we get into that section.

13 MR. FISHER: We can come back and check
14 that language.

15 MR. LITTLE: 543.4?

16 MR. FISHER: Yes. So, Matt, what you're
17 saying is they should consider that language to
18 carry over when they do their 543.4 comparison?

19 MR. MORGAN: Yes.

20 MR. FISHER: Okay.

21 MR. MCGHEE: Without the technical part.

22 MR. FISHER: Right. Without the technical
23 standards.

24 MR. MORGAN: Actually, that's what it
25 says.

1 MR. MCGHEE: I know, but we don't want it
2 to say that.

3 MR. MORGAN: That is what it says in the
4 internal controls section. It does say technical
5 standards.

6 MR. FISHER: They took it from this.

7 MR. MCGHEE: Because they're not technical
8 standards.

9 MR. MORGAN: I don't disagree.

10 MR. FISHER: Okay. So then it seems like
11 we're ready to move to the --

12 MR. MCGHEE: So technical standards are
13 put to bed?

14 MR. FISHER: Yes. We should pause. I was
15 busy looking for the next document, but we
16 probably should pause to acknowledge completing
17 the work on the technical standards. And that if
18 memory serves me correctly, every single
19 recommendation that was proposed for
20 consideration was done unanimously. And so you
21 reached consensus on everything with respect to
22 section 547. So want to give each other a round
23 of applause?

24 (Round of applause.)

25 MR. FISHER: Okay. So what I'm projecting

1 on the screen again is the -- it has the cover
2 page from what was submitted. Then it has the
3 appendix. There's a blank sheet. Then it has
4 Appendix 1. And then it picks up with the red
5 line version of the Part 543 that comes from the
6 PDF version submitted to NIGC. Okay.

7 MR. WILSON: We're starting at 543.7?

8 MR. FISHER: Correct. So let me just flip
9 down to 543.7. Of course it might have been
10 easier if I looked up the page number.

11 MS. HAMEL: 8.

12 MR. FISHER: I'm on 6. We're rolling.
13 543.7. Okay. Let me just do a check here
14 because it's 10 of 10, and we're scheduled to
15 take a break at ten. So do you want to -- do you
16 want to launch into this right now and then take
17 our break later, or what's your preference?

18 MR. WILSON: Are we talking about a
19 ten-minute break?

20 MR. FISHER: We could take a ten-minute
21 break right now, take a stretch and we'll start
22 up at 10 o'clock.

23 (Recess taken at 9:50 a.m. to 10:01 a.m.)

24 MR. FISHER: Okay. So we're going to
25 start with 543.7. We have projected on the

1 screen the TGWG red line version, and so where
2 are we going to start? I did hear this morning
3 that at some point you want to hear from NIGC
4 about their views on these various changes. So
5 what's the -- how would you like to proceed with
6 this?

7 MS. HAMEL: We'd just like to make one
8 comment or one -- where did he go? I'll do my
9 best to explain the document and this, quote,
10 unquote, "red line." I think that's an internal
11 red line from the TGWG's point of view. We were
12 all together as a group, finalized a document, I
13 believe in May; does that sound right?

14 MS. LASH: We had our last meeting in
15 June.

16 MS. HAMEL: Okay. And then as a group, we
17 put together a committee that tried to make --
18 tried to go through the entire document and make
19 sure that we were consistent that if we talked
20 about MICS and TICS and system of SICS, that we
21 use the same language in every section, or if we
22 talked about supervision. So these red lines you
23 see in this document may appear very confusing
24 because it was our communication to us as a group
25 that the last document we all agreed upon in June

1 changed slightly once our style committee came
2 together and put together the document. It's not
3 a comparison document against anything in the
4 past. The NIGC has made a comparison document to
5 other versions, so --

6 MR. FISHER: Just to make sure I
7 understand, the red line in this document is red
8 lines to previous TGWG drafts, not to anything
9 from the NIGC?

10 MS. HAMEL: That's correct.

11 MR. FISHER: So would it be useful to
12 eliminate the red lines from this?

13 MS. HAMEL: It probably would. My only --

14 MR. FISHER: We could just accept all the
15 changes in the document and then go from there.

16 MS. HAMEL: It just won't look like what's
17 published on the NIGC website, so that would be
18 my only caution. Accepting the red lines is fine
19 by me.

20 MR. FISHER: There is a version in what
21 was submitted to NIGC that is the clean version,
22 right?

23 MR. LITTLE: Yeah, that's in the whole
24 packet, right?

25 MR. FISHER: Right.

1 MR. MORGAN: Is that explanation of the
2 red line confusing to people if you know that
3 going in? That the red line is internal
4 discussions of the Tribal Gaming Work Group
5 document only? Because if it's not confusing,
6 then there's no really need to go in and try to
7 change the format, only if it's confusing to the
8 group.

9 MR. FISHER: I don't think it's confusing
10 to the group. I guess I'm wondering whether just
11 it might be easier to be working in the clean
12 version than in the red line version.

13 MR. MAGEE: I think whatever you put on
14 the screen should match what's in the books.

15 MR. FISHER: Okay. And what's in the
16 books is the red line version. Good point.
17 Okay. Thank you, Kathi.

18 So back to the question about where do you
19 want to -- how do you want to kick this off and
20 how do you want to move ahead with this
21 discussion?

22 MR. MORGAN: There was a request that we
23 at least have a brief -- and I think just by
24 definition, it's going to be to have brief -- of
25 what you looked at from the NIGC's perspective

1 and maybe a general comment on the section as a
2 whole before we get into the discussion. I know
3 most of your probably comments are specific to
4 language in here, but just as an overview,
5 general comment, the example was pointed out that
6 in technical standards, Nimish, when he came to
7 the table said this is what I looked at and this
8 is how I did it. And if that is able to be done,
9 that was our request.

10 MR. WEST: You mean to start with (a) and
11 go down?

12 MR. LITTLE: Just overall, the whole
13 section.

14 MR. FISHER: Big picture view.

15 MR. WILSON: What do you think of the
16 concept?

17 MR. WEST: The concept or the document?
18 The document I could probably speak to. I mean,
19 it's similar to other MICS documents as far as
20 the section and standards, I mean, subsections,
21 whatever. One thing I noticed that we started on
22 these guidance comparisons, I think from the May
23 submission, for instance, (d), supervision, came
24 afterwards, so we have -- I think one of our
25 documents says that, you know -- it speaks to

1 543.7, was there any other areas --

2 MR. WILSON: So it sounds like you've got
3 this -- the term variance -- because the term
4 variance dealing in 543.18 is dealing with
5 creating a variance to the MICS. Whereas the
6 term variance being used what you're referring to
7 is about a variance, a discrepancy or, you know,
8 in a variance amount, the dollar amount.

9 MR. WEST: Correct.

10 MR. LITTLE: Maybe there's a way that that
11 could be clarified. That could be helpful for
12 us. I'm not sure.

13 MR. MORGAN: Is this overview useful or
14 y'all just want to start going into A, B, C? It
15 seems like we're trying to struggle to give an
16 introductory.

17 MR. LITTLE: Would it be easier to start
18 out with (a)?

19 MR. MORGAN: It could be.

20 MR. FISHER: It could be. It depends on
21 what level of the discussion you want to start
22 with. Are we talking about concepts or talking
23 about changes?

24 MR. MORGAN: If you want to hear similar
25 to what you did in techs, the concept on

1 543.7(b), though, was -- if you wanted to compare
2 previous versions of the MICS -- we had this
3 conversation earlier -- just scrap that whole
4 thing. And that's what made it hard for the NIGC
5 to compare it to, is because we scrapped the
6 whole thing and came at it from a view of what
7 needs to be controlled in bingo and tried to set
8 it forth that way. The first A, B, C, and I
9 don't remember is D -- I know A, B, C are boiler
10 plates. You will see them at the beginning of
11 every section. It was just boiler plate language
12 of general that we set forth in every section as
13 you come through it. So if you have comments
14 about A, B, C, those are comments that need to be
15 globally changed as we go through sections.

16 MR. MCGHEE: So if you approve them now,
17 you could almost say I can understand why this
18 would be at the beginning of every section and I
19 would be okay with it.

20 MR. MORGAN: But, again, we started
21 this -- if you're in a bingo game -- and
22 remember, bingo is broad, session bingo, handheld
23 bingo, electronic bingo, just bingo, what items
24 need to be controlled was the thought process.
25 But sometimes we struggle in the Tribal Gaming

1 Work Group to keep that in mind. Yes, this works
2 great in a player station setting, but how does
3 this equate back to a session game that they can
4 still do this. And that sometimes the concept
5 may be broader than what you're thinking of, just
6 to try to incorporate some of those concepts, and
7 then not even talk about the handheld games, the
8 session bingo games, the CardMinder technology.
9 But that's kind of conceptually broad of at least
10 how we tried to approach this subject.

11 MR. MCGHEE: And the idea was when we were
12 doing the bingo section, all right, the card, not
13 so much the paper, which is why you'll see a
14 reference of scratching out paper on it, card
15 being the word, was the bingo card has to have
16 the same control whether it's sitting on a table
17 in front of you or whether it's in a machine.
18 Some people say what about the communications.
19 That's all going to be in a different type
20 section where you have risks over electronic
21 type, anything electronic. So when you're
22 looking for the electronic references, you're not
23 going to see them a lot in the bingo section
24 because this is just about how you play bingo,
25 whether it's on a machine or anywhere.

1 MR. MORGAN: For those that are familiar
2 with Class III, you know, in Class III, you went
3 to gaming machine section to -- that's a
4 different concept here, because we're talking
5 about the game of bingo, not actually the medium
6 in which you play bingo. It is the game of
7 bingo.

8 MR. MCGHEE: Okay.

9 MR. WEST: Do you have specific parts of
10 543.7 that only apply to paper binger and
11 specific parts that might apply to electronic
12 bingo and/or both?

13 MS. HAMEL: Yes.

14 MR. MCGHEE: And I think it was labeled
15 out, though.

16 MS. HAMEL: But that terminology was not
17 used in the -- in our recommendation, the word
18 physical inventory of cards would mean something
19 different than --

20 MR. MCGHEE: Under the -- yeah, if there
21 was some kind of reference made, and I'm not
22 looking through it, it was stated. It would say,
23 you know, this applies to, you know, physical
24 this, that. But we really tried hard not to
25 confuse the lines. So I think that last section

1 that deals with technological, when you play
2 bingo, addresses a lot of those kind of things
3 that may not be what you're used to seeing in a
4 paper bingo setting. And we tried to outline the
5 risks you may have with that. But it's really
6 jumping around a lot. I would agree if we take
7 it section by section, it will make more sense
8 instead of jumping around to pieces.

9 MR. WEST: And I know we've been working
10 with this issue. And when we've gone out and
11 done audits of gaming operations, have actually
12 adopted the 2008 543, so we've got these
13 checklists. So we have these discussions, does
14 this one apply to paper bingo, does it apply to
15 electronic bingo or both. I'm talking about
16 confusion in some of your gaming operations that
17 may not have the expertise that the people around
18 the table might have; avoiding confusion.

19 MR. MORGAN: But in the way -- at least
20 I'm guessing here. In the way that you currently
21 audit, you're using a checklist at a MICS level.
22 Under our conceptual shift, you would have to go
23 in and write a checklist, theoretically, to each
24 gaming operations tribal internal control level
25 and not at a big global level, more at a local

1 level, in order to truly evaluate the risk
2 associated in that gaming operation, which is a
3 -- it is a big shift. When people currently
4 adopt the 2008 now, they are still adopting that
5 and it's still a procedural-based checklist,
6 which I agree causes confusion. We tried to do
7 that on our floor in trying to apply a different
8 standard to this bank which may be Class II as
9 opposed to this bank which is Class III. Our
10 front line people, it caused mass confusion. And
11 one of the reasons that we -- we actually pulled
12 it back because we tried for months in order to
13 come up with a system to make 543 mesh with 542.
14 We couldn't do it, to be quite honest with you.
15 And that's one of the reasons that we shifted
16 conceptually to, you know, we should be talking
17 about control and the risks associated with it
18 and then allow me to adopt and set forth the --
19 at a local level what the internal control is and
20 let the operations develop what their policy
21 procedure is on it. So when auditors come in,
22 you have to audit to that standard to evaluate
23 risk. But that -- you will hear us go back time
24 and time again to that concept because if there
25 is a concept of if there is a one checklist for

1 MICS, that concept goes away under this scenario.

2 MR. MCGHEE: This, you have to look at the
3 bingo section and say has the bingo section
4 identified the risk involved in playing bingo,
5 and does it address those risks and state that
6 that tribal gaming commission or that operation
7 will need to come up with standards, procedures,
8 whatever you want to call them, to mitigate that
9 risk. So one, when someone goes into an audit,
10 they have to first say have the risks been
11 identified in the way you play bingo, and then
12 let me see your procedures in which you come up
13 to mitigate those risks.

14 MR. WILSON: I have a comment on 543.7(a),
15 if we're ready to move to that.

16 MR. FISHER: Okay. Yep.

17 MR. WILSON: And that's the document I
18 provided yesterday.

19 MR. FISHER: Yeah. Let me pull it up
20 here, and I then I got your --

21 MR. WILSON: My comment on 543.7(a) is not
22 surprisingly dealing with putting in the term
23 "risk" so that you get over -- the current
24 543.7(a) talks about procedures that provide at
25 least the level of control established by the

1 standards of this section. And, again, from my
2 philosophical shift, what I think that that
3 should be addressing is that whatever standards
4 you come up with in your facility, that the
5 wording be changed. I can't bring it up on my
6 mine, and I can't see this.

7 MR. MCGHEE: This same paragraph was
8 earlier, and you added language or suggested
9 language.

10 MR. WILSON: I did.

11 MR. FISHER: It's right here. I'm trying
12 to get it up on the screen.

13 MR. WILSON: So the procedures that
14 provide at least the level of control necessary
15 to mitigate the risks established by the
16 standards of this section. The risks being these
17 objectives that the Tribal Gaming Working Group
18 has identified as what needs to be mitigated. So
19 it seems like any controls or standards that you
20 come up with should be focused on mitigating the
21 risks that are identified in the document.

22 MR. WEST: Do you do your risk assessment
23 first before you even think about procedures and
24 checklist and everything else?

25 MR. WILSON: Essentially, yes.

1 MR. MCGHEE: So that training would
2 recommend more or less to be because that same
3 paragraph is at the beginning of the section. It
4 would be throughout.

5 MR. WILSON: It wouldn't just be there,
6 but it would be in the second in (b) where it
7 talks about computer controls. It's that same
8 wording and it would be changing that version as
9 well.

10 MR. FISHER: Let's pause for one second.
11 What's up on the screen is the original version
12 of the comparison document because that's what
13 Tom had put his changed language in. So it's not
14 the version -- the new comparison version in the
15 notebook.

16 MR. WILSON: But it's the same wording.

17 MR. LITTLE: The text hasn't changed.
18 Cleaner for clarity.

19 MR. WILSON: It's on Page 8 of our written
20 document.

21 MR. FISHER: Correct. Same text.

22 MS. TAHDOOAHNIPPAH: I can't see it. Can
23 you read it?

24 MR. FISHER: Yes. So the suggestion is
25 that the sentence would stay the same all the way

1 through to the word "control," and then it would
2 delete "established by the standards of this
3 section," and replace that with the language in
4 the box so that the whole sentence would read,
5 Subject to the approval and oversight of the
6 TGRA, each gaming operation shall establish,
7 implement, and adhere to internal control
8 policies and procedures that provide at least the
9 level of control -- this is the new part --
10 necessary to mitigate the risks established by
11 the standards of this section. So, in essence,
12 it takes out that word "established" that's in
13 there and replaces it with the phrase "necessary
14 to mitigate the risks" established by the
15 standards of this section.

16 MR. MCGHEE: You don't really strike out
17 "established."

18 MR. FISHER: Correct. All you're doing is
19 adding right before the word "established,"
20 "necessary to mitigate the risks." That's the
21 change.

22 MR. WILSON: From my way of thinking, the
23 previous wording is a holdover from the MICS,
24 what I call the old way of thinking. Where this
25 just ensures that we're all focusing -- that risk

1 is what we're trying to mitigate here, and if the
2 standards are outlining the risks, then your
3 controls need to mitigate those risks.

4 MR. MCGHEE: I call for a test on this
5 section.

6 MR. FISHER: Test on section (a)?

7 MR. MCGHEE: Is that how we want to do it?
8 Yeah.

9 MR. WILSON: Can we -- if we're going to
10 vote on it, can we talk about (b) as well?
11 Because I'm proposing the same change in (b) as
12 well. Unless of course somebody has an issue
13 with any other parts of (b) or (a), but --

14 MR. MCGHEE: Okay.

15 MR. FISHER: Go ahead. What do you say
16 about (b), Tom?

17 MR. WILSON: (B) would be where "and/or
18 procedures that provide at least the level of
19 risk mitigation," it's putting in that same
20 wording.

21 MR. FISHER: That same phrase right there.

22 MR. WILSON: Yep.

23 MR. FISHER: Yep. Okay. Everybody see?
24 I just put in this phrase right in section (b),
25 which is the same thing that was proposed for

1 section (a).

2 MR. MCGHEE: This is also the section
3 where you're striking out the definition of
4 agent, the computer thing. This is a hitch off
5 of that part. If you want to have the agent
6 replaced by computer application, this is what
7 allows you to do it, the TGRA approval.

8 MR. MORGAN: Tom, since we're kind of
9 cracking that thing, what you're talking about
10 and what Rust is talking about, that you're going
11 to do a risk-based analysis first before you ever
12 get to this to try to identify --

13 MR. WEST: That's what I understand from
14 the two days ago, that was the committee's focus.

15 MR. MORGAN: Instead of saying risks
16 established in both, could we say risks
17 identified? Because you're identifying the
18 risks.

19 MR. CALLAGHAN: Makes it sound like you're
20 establishing, and this document is weak.

21 MR. MORGAN: Identified the risks.

22 MR. CALLAGHAN: I feel better about that.

23 MR. FISHER: Were you finished? Okay. Is
24 there any other discussion about -- did you want
25 to do all three, (a), (b), and (c), or did you

1 want to test (a) and (b)?

2 MR. MCGHEE: I think (c), to address
3 Rust's concern, we need a little more
4 conversation about what variance is.

5 MR. FISHER: Okay. Want to check on (a)
6 and (b)? I don't remember which way I'm supposed
7 to do it.

8 MR. MCGHEE: If you had an objection,
9 we'll do the raise your hand.

10 MR. FISHER: If you support the 543.7(a)
11 and (b) as projected on the screen and changed as
12 part of this discussion, raise your hand.

13 (All hands raised.)

14 MR. FISHER: Okay. That got everybody.
15 Okay.

16 MR. MCGHEE: I have a question. Is that
17 agreed as far as will we reapprove that at every
18 section? Because it's the same language.

19 MR. FISHER: That's exactly what I was
20 going to ask.

21 MR. MCGHEE: It's a blanket statement at
22 the beginning of every section. Can we just say,
23 hey, we're good with that being at the beginning
24 of every section?

25 MR. FISHER: If it's the same in every

1 section, maybe you could have it as a general
2 section at the beginning of things. Did you
3 consider that?

4 MR. LITTLE: That's the question that I
5 have.

6 MR. MORGAN: We actually had that
7 discussion. The reason we did not do that is
8 because we felt like if you're on the floor in
9 some areas and you're looking for a reference, if
10 you're only working the bingo, you're only
11 pulling the bingo section and we didn't have to
12 pull bingo in this section. And one of our ideas
13 was we're trying to make subject matters flow
14 into a section, and that's one of the reasons we
15 placed it in each section.

16 MR. FISHER: It's the difference between
17 regulatory regulation simplicity and on-the-floor
18 use of the regulation.

19 MR. WHEATLEY: Right. Practical use.

20 MR. LITTLE: I know we're not comparing
21 the guidance, or you don't want us to, but is the
22 guidance then generally the same in each of the
23 sections?

24 MR. MCGHEE: The guidance to these three
25 things?

1 MR. LITTLE: Yes. Because that could
2 cause some confusion. So in that case then when
3 we do do comparisons, can we not have to
4 re-compare those three things?

5 MR. FISHER: You mean, not repeating the
6 comparisons?

7 MR. LITTLE: Would that be okay? Mike,
8 I'm saving you some work back there. Got that?

9 MR. FISHER: So there was nodding heads
10 yes around the table. So do you want to check
11 that?

12 MR. MCGHEE: I would say we vote that (a)
13 and (b) language as provided be the standard
14 language for each section throughout the MICS
15 beginning with this .7.

16 MR. FISHER: So we don't have to do this
17 multiple times, unless somebody has -- raises a
18 concern, the request is to say that (a) and (b),
19 as we just did in the bingo section, would apply
20 to the other sections as well, right? To the
21 other sections where it appears. Why don't we do
22 it as where it appears. Or you can list them, if
23 you want to. Are you guys making a list for us?

24 MR. MCGHEE: He's just doing a quick check
25 to make sure so everybody is educated. These two

1 sections or these two (a) and (b) appear in every
2 section except variance because it doesn't apply.
3 When you're applying for a variance, there's not
4 a computer application, there's not an internal
5 control. It's different.

6 MR. LITTLE: From .7 on, with the
7 exception of variance, it applies.

8 MR. MCGHEE: Yes.

9 MR. LITTLE: Does that make sense?

10 MR. FISHER: Okay. So everybody ready to
11 -- everybody see what we're doing? Everybody
12 ready to say what you think? Okay. So if you
13 support this change to flow through to all the
14 other sections in the MICS other than the
15 variance section, raise your hand.

16 (All hand raised.)

17 MR. FISHER: Okay. That got everybody.
18 So I'm still marking what we agree on in yellow.
19 So that's the same way you can track that, too.
20 Okay.

21 So now do you want to talk about the
22 variance section -- or the variance reference
23 here, not the variance section, but the variance
24 reference in (c)?

25 MR. MORGAN: My understanding of what the

1 confusion that could possibly exist is that the
2 variance section of this applies -- the term
3 "variance" is used to mean you want to do
4 something different than what is required in the
5 MICS. But in this particular subsection (c) that
6 we're talking about, we're talking about
7 statistical variances, what is that range, that
8 specific range on the subject matter that is
9 allowable, and when it exceeds that allowable
10 range, when you need to go in and do something
11 else, I guess, in essence. I'm just trying to
12 make sure I understand the concern. Is that
13 the --

14 MS. THOMAS: Can't you just call it
15 statistical variances?

16 MS. TAHDOOAHNIPPAH: I was thinking
17 numerical.

18 MR. WHEATLEY: It could be a number of
19 different things, or do we try to -- I think you
20 could try in the definitions section to give a
21 two-part definition to variance and add on the
22 fact that it could also be the application to
23 NIGC's variance to these proposed regs, or do we
24 change what a variance is titled or called that
25 you apply to the NIGC? Could it be called an

1 exception, an exception from the standards? Just
2 throwing that out there.

3 MR. FISHER: So there is no -- if I got
4 this right, there is no -- in the definitions
5 section, 543.2, no definition for variance?

6 MR. WHEATLEY: There is.

7 MR. FISHER: I don't see it then.

8 MR. WHEATLEY: I thought --

9 MR. FISHER: Goes from TICS to vault.

10 MR. WHEATLEY: You're right.

11 MR. FISHER: That is one way to handle it,
12 is to put a --

13 MR. WHEATLEY: Two-part definition.

14 MR. FISHER: -- two-part definition in
15 variance, depending on the usage, right?

16 MR. WHEATLEY: Uh-huh.

17 MR. WILSON: It would seem a two-part
18 definition of the same word, it might get
19 confusing as to ensuring that you're using the
20 right definition for when the word appears in a
21 section, that it might be a better approach to
22 change the definition of variance as far as
23 applying for a variance, to applying for, you
24 know, something else.

25 MR. MCGHEE: Exception.

1 MR. WILSON: Yeah. And then the
2 variance --

3 MR. MCGHEE: Instead of variance, the
4 variance section from when you apply to NIGC, we
5 change that name to be something else
6 alternative. Procedure. Request for alternative
7 regulation. I don't know about that. And then
8 it gets rid of the idea of confusing that kind of
9 variance. It would be harder to stick a word on
10 the other variance to catch everything. It's
11 much easier to change the applying for a variance
12 to the NIGC.

13 MS. STACONA: In the section under the
14 bingo, we have the variance there, but in none of
15 these sections on there do you list variance or
16 talk about variance in anywhere, so are you
17 assuming you're going to have variance all over
18 this place in your draw, your payouts, your bingo
19 cards or your inventory. I guess you have a word
20 in there up above, but nothing really down below
21 that talks about it.

22 MR. MCGHEE: In my opinion, if you were to
23 try to go through and identify where there would
24 always be a variance at everyone's site, it would
25 be too hard because you may have a certain thing

1 you do that could result in a variance that I
2 don't. And that would get back to that cookie
3 cutter thing. So more or less it's just saying
4 variance, whatever you identify within your
5 place, a variance could happen. You don't want
6 to go through it and, say, decide what variances
7 are. You want that blanket statement. I think
8 somewhere in here, it will say you have to have a
9 -- and I'm not sure, I'm just saying, you would
10 have to have a procedure that would tell you that
11 risk of variance and what to do. You don't want
12 to get into what I do when I have a variance. It
13 should be your decision as a TGRA. You should
14 know that the variance exists. You should decide
15 what the threshold is and you should take action.

16 MR. MORGAN: I do understand Michele's
17 point. If I restate it wrong, please correct me.
18 It's that you don't think it should be in bingo
19 because we don't really reference that term
20 anywhere that's not contemplated?

21 MS. STACONA: Right. If you're not going
22 to talk about it, don't put it in there.

23 MR. MORGAN: The reason it is there, it
24 was just one of those global boiler plate things
25 we put in every section except for variance just

1 to be applicable in there. And at least from my
2 recollection, at the Tribal Gaming Working Group
3 level, our thought process may be what your
4 concern and maybe we did something there that we
5 can go back to, but our thought process was more
6 relevant to the fact of instead of listing at a
7 federal level certain thresholds that
8 predetermined thresholds, that we need to
9 determine the risk associated with those
10 thresholds at a local level. And as long as your
11 regulatory body was okay with those thresholds,
12 then you should do it and not require -- you
13 know, for example, if it's more than three
14 percent and you know, Leo wants to say five
15 percent is fine with me, I don't have to take
16 that necessary step of asking the federal
17 government, is it okay if I go from three to
18 five. I already have that authority at the local
19 level to do it. That was, I think, the subject
20 of discussions where I'm from. Your point, I
21 think, may be a point that we really didn't
22 discuss intently there, which may be valid.

23 MR. MCGHEE: Variances can occur in any of
24 these sections, correct? So it's a risk. So you
25 have to state it. What you have to do as a TGRA

1 is decide at what threshold that you would
2 determine this is a true variance and then at
3 what level you're going to review it as a TGRA to
4 see what happened. I mean, there's your risk and
5 what you need to do when you find a variance is
6 to review and see what happened. And first
7 identify what is a variance, and then review it
8 to see what happened. But you don't want to get
9 into the procedure of how you review it; it just
10 has to be done and reviewed. That's why it's its
11 own little thing.

12 MS. STACONA: Maybe we should put,
13 Establish the threshold level at which a variance
14 in these subsections should be reviewed, so you
15 know you're doing these underneath there.

16 MR. FISHER: So, Leo, do you want to go
17 and then --

18 MR. CULLOO: The whole thing with variance
19 is set by a percentage or a numerical dollar
20 amount. It's so different from property to
21 property. The impact it has from a small
22 property to a large property, one percent is a
23 lot of money, could be, so I definitely want to
24 stay away from that type of scenario where we try
25 to establish something where we set a percentage

1 or dollar amount because it's not conducive to a
2 lot of properties.

3 MR. MORGAN: I think your point was what
4 our concern was, that if this determination needs
5 to be made, it's more appropriate it's determined
6 at a local level and not a federal level.

7 MR. CULLOO: There's a lot of work to
8 respond in a variance. Particularly when it
9 comes to table games, the work to have to go
10 through it, it ties operations up a lot and it's
11 not -- every property is different.

12 MR. MORGAN: What's significant to you.

13 MR. CULLOO: Right.

14 MR. MCGHEE: Obviously if variance is
15 listed under bingo, then this particular
16 reference only applies to variances in bingo.
17 That's why it's listed again in -- it's the one
18 section on variances and what to do with them.
19 Now, you can expand upon that or whatever, but
20 it's implied that it means everything to do with
21 bingo.

22 MR. LITTLE: Should you clarify it and add
23 something like "within this section"?

24 MS. STACONA: Let's put that.

25 MR. MCGHEE: It's under the section

1 already. It doesn't hurt. It doesn't hurt.

2 MR. MORGAN: Doesn't help, but doesn't
3 hurt.

4 MR. MCGHEE: You can just put it in every
5 section, too. So I don't have a problem if you
6 want to do that.

7 MR. MORGAN: You had suggested what?

8 MS. STACONA: The TGRA shall establish a
9 threshold level at which a variance shall be
10 reviewed -- I can't remember what I said -- which
11 a variance in these subsections shall be
12 reviewed --

13 MR. MCGHEE: In this section.

14 MS. STACONA: Yeah, you want to do the
15 variance on these subtopics below.

16 MR. MCGHEE: E is not a subsection, it's
17 just another section. Isn't it -- are we calling
18 like A a section? Or would you call A a
19 subsection? Just so I'm clear on what it's --
20 because if A is a subsection, then I agree with
21 that language. But if it's just a section of
22 this part, then the language needs to say
23 section. You understand what I'm saying? It
24 sounds elementary, but it's kind of important
25 when you're referring to something. I look at

1 the A, B, and C's as sections and anything below
2 that is subsections when it breaks off.

3 MR. FISHER: So I don't know whether this
4 language, the addition of this language works.
5 So if you look at the language in 543.18, it
6 starts -- which is the variance section. It
7 starts with should a TGRA grant a variance to any
8 provision of these MICS. So if you mirror that,
9 a variance to any provision in this section shall
10 be reviewed, right? So it mirrors the language
11 that's in 18. So did you sort that out, section,
12 subsection?

13 MR. MCGHEE: It's really a federal
14 definition, because when they start putting this
15 stuff into code in the Federal Register, it's
16 rearranged and put into all these sections,
17 subsections, and parts. So when you refer to it
18 in the document, you need to refer to it legally.

19 MR. MORGAN: That's OMB. That's what OMB
20 does, to make sure that you've referenced it
21 correctly, whether it's a part, subpart, chapter,
22 section, that whole --

23 MR. MCGHEE: They'll go through it
24 individually and wherever you meant to say
25 section, will they put that in?

1 MR. MORGAN: The agency is supposed to do
2 it, but anything they've missed that doesn't make
3 sense -- because when you publish a regulation,
4 it goes from your agency over to OMB to be vetted
5 and approved. That's when they make those type
6 of --

7 MR. LITTLE: OMB has got -- I don't know,
8 they lock people in a room and all they do is
9 review these things. And I don't know how it
10 works, but they just review these things and just
11 -- and, I mean, they'll send it back to us and
12 say this is out of line, just for format, and
13 make sure it all complies. Mike is at OMB.

14 MR. FISHER: He's shaking his head.

15 MS. HAMEL: Why don't we just say 547.7?

16 MR. FISHER: You could do that.

17 MR. MCGHEE: I think the whole thing is a
18 part. This is a part after small and charitable,
19 they're referring to this whole document as a
20 section. So I would call these Sections 543.14
21 is a section. It's not a part. Because this
22 whole thing is a part, the way they reference it.

23 MR. MORGAN: In my mind, if there is
24 confusion over the word, this section and part
25 doesn't really clarify for it for me. The

1 conversation and suggestions that Jeff made to
2 either change what you call a variance to the
3 MICS and/or put in some reference to numerical,
4 or whatever words you use, helps me at least
5 clarify. But in this unit, section or in this
6 part, that doesn't really help me add clarity to
7 my confusion. It tells me where to focus on, but
8 it doesn't really help me clarify.

9 MR. MCGHEE: Kathi said just reference to
10 section number 542 point -- whatever bingo is,
11 and then do that in each one.

12 MR. MORGAN: I keep going back to not
13 where this variance applies to. I keep going
14 back to what is the purpose of this variance
15 language. The purpose is what Leo discussed on
16 numerical variances within the property, not
17 large variances in an alternative way to meet
18 this standard.

19 MR. MCGHEE: We were trying to satisfy
20 Michele's.

21 MR. MORGAN: No, I understand.

22 MS. STACONA: You still got to put what a
23 variance really means to people out there. And
24 we're talking whether it's a dollar or an amount
25 or, you know, whatever, because I could just --

1 if I gave this to somebody on my floor, they
2 would totally not pay attention to A, B, C, and
3 they'll just be going like this, and forget about
4 one of the main things in here is a variance.
5 And what do you do with it?

6 MR. MCGHEE: Why would they ignore it?
7 They're not supposed to. I'm just saying, it's
8 there. But you're just going to be re-vetting.
9 You're not going to be giving them this.

10 MR. MORGAN: I agree with you. Under this
11 new scenario, you would have to come up with more
12 documentation, and reading the MICS really
13 doesn't suffice anymore because there's really
14 not anything in the MICS. You have to adopt
15 something in addition to.

16 MR. FISHER: Are you borrowing
17 Christinia's card?

18 MR. WILSON: I am. I am a/k/a Tom. If I
19 understand what you're saying, is that variances
20 could be any number of things. And if the intent
21 of the risk is the variance that we're trying to
22 mitigate dollars, meaning is it a dollar
23 variance, is it an inventory variance, is it a --

24 MR. CULLOO: Could be any of them.

25 MR. WILSON: But that's where I think --

1 MR. MCGHEE: Your risk analysis would
2 identify where a variance could occur and then
3 you have to address that.

4 MR. WILSON: But that is where, then, like
5 a guidance document has to somehow state that
6 variances can be in many forms. You can have
7 inventory variance --

8 MS. HAMEL: It does.

9 MR. WILSON: This is where I'm saying to
10 help through the process. What Michele is asking
11 for is she's asking, if I understand correctly,
12 that you want more guidance on what variances the
13 TGRA needs to address.

14 MS. STACONA: Right.

15 MR. WILSON: If the guidance document does
16 that, she's not seeing that, so this may be an
17 instance where it's helpful to bring up a sample
18 of the guidance document that she can get the
19 flavor of where that answer can be gained that
20 she has.

21 MR. MCGHEE: Okay.

22 MR. FISHER: So while they're doing that,
23 Dan.

24 MR. LITTLE: This is a clarification as to
25 the whole section. I talked to Mike, and we

1 believe if you just reference section, that
2 refers to point 7, Section point 8. So if you
3 just leave section off. If you refer to part, it
4 would be the entire 543. That would probably be
5 fine.

6 MR.McGHEE: Okay.

7 MR. WILSON: Christinia has brought in a
8 comparison document. There was a section in
9 there about comments on the guidance for
10 variance, so that might --

11 MR. McGHEE: Where it says TGRA guidance,
12 that's a sample guidance that TGRA --

13 MR. WILSON: Yeah, it does a good job of
14 defining the different types of variances. If we
15 could pop that up, I think Michele can see that
16 connection.

17 MR. McGHEE: She's got it.

18 MS. STACONA: I've got it. But I don't
19 think I was the only one that was confused.
20 Because you don't want to confuse with the
21 variance that you could ask for if you want to be
22 a little bit different, too.

23 MR. McGHEE: Yeah, which is for the last
24 section at least.

25 MR. MORGAN: That is the difficulty

1 sometimes when you read just the MICS by itself.
2 And the confusion that we actually came into, I
3 think, the first time the group offered a
4 suggestion to the NIGC, if this is what we're
5 thinking, until you complete that thought and
6 look at those examples, it really doesn't
7 solidify in your mind, okay, yes, I grasp that's
8 what that means. I agree, it's helpful.

9 MR. MCGHEE: And I think we just have to
10 remember when we get to the variance section,
11 that we change that instead of doing it now.
12 Right? Their actual variance section at the end.

13 MR. FISHER: So -- go ahead, Matt.

14 MR. MORGAN: I'm not disagreeing with
15 that. The only thing that I have, and this is
16 why I think it's going to start -- some of my
17 thoughts bleed into Class III, Class II. If I
18 have a Class III MICS that says I got to apply
19 for a variance and I have a Class II MICS that
20 says I have to apply for, for example, an
21 exception, does that create some undue influence?
22 And until they say we're going to change both of
23 them, or we need to recommend that -- --

24 MR. MCGHEE: You can't let Class III hold
25 us back.

1 MR. MORGAN: In addition to putting that
2 on there -- that's the reason I say I don't think
3 over time we can talk about Class II MICS as a
4 closed -- as we talk about Class II MICS, there's
5 no way really to talk about a Class II MICS,
6 especially if you're talking about from a front
7 line perspective or operational perspective.
8 You're not going to have a one cent per drop in
9 count when I hit a Class II bank versus when I
10 hit a Class III bank. That's when we do have to
11 keep that in mind that some of these concepts are
12 going to bleed over, and that's not our job to
13 look at that. That may be at least a
14 recommendation to the NIGC to say, hey, you guys
15 really need to be consistent in whatever you do
16 on that concept because that's a global concept
17 that affects the gaming floor. It's not a Class
18 II, it's not Class III concept; it's a global
19 concept.

20 MR. MCGHEE: I do know on the agenda
21 sometime in the future, there's supposed to be a
22 discussion about Class III.

23 MR. FISHER: Where there's overlap.

24 MR. MCGHEE: So definitely would be the
25 time to say that.

1 MR. LITTLE: Jess is not in the room?

2 Okay. Good.

3 MS. STACONA: Would maybe "discrepancy" be
4 a better word?

5 MR. FISHER: So Tom has got his hand up.
6 And Michele just suggested perhaps using the word
7 "discrepancy" there.

8 MR. MCGHEE: No. I think discrepancy is a
9 lot broader.

10 MR. FISHER: It could be that we need to
11 actually put this aside because this flows
12 through every section. There's a whole section
13 on variances. There's a whole conceptual
14 approach to variances and changes to the -- in
15 the standards versus what happens on the floor.
16 And you're trying to solve both a regulatory
17 problem and a practical on-the-floor problem at
18 the same time. And so it could be that we just
19 need to kind of get out what the concerns are and
20 then figure out a way to revisit this. Or we can
21 keep going, whatever the preference is. So Tom,
22 then Jeff, then Leo.

23 MR. WILSON: I'm okay because it's a
24 global thing to -- we know that we've got to
25 address this before we're all done-done. But I

1 just wanted to make a conceptual comment about
2 this term "variance," that it seems to me that in
3 the section that you're calling -- when you apply
4 for a variance, that there's almost negative
5 connotations to that. What you're really asking
6 for is the approval of alternative procedures.

7 MS. HAMEL: Yes. It's a true variance.

8 MR. MORGAN: No, you're not asking our
9 concept of an alternative procedure because
10 you're now allowed to have alternative
11 procedures. You're asking for an alternative
12 objective, which --

13 MR. MCGHEE: I don't know how many
14 requests you're going to have once you take away
15 all the procedure.

16 MR. WILSON: That's what I'm wondering,
17 when you're talking about applying for a
18 variance, a variance from what? A risk?

19 MR. MORGAN: Good question.

20 MR. MCGHEE: You're applying for a
21 variance to the regulation.

22 MR. WILSON: I'm not sure that that whole
23 variance thing is a real thing anymore. I mean,
24 because under the old MICS, you applied for a
25 variance or a something, but that's different in

1 this context. What are you going to apply for a
2 variance for?

3 MR. MORGAN: I don't know. I'm almost in
4 agreement with you. I can't think of a thing --
5 how do you argue that this objective is not a
6 risk, you know, once it's identified through a
7 separate -- that this is a risk. You can argue
8 about how I mitigated the risk, but how do you
9 actually argue about the risk in the things, such
10 things need to be controlled? I don't know the
11 answer to that.

12 MR. WILSON: I suppose if you could make a
13 case that risk does not apply to your operation,
14 that you would be applying for a variance or
15 whatever to say that I don't need to create a
16 control over this particular risk because I don't
17 have that risk.

18 MS. HAMEL: You don't have to do anything.

19 MR. CALLAGHAN: If it doesn't apply, it
20 doesn't apply.

21 MR. FISHER: Okay. What you just said
22 questions whether you have a provision that does
23 this at all. It may be that we need to figure
24 out a way to revisit this section. So Jeff and
25 then Leo, and then we'll figure out what to do.

1 MR. WHEATLEY: To Thomas's point, while we
2 here can't envision a situation where that might
3 occur, there's plenty of other operations around
4 the country that may come up with that situation,
5 so I don't think that we can foresee that enough
6 in the future to say that we need to strike that
7 section. As far as the variance as it applies
8 here, I think maybe if we just added a definition
9 of what this type of variance is in the
10 definitions, that would help to clarify, you
11 know, whether it be a financial, statistical,
12 inventory, but not limited to these examples for
13 a variance. That would help, I think, provide a
14 lot of insight to what this section is actually
15 referencing.

16 MR. CULLOO: My comment had to do about
17 looking at the potential to possibly change the
18 word "variance." It's such a
19 universally-accepted terminology in gaming that
20 if you change it, it could cause tremendous
21 amount of confusion to people. So I would
22 recommend we don't change the word.

23 MR. CALLAGHAN: When we're looking at
24 these MICS conceptually, are we looking at it
25 because we're going to present financial

1 statements that need to be audited and certified?
2 And when you look at risk, that -- to an external
3 auditor, risk means material statement of
4 financial statements. Are we looking from an
5 internal audit standpoint where we're looking at
6 risk, how much do we think is -- applies to
7 factors that's in there like from the Class III
8 world in slot machines, any variance over X
9 percent. And then or are we doing this with an
10 NIGC focus, one, to mitigate -- one, to allow the
11 TGRA to have more authority and not be
12 specifically driven by a set process, or is --
13 because my -- you mentioned, Rest, audits that
14 you do, going with the internal audit. There's
15 compliance audits, financial audits, functional
16 audits. It would appear to me that you're going
17 in and doing the compliance and financial audits?

18 MR. WEST: No. Just compliance.

19 MR. CALLAGHAN: Strictly compliance. So
20 when we look at this, you know, again, that's
21 what I'm trying to see. I'm looking at this a
22 lot from a financial standpoint, realizing that
23 you're going to try to come in and do a
24 compliance to see if we're in compliance with
25 this. So you, in essence, will have zero

1 tolerance to any -- there's no variance. If you
2 find something that they're not in compliance
3 with, it's a plus or -- it's an on or off switch.
4 So I guess my point is our focus on this is
5 financial statement driven and controlling the
6 environment and less so on being concerned about
7 the compliance factor.

8 MR. MCGHEE: In this one little (c) here?

9 MR. CALLAGHAN: This fits into that when
10 we talk about variance. Again, what's a variance
11 to an external auditor opposed to an internal
12 auditor.

13 MR. MCGHEE: I mean, wouldn't that be
14 determined by the TGRA? Not in here, though.

15 MR. FISHER: Leo then Jeff.

16 MR. CULLOO: The question is for Matt and
17 the work group. So you establish -- the TGRA
18 establishes the MICS and they come in, NIGC, and
19 they audit the MICS, and you haven't set or met a
20 standard that mitigates risk, that's their
21 finding. Does that create a variance, or what
22 happens there at that point?

23 MR. MORGAN: I don't know if they're
24 allowed to audit the MICS anymore, I guess is my
25 misunderstanding from that. Because what they

1 need to audit is their system of internal
2 controls.

3 MR. CULLOO: Your internal controls. You
4 establish and they come in and test them based on
5 locally, and the test fails their -- they don't
6 agree that your controls are sufficient to
7 mitigate risk. Then what happens?

8 MR. MCGHEE: The same thing that would
9 have happened if they come in and said that your
10 MICS -- you weren't meeting your MICS. You're
11 going to do this, and you're going to argue it.

12 MR. MORGAN: Why did we get into it, kind
13 of those foundational questions. What we set
14 forth there is if they disagree, you give notice
15 to the tribe you disagree, give a reason why.
16 You sit down and craft a solution before you ever
17 get to -- eventually you're going to get to
18 enforcement, if we're all on the same page.

19 MR. WHEATLEY: To Brian's point, I think
20 that it's both. They are coming in and auditing
21 from a compliance standpoint. We've identified
22 that there's a risk of variances. We all know
23 they happen. Human error in any number of these
24 sections. I think they're not necessarily
25 worried at what level that we handle those

1 variances, but that we are handling them through
2 our TICS. So basically the compliance checklist
3 is going to be -- they're going to be
4 investigating and looking for variances and did
5 we handle them in accordance with our approved
6 TICS. That would be my thought.

7 MR. CALLAGHAN: Great.

8 MR. MCGHEE: The language that's here --

9 MR. FISHER: Tom.

10 MR. WILSON: Oh, I'm good.

11 MR. MORGAN: It hasn't gone on the floor
12 yet.

13 MR. MCGHEE: So the language that's here,
14 assuming we added section or whatever it was they
15 said to that, the only thing I hear right now on
16 the table outstanding might be that a definition,
17 you know. And then making sure the definition is
18 vague enough, because are you willing to throw
19 out there as examples. Really at the end of the
20 day, it will be a difference in so and so such as
21 blankety-blank, blank, blank.

22 MR. WHEATLEY: But not limited to 3 or 4.

23 MR. MCGHEE: It is in the guidance
24 documents that would be produced. Here is a --
25 you know, here is an example on variance and

1 these are the kinds of variances that could
2 occur; here is examples of what you should do if
3 you find a variance. I guess I would like to
4 know with the language suggested of adding
5 section or whatever, is there any problems with
6 this, not the other section that's at the end of
7 the part, that's at the end of the book?

8 MR. FISHER: You mean this? And then add
9 the definition?

10 MR. WHEATLEY: I don't like "provision."
11 Sorry. To me, when I hear "provision," it sounds
12 like a variance from the actual regulations.

13 MR. FISHER: Okay.

14 MR. MCGHEE: A variance within the
15 section, right?

16 MR. FISHER: So you want to, like, think
17 about the definition. So John?

18 MR. MAGEE: What I kind of agree with
19 Jeff, his statement earlier, we need some kind of
20 definition. I'd like to have it in there. This
21 all started because of Rest saying he didn't
22 understand or didn't see a provision or
23 definition what variances was. So it's kind of
24 circling back. If we could get back to that and
25 then draft a language that they're comfortable

1 with as well as us. I think maybe that's what
2 you were working on.

3 MR. FISHER: I started. Now I just --

4 MS. LASH: How about within the context of
5 this section?

6 MR. FISHER: Who's got an idea for the
7 definition, what definition?

8 MS. THOMAS: In the actual guidance
9 document, they already have a for example on what
10 variances are. That's actually pretty good
11 language. It reads, Exceptions against controls,
12 inconsistencies with established policies and
13 procedures or deviations from the expected
14 outcomes.

15 MR. WHEATLEY: To that point, really
16 quick, though, if you look at the comparison
17 document, I think the NIGC felt that was too
18 vague that definition of variance.

19 MR. WILSON: Let's talk about that.

20 MR. MCGHEE: They were initially talking
21 about it should be a number.

22 MR. CULLOO: Percentage or number.
23 Numerical.

24 MS. TAHDOOAHNIPPAH: We're not just
25 talking about numbers.

1 MR. FISHER: If you turn in the comparison
2 document to the -- to Page 4, that's where the --
3 I'm in the bingo comparison document, Page 4. It
4 lays out the guidance and the NIGC comments.
5 Maybe we can use that as a basis for what to do.

6 MR. MCGHEE: Use the definition in NIGC's
7 comments that says a variance will have at least
8 two sets of records originating from different
9 sources that produce results that are
10 inconsistent. That was y'all's definition more
11 or less. So you have -- such as provide the two
12 on the variance comparison document. The bottom
13 paragraph is the effect the TGWG proposed
14 amendment.

15 MR. FISHER: Page 4?

16 MR. MCGHEE: Yes. And then the third
17 sentence says variance results from at least two,
18 blah, blah. If you buy into that, and then say
19 such as exception to controls and use the i.e.
20 if you wanted a control.

21 MR. WHEATLEY: Such as, but not limited
22 to.

23 MR. MCGHEE: Merge both worlds.

24 MR. WILSON: The term that NIGC uses,
25 deviation from expected outcomes, is appropriate

1 in a risk-based environment because you're not
2 defining the -- the entity is defining the
3 expected outcome. But you're just identifying
4 that a variance -- when it deviates from whatever
5 your expected outcome is, that's a variance and
6 hence you need to put parameters around that of
7 whatever you're going to do about that. So from
8 a risk standpoint, that deviation from expected
9 outcomes fits that model in my perspective.

10 MR. MCGHEE: That's up here in the
11 example?

12 MR. WILSON: Yeah, it's in the NIGC
13 comments. Well, it's up there, too.

14 MR. WHEATLEY: They're quoting what was in
15 the guidance documents.

16 MR. MCGHEE: They're just quoting what was
17 up here. What about do you -- read this one here
18 in blue. Does that make sense to you?

19 MR. WILSON: The TGWG comment?

20 MR. FISHER: Yeah, the -- Kathi, go ahead.

21 MS. HAMEL: I just had a question. If we
22 only zero in on two sets of records and two
23 different sources, I will consider a missing
24 document a variance.

25 MR. MCGHEE: From a comparison --

1 MS. HAMEL: There may not be two sources.
2 Or if a signature is missing from a document,
3 there's -- it's not two sets of records. It's
4 not -- but it's still a variance to the
5 prescribed --

6 MR. MCGHEE: Results from the comparison
7 documents originating from different sources.

8 MS. HAMEL: It may not be a comparison.
9 It may be something just missing.

10 MR. CULLOO: Missing document.

11 MS. HAMEL: Or incomplete or --

12 MR. WHEATLEY: Isn't that going back to
13 kind of the other definition of variance?
14 Because you're talking about a missing signature,
15 you're saying, on a document --

16 MS. HAMEL: It's an exception against a
17 control. But that language about two different
18 documents, two different records, it doesn't --

19 MR. FISHER: It's not comprehensive
20 enough. So this brings up -- for me, back to the
21 question of what problem are we trying to solve?
22 Because what's not -- we have a bunch of
23 different pulls and pushes going on here, but it
24 depends on which part of the variance and what
25 kind of variance and which part of the section

1 you're focused on, you potentially get a
2 different either definition or result. So a
3 variance in what context?

4 MR. MCGHEE: A variance -- in the context
5 of this document. We're going to change the name
6 variance later, so right now variance only refers
7 to all the sections other than the variance
8 section. It sounds funny, but true. I mean,
9 it's true.

10 MR. FISHER: We're using the word to
11 define the word.

12 MR. WILSON: Just ignore the other --

13 MR. MCGHEE: Ignore it.

14 MR. WILSON: Just ignore the other future
15 section called variance. We're not concerned
16 about that. What we're concerned about is the
17 definition of variance as used in these sections.

18 MR. FISHER: Okay. And so that gets you
19 to a definition of variance that encompasses --
20 how do you encompass the provision that Daniel
21 referred to in the NIGC comments and the kind of
22 variance that Kathi was explaining in terms of
23 incomplete or missing information?

24 MR. MCGHEE: Assigning it to somebody at
25 lunch to do.

1 MR. LITTLE: We're not going to lunch.

2 MR. MCGHEE: Assign it at break.

3 Obviously it's not happening here.

4 MR. FISHER: It may be worthwhile to
5 continue to talk about it as a full group,
6 whether that's worthwhile. Leo and Jeff.

7 MR. CULLOO: I never heard a response from
8 down here in regards to your original question,
9 what is your objection that it's not clear that
10 they feel this is not -- what's the word they use
11 here? You want it elaborated upon. Can you give
12 an example? You say things like who investigates
13 and what. Does that include things like
14 statistical set numbers or percentages; what is
15 your objection in that proposal?

16 MR. WEST: This just covers the guidance
17 document. So it didn't really speak to the
18 definition of variance.

19 MR. WILSON: Well, if I read the last
20 section of the guidance document comment by NIGC,
21 allowing variance thresholds to be determined by
22 the TGRA without minimum guidance may lead to
23 thresholds so high as to technically circumvent
24 the standard. That's the rationale piece that
25 I'm trying to understand. In my mind, the

1 implication of that statement is that without a
2 definitive threshold, that the TGRAs may -- the
3 concern seems to be that without a threshold,
4 let's say, a percentage or whatever, but for sake
5 of argument, a percentage, that a local TGRA or
6 the operation might come up with a threshold
7 that's much higher than that before they would
8 react. And I guess my response to that would be
9 I don't know any operators that -- I mean, there
10 is a common business rationale about this game
11 and what happens. And variances are something
12 that maybe can occur, but some variances are
13 definitely more significant than others, risky.
14 And so the only thing setting a threshold would
15 do is set this standard. But the fact of the
16 matter is, the variance that is risky for you is
17 -- could very well be a different threshold level
18 than what is appropriate for my property. So I
19 guess that's where I have the issue when you set
20 thresholds as the measurement to -- in which
21 somebody takes action. I think that that can
22 only be measured at the local level and not
23 something that can be dictated up at this level.

24 MR. WEST: I don't think we're doing that.
25 It's just speaking to the guidance documents.

1 That would be normally what's in your standard
2 operating procedures for revenue audit, at what
3 point do they look at a cash shortage or
4 percentage deviation on a gaming machine or
5 something like that. So, I mean, I'm not --
6 again, it's just a comment that whoever reviewed
7 this probably -- I didn't do this one -- the
8 guidance part. So I think you're drilling down
9 too deep and getting away from the standards.

10 MR. WILSON: So it --

11 MR. WEST: This would be something that
12 the TGRA would decide in conjunction with gaming
13 operations; bingo paper shortage, shortage on
14 bill validators, electronic bingo.

15 MR. WILSON: So it sounds like -- and I
16 understand that maybe you can't say this
17 officially in your capacity, but the concept of a
18 TGRA establishing the thresholds at which
19 something happens, you as an individual don't
20 seem -- as an auditor, seem to be comfortable
21 with that concept?

22 MR. WEST: Yeah. I mean, if someone went
23 out -- especially your financial auditor, they
24 came out and they thought the threshold was too
25 high because you might have an impact on -- the

1 internal controls and financial reporting are
2 what they're looking at. So maybe there is a
3 situation that they would object. The same with
4 us, it's not reasonable. But I think a TGRA is
5 going to set a reasonable threshold. Or
6 hopefully they will.

7 MR. FISHER: Jeff then Mia.

8 MR. WHEATLEY: I think to the point of the
9 guidance documents, and I'm just inferring to why
10 maybe there's no threshold in the guidance
11 documents. I'm assuming maybe the TGWG didn't
12 put it in there because it's going to be
13 different for every property so they didn't want
14 to be too specific. But the understanding being
15 that the TICS that are developed by each TGRA are
16 going to be more specific to their property. It
17 just gives examples of how you would frame a
18 variance, what a variance is, and then you are at
19 that discretion to set that level. I'm fine with
20 the existing language that was in there. If we
21 change what the -- applying for a variance still
22 over all regulations, if you change that, I don't
23 think there's that much of an issue. I don't
24 think you would need a definition of what a
25 variance is. Well, if you change the name of the

1 other one, I don't think you have to. But it's
2 -- we certainly can attempt to do that to give
3 some level of comfort to others.

4 MS. TAHDOOAHNIPPAH: Well, I'm fine with
5 that. But if we are going to come up with a
6 definition of variance, I think that we should do
7 it in a small group and work on it and think
8 about it.

9 MR. MCGHEE: I just threw a suggestion up
10 to start from if we were going to have a
11 definition.

12 MR. WILSON: I mean, the question then, I
13 think, becomes can we vote on (c) or not?

14 MR. FISHER: Right.

15 MR. WILSON: Right.

16 MR. FISHER: Correct. Or do you need to
17 do more work on it. If you need to do more work,
18 you should send it into a small group.

19 MR. WILSON: We've talked about it
20 legitimately that this has a meaning. But I
21 guess the question is in order to move forward,
22 have we beat it to death for purposes of this,
23 and either we can vote on it or we can't. And if
24 we can't, then we should --

25 MR. WHEATLEY: I say we vote and if it

1 doesn't pass, then we have to form a small group
2 to work on it.

3 MR. FISHER: What are you going to vote
4 on, this change or the way that you just proposed
5 dealing with it?

6 MR. MCGHEE: What did you propose?

7 MR. CULLOO: There's been a few words
8 changed up there.

9 MR. WHEATLEY: With the section part in
10 there without the definition, is how I would vote
11 on it to see if that satisfies the group. If
12 not, then we know we need to work in a small
13 group to come up with perhaps a definition.

14 MR. FISHER: You'd vote on this.

15 MR. MCGHEE: You can just say later let's
16 add a definition when you get to the definitions.

17 MR. FISHER: Let's do it in a two-part
18 thing, and we can also see what people think of
19 the definition and if you want to add it or make
20 more work. All right. So everybody ready?

21 So --

22 MS. STACONA: Wait.

23 MS. TAHDOOAHNIPPAH: We added what?

24 MR. FISHER: We added within the context
25 of this section here.

1 MS. STACONA: Question. I like where Jeff
2 was going, that he liked this, but wanted to
3 change the wording on the other variance at the
4 end.

5 MR. WHEATLEY: Yes.

6 MS. STACONA: That's what we need -- is
7 that what we're going to vote on, just that?

8 MR. FISHER: No. On the change to the
9 next section.

10 MS. STACONA: But on the conception that
11 we're going to change the variance?

12 MR. FISHER: Right.

13 MS. STACONA: To another name or
14 something?

15 MR. FISHER: Right.

16 MS. STACONA: Okay.

17 MR. FISHER: I think everybody has agreed
18 that you got to figure out a different way to
19 call that there. Okay. So if you're -- in other
20 words, if your acceptance of this language is
21 contingent upon a change to that later section,
22 you can say that, if you wish. Or we could make
23 that as an understanding we're going to go back
24 to that section.

25 MR. WHEATLEY: I think that will be the

1 understanding.

2 MR. FISHER: We're going to visit that
3 section, which is 543.18, if I'm remembering
4 correctly, and change the language in there, the
5 names and the terms. All right. So let's check
6 it. So if you support the version recommended in
7 section (c) there, variances as we changed it up
8 on the screen, raise your hand.

9 (All hands raised.)

10 MR. FISHER: Okey-doke. That worked.

11 MR. MCGHEE: Can you ask now the question
12 to be if you think a definition is needed, raise
13 your hand.

14 MR. WHEATLEY: Well, I think --

15 MR. MCGHEE: A definition needed. If
16 everybody says yes, then we'll come up with one.
17 I'm just saying do we even want one anymore?

18 MR. FISHER: You want to check. Let's
19 just try this without asking for consensus yet.
20 Raise your hand if you think we still need a
21 definition of variance based on what we just did
22 above. Raise your hand if you think we need a
23 definition.

24 (No hands raised.)

25 MR. WHEATLEY: Nice.

1 MR. FISHER: All right. So we have two
2 stops coming up. One is, by my clock it says
3 it's 11:20. At 11:30 we're scheduled to do
4 public comment, so we have to pause to check.
5 And then we did get requested to break around
6 11:45 in order to allow people to check out. And
7 do we know what time the lunch is going to show
8 up? I think the lunch is going to show up at
9 noon. So given that we just spent all this time
10 talking about variance, maybe it's an appropriate
11 time to take a short break right now. And then
12 we'll come back and check on the public comment
13 and then that will swing us into lunch and we'll
14 move down into the section.

15 MS. HAMEL: Did they get lunch charged to
16 the room, or are we checking out before it's
17 charged?

18 MR. LITTLE: That would be nice.

19 MR. FISHER: We'll take a 15-minute break.

20 (Recess taken at 11:21 a.m. to 11:48 a.m.)

21 MR. FISHER: So when we paused for our
22 break, we were at the point where we said we
23 would come back and pick up with public comment.
24 So we're schedule-wise, we're a little off from
25 where we're scheduled to do public comment. So I

1 checked, and there is nobody that has signed up
2 for public comment. So if there's anybody in the
3 audience that wishes to provide public comment to
4 the TAC, now would be the time. And there's only
5 one public comment section today, given that
6 we're going to adjourn at 2:00 p.m. Okay. No
7 public comment today.

8 Okay. So we are at about 10 of 12. We
9 need to be switching to housekeeping things
10 around 1:30. That means we have a little over an
11 hour and a half to see if we can get through the
12 bingo MICS section. And so we could just pick up
13 where we left off, move through the rest of the
14 sections. So Daniel?

15 MR. MCGHEE: (d) is not one of those ones
16 that would be considered a blanket statement.
17 The title of supervision is in each section, but
18 it reads differently for each section. So you do
19 have to consider section (d) by itself alone for
20 each section.

21 MR. FISHER: Whereas (a), (b), and (c)
22 were repeated in all the sections, this section
23 (d), even though it appears in the other sections
24 is tailored for each section. Okay. All right.

25 So let's see if there's questions or

1 comments or anything you want to pick up on from
2 what NIGC commented on in the comparison
3 document. So we're talking about section (d),
4 supervision.

5 MR. MCGHEE: What I see, NIGC comments,
6 the guidance appears to be relevant, so I agree
7 with it. If you look at the TGWG guide, you just
8 expound upon why do you have to have that
9 statement there without getting into detail about
10 who it should be and those kinds of things. So
11 that might help you understand the concept on
12 that.

13 MR. FISHER: Anybody have any questions?
14 Is there anything to discuss there?

15 MS. TAHDOOAHNIPPAH: I want to bring up
16 the agent, or agent, and we kind of talked about
17 it yesterday.

18 MR. FISHER: Do you just want to raise
19 that and then --

20 MS. TAHDOOAHNIPPAH: (Nodding head up and
21 down.)

22 MR. FISHER: Did you want to talk about
23 the agent provision in that sentence?

24 MS. TAHDOOAHNIPPAH: Yeah, can we -- or
25 employee.

1 MR. FISHER: This goes back to what we
2 were talking about yesterday.

3 MR. WHEATLEY: Technical standards.

4 MR. FISHER: Definition of agent.

5 MR. MCGHEE: It could be from a contracted
6 employee to whatever your operation deemed it is.

7 MR. FISHER: So in the MICS, the
8 definition of agent is the same as what the TGWG
9 proposed for the technical standards, right? So
10 we never really did --

11 MR. MCGHEE: We took out the computer
12 application part.

13 MR. WHEATLEY: In the technical standards,
14 but not in this part.

15 MR. FISHER: We also eliminated the word
16 "employee" out of the -- and I think that's in
17 the technical standards.

18 MR. MORGAN: In the technical standards we
19 eliminated references of employee.

20 MR. MCGHEE: We didn't take it out of the
21 definitions.

22 MR. FISHER: So, Mia?

23 MS. TAHDOOAHNIPPAH: I will withdraw my
24 comment and then just it can be specified in the
25 guidance document.

1 MR. MORGAN: If it's concern for
2 agents because it is a global term and we tried
3 to be broad. It's almost -- I know comfort
4 level, especially traditionally, it helps to name
5 especially an employee or a department, because
6 it's very clear. Under this conceptual change of
7 trying to make sure you can point out, you know,
8 or designate whoever you may fit your operation,
9 it's different. And then the other stretch, is
10 where appropriate, you can read it as a computer
11 application. But if it's not appropriate in that
12 context, then you really can't. But it's hard
13 to, I don't know, capture that within the
14 definitions.

15 MR. MCGHEE: We call our people team
16 members. We don't call them employees.

17 MR. CULLOO: Teamsters?

18 MR. MCGHEE: Leaders. Well, they call
19 them other things, too. But so that's why we --
20 agent was picked as one word for all.

21 MR. FISHER: Any other questions or
22 comments about this one? Would you like to --
23 you want to check whether this is acceptable to
24 everybody?

25 MR. WILSON: Are we voting on the

1 acceptability of item (d)?

2 MR. FISHER: Yes. If you're ready.

3 MR. MCGHEE: Only in this section, too,
4 because it's different in every section.

5 MR. FISHER: If you're ready. Ready? So
6 if you support the proposed change to section (d)
7 as put on the screen, raise your hand.

8 (All hands raised.)

9 MR. FISHER: Took care of that one. Okay.
10 The next section is bingo cards. So, Daniel, did
11 you want to talk to us about bingo cards?

12 MR. MCGHEE: Well, like I said, it's
13 almost best to look at it as a new section.
14 Everything that was once bingo was deleted in the
15 TGWG's version. You see some red things going on
16 here. And I think Kathi explained earlier what
17 has happened.

18 MS. HAMEL: Well, what really happened is
19 the NIGC received a draft of this document in May
20 that they obviously started work on, and the TGWG
21 made a final submission through the Poarch Creek
22 document, and those red changes are the
23 difference between the May document and the
24 Poarch Creek July document.

25 MR. MCGHEE: So basically the final

1 changes in here represent the TGWG's final
2 thoughts on the matter.

3 MS. HAMEL: Right.

4 MR. FISHER: Right. So the -- essentially
5 what we've been doing is to check whether the
6 group is -- supports the TGWG -- recommends the
7 TGWG approach and language or whether there are
8 changes to be made.

9 MR. MCGHEE: Then what this does, as you
10 go through the document, is -- let me get to the
11 page where it's at first. What we did is tried
12 to identify the areas of bingo that could pose a
13 risk. And so you identify bingo cards, the draw,
14 the payouts, the cash equivalent that goes over
15 that, and then the technological age to that.
16 And then we took those as the primary subjects of
17 bingo that need to be looked at. Underneath each
18 section, it will break down to what part of bingo
19 cards is important and where is the risk in that.
20 And we identified it to be physical inventory,
21 the sales, and that was it. The inventory of
22 bingo cards and the sale of -- you know. So if
23 you look at it from that concept, break it down,
24 and you would need to agree where it says, bingo
25 cards, physical inventory. And then the bingo

1 card inventory must be controlled in a manner
2 designed to prevent unauthorized access,
3 misappropriation, forgery, theft, or fraud. Such
4 controls shall address bingo cards exchanged
5 between agents, increases and decreases to
6 inventory and inventory reconciliation. We tried
7 to think of what could happen with bingo cards,
8 the topics, so you would know you need to write a
9 control to alleviate that. So you might identify
10 this is if you see anything else that might be to
11 add to that list.

12 MR. FISHER: So to a certain extent, the
13 way you might outline is going from section (e),
14 bingo cards, to the technologic aids section,
15 they kind of work together because they're
16 identifying different aspects of the risks
17 associated with bingo.

18 MR. MCGHEE: So first off, you could say
19 let's talk about bingo cards specifically, and
20 then let's break it down and say physical
21 inventory of bingo cards, let's see if this
22 covers it, this paragraph. Is it -- how you read
23 it to see if this met all the areas where the
24 physical inventory of bingo cards could be
25 compromised.

1 MR. FISHER: Another way we could do it is
2 kind of go to the end and say -- have the -- has
3 the TGWG recognized and addressed appropriately
4 the risks associated with bingo, and do these
5 parts work together, right? So you could just
6 try to say as a whole, does it work? And then if
7 it doesn't, then what pieces do you have to focus
8 on.

9 MR. MCGHEE: You mean identify if bingo
10 cards, the draw, payouts, cash and cash
11 equivalent controls that are on -- and
12 technologic aids, are there six only main risks
13 identified with bingo?

14 MR. FISHER: Right.

15 MR. MCGHEE: And if there are additional
16 ones, we could each put them up and then go back
17 to the details.

18 MR. LITTLE: That was exactly our idea;
19 are there any other areas that the committee
20 might think need to be addressed.

21 MR. MCGHEE: Maybe you just want to type
22 those out so they can see them all. I mean, I
23 don't know.

24 MR. FISHER: Let's stay with the question
25 for a second. Are there any other risks that are

1 not identified in these sections that people
2 believe need to be addressed? So do you need a
3 few minutes to look this through to figure out
4 how it fits together or -- because nobody is
5 saying anything. So do you need some time to
6 look at it? Yes. Okay. Let's pause for a few
7 minutes and give people a chance to take a look
8 at it. You're just -- I put those five risks so
9 they can see them all, just the topics, which
10 would be bingo cards, draw, payouts, cash and
11 cash equivalent, technologic aids to the play of
12 bingo. Those are the primary risks outlined, and
13 then there's sub-risks. That's kind of the
14 overview, right?

15 MR. MORGAN: Shouldn't we add sales to
16 that list?

17 MR. WHEATLEY: It's there.

18 MR. FISHER: Sales is a subset of the
19 bingo cards, right?

20 MR. MCGHEE: Sales of the bingo cards
21 would be a sub-risk to -- everything involved in
22 bingo cards. So bingo cards, if you want to
23 label that out, you can do a physical inventory,
24 and sales are the risks associated with bingo
25 cards. And then for the next one, it doesn't

1 have a subset. The only other one that has
2 subsets are technological aids.

3 MR. FISHER: Does anybody have any
4 questions?

5 MR. RAMOS: I got one comment. I know we
6 do it with playing cards, and I don't really see
7 it here. How about the destruction of old
8 inventory, are we worried about that?

9 MR. MCGHEE: Let's see if it's addressed.
10 I'd have to look.

11 MS. HAMEL: Jason, that would be part of
12 the decreases of the inventory, and I think we
13 addressed that in the guidance document.

14 MR. RAMOS: Decrease of inventory is use.

15 MS. HAMEL: It could be use or
16 destruction.

17 MR. MCGHEE: See, for example, like if you
18 would feel more comfortable saying increases,
19 decreases, and destruction of the inventory, it
20 perfectly makes sense to put it if you want it.
21 Because what you're saying is there's -- you're
22 making sure there's a risk that mitigates it.

23 MS. LASH: I think it makes sense to add
24 it in there.

25 MR. CULLOO: I do, too.

1 MR. MCGHEE: Especially if one person has
2 a thought whether or not decreasing meant that.
3 Might as well add it.

4 MR. FISHER: How should I put it in here?

5 MR. MCGHEE: Increases, decreases, and
6 destruction to inventory. Put "of" instead of
7 "to inventory."

8 MR. FISHER: Okay. Any other comments or
9 -- so this was a question about any risks were
10 missing or anything that -- so I don't see
11 anything.

12 MR. WILSON: I just have two clarification
13 items. Not necessarily an issue, just in my own
14 mind. When we talk about technologic aids to the
15 play of bingo, what is that referencing? Because
16 I don't see a definition for it. So I'm just --

17 MR. MORGAN: CardMinder. The terminal to
18 control, to control the terminal, that isn't
19 electronic gaming; CardMinder, that would be the
20 physical and technological aid to the play of
21 bingo.

22 MR. WILSON: Does the guidance document
23 talk about what technologic aids are, just like
24 you said, in other words, does the guidance
25 document --

1 MR. MCGHEE: You need to check it.

2 MR. MORGAN: Set forth, like, examples of
3 it? Because one of the worries is if you start
4 listing, you're going to exclude something,
5 especially future things that may come into
6 existence. You kind of have a general idea grasp
7 of what those things are. I don't know if you
8 want a for example.

9 MR. WILSON: In my mind, it was just I'm
10 always looking for definitions for things, so
11 when I saw the term "technological aids," and I
12 have to create controls around whatever those
13 aids are, it's just clarity that -- and this
14 probably more has to do with my unfamiliarity of
15 certain aids surrounding bingo -- that this may
16 not be something -- for anybody else, it's
17 obvious what the aids are.

18 MR. MORGAN: In a session game, like Jeff
19 said, the blower, the blower of the balls. That
20 aids you in your play. You know, when we start
21 getting get into handheld, the CardMinder that
22 reads it, that's an aid. At a gaming clearing
23 station terminal, that box is an aid to play, to
24 displays. Because if that difference of bingo --
25 the bingo game itself is not a part of that

1 equipment, but it aids you in your play of the
2 game.

3 MR. WILSON: Okay. The other question I
4 had is just --

5 MR. FISHER: Wait one second, Tom.

6 MS. LASH: I was going to respond to the
7 technologic aid, that it's defined in the statute
8 and it's already been interpreted by the courts,
9 so we don't need to go there.

10 MR. WILSON: Got you. And when we talked
11 about access, there's a term in here used that --
12 unauthorized access. And, again, I didn't see a
13 definition of what -- not who is authorized or
14 not authorized, but in other words, is the
15 presumption that each TGRA will establish who's
16 authorized or not authorized to something from
17 that standpoint, and that there's some criteria
18 that's applied to that? So, for example, in the
19 Class III world, you have to have a Class III
20 license to have access to certain areas of the
21 casino, but you don't have to have a Class III
22 license to have access to other areas of the
23 casino, so I'm just trying to understand in a
24 Class II world is --

25 MR. MORGAN: That general idea still

1 applies. Because you always have to consider
2 what IGRA or who IGRA says needs to be licensed
3 and what areas they go to or functions that they
4 perform. I know you'll have that latest
5 amendment where you can throw in the word "agent"
6 or you can identify certain functions. But it
7 does allow the TGRA to develop who they feel like
8 is authorized for this subject matter. Because
9 who's authorized in a session bingo game is
10 different than who's authorized maybe at a
11 player's station. Trying to create an
12 overarching standard of what that list is would
13 depend on what type of game you're using, maybe
14 even depend upon your operation or significance
15 you place on that risk.

16 MR. MCGHEE: Authorized list, if you can
17 do it is not based on the license, it's just
18 based on what they're going to do. And TGRA has
19 to approve that list.

20 MR. WILSON: And in cases -- do all people
21 that are on that list, for whatever purposes that
22 they're serving, do they also happen to be
23 licensed?

24 MR. MCGHEE: We license everybody.

25 MR. WILSON: Everybody. And I guess

1 that's the fundamental question in my mind, is if
2 somebody isn't licensed, are they automatically
3 an unauthorized person for purposes of this, or
4 no?

5 MR. MCGHEE: That would be up to you.

6 MR. CULLOO: I don't think so. We also
7 have put in the job descriptions, explain that
8 level of authority or access to various parts of
9 the building. So through either your control or
10 you write up or through that access the job
11 descriptions that we authorize people to be where
12 they can and can't be.

13 MR. MORGAN: Remember on licensing the
14 individuals, it's always in the context of that
15 job. It's either 556 or 559. So as a minimum,
16 your gaming ordinance, you have to bring over
17 that group of people because the statute says at
18 least this. But in your gaming ordinance, you
19 can add to this. And in certain states and
20 compacts, you license people that are
21 non-employees, depending on what their function
22 is. So a lot of that depends on what your
23 situation is, your level. So therefore we give
24 that ability at a local level to make that
25 decision who falls in that group.

1 MR. WILSON: The only clarification that
2 you provided was just that, again, in the Class
3 III world because of compacts and things, that
4 it's very specific and what people have to be
5 licensed. So I just didn't know in the world of
6 Class II that there's such a -- the same kind of
7 existence that all people have to be --
8 regardless of anything else, if you're not
9 licensed, you can't participate in the process, I
10 guess, is the best way to put it.

11 MR. FISHER: Kathi and Daniel. And then
12 in case you didn't notice, our lunch has showed
13 up. And after those two comments, we can pause
14 momentarily to get lunch.

15 MS. HAMEL: Tom, maybe to help answer your
16 question, in the guidance document, we tried to
17 give some examples of authorization levels and
18 potential titles that may help explain
19 unauthorized access.

20 MR. WILSON: Okay.

21 MS. HAMEL: That you would establish what
22 is authorized, and everything outside of that
23 scope would be unauthorized.

24 MR. MCGHEE: So as I'm listening, I
25 believe we're doing some good comments and a lot

1 of it comes from getting what I now call the
2 details of the primary risks. And I haven't
3 heard if there was any other primary risks --

4 MR. FISHER: I haven't heard any.

5 MR. MCGHEE: -- identified. Because then
6 we can take each one and start getting the
7 details of different things.

8 MR. FISHER: Why don't we pause for --

9 MR. MCGHEE: I don't know if anyone right
10 now has one. Nobody has thought of another one
11 yet?

12 MR. FISHER: Nobody has mentioned
13 anything.

14 MR. MCGHEE: Then if we start with each
15 one, we may then identify something to add to it.

16 MR. FISHER: So let's pause for lunch.
17 When we come back, we're going to review the
18 section on bingo cards.

19 (Recess taken at 12:17 p.m. to 12:27 p.m.)

20 MR. FISHER: What would you like to do
21 here, you want to ask people --

22 MR. MCGHEE: I don't think they can vote
23 on it if they're okay with it because something
24 might develop. But since there's none to add to
25 it now, let's start with physical inventory and

1 the details of it.

2 MR. FISHER: Okay. But that formulation
3 that's in the physical inventory, that's also
4 repeated in various ways throughout the comments?

5 MR. MCGHEE: Not really.

6 MR. CULLOO: Some of it is.

7 MR. MCGHEE: Depends on what you're
8 talking about.

9 MR. FISHER: Let's check to see if people
10 have comments or questions about the physical
11 inventory section or the approach to physical
12 inventory.

13 MS. TAHDOOAHNIPPAH: I just want to make a
14 comment that just adding the destruction of
15 inventory, I did already interpret it included in
16 the definition -- or the increase in the
17 decrease, that it was included as a decrease.

18 MR. RAMOS: I'll say that while I respect
19 that opinion, this is a basic standard. So if
20 you leave it the original way, you're leaving --
21 you're allowing for unused bingo paper to either
22 end up in another facility, sold by other
23 employees. It's like if we're not going to use
24 it, then it's worthless. There should be some
25 consideration if it's not going to be used.

1 MS. TAHDOOAHNIPPAH: And I agree, but
2 there's also, like, a cancellation, a void.
3 There's all sorts of other -- that now we're
4 saying that this is more important than those
5 others.

6 MR. MCGHEE: Do you think it weakens it by
7 adding it?

8 MS. TAHDOOAHNIPPAH: I just thought it was
9 already covered.

10 MR. FISHER: For that phrase increases or
11 -- increases and decreases of inventory covered
12 that, and it covered the other things you
13 mentioned?

14 MS. TAHDOOAHNIPPAH: It does.

15 MR. FISHER: Okay. What should we do with
16 that?

17 MR. MCGHEE: I don't think adding hurts
18 it. I mean, depending on interpretation, some
19 people would say decreases takes care of the
20 destruction. But in the case where some don't,
21 it doesn't hurt to have it. Because it doesn't
22 weaken it necessarily. So from my point of view,
23 I could take it or leave it. I'm not opposed one
24 way or the other. Because if it weren't there, I
25 would assume that decreases meant that, but since

1 it's there, it just kind of cements it.

2 MS. HAMEL: How about "including but not
3 limited to"?

4 MR. FISHER: Right.

5 MS. HAMEL: So that you don't forget all
6 the other types of decreases.

7 MR. FISHER: Like that? Is that what
8 you're -- does that get at what you were saying?

9 MR. RAMOS: I think so.

10 MR. FISHER: Michele?

11 MS. STACONA: Refresh my memory, but are
12 guidance documents going to go out with these?

13 MR. MCGHEE: Uh-huh.

14 MS. STACONA: Because I know all this is
15 really vague. And just making sure if the
16 guidance documents that talks about all this
17 other stuff that can come up that's not addressed
18 here is going to be kind of out there, too, then
19 I don't see problems arising if you get it to
20 this vague level, if you issue guidance
21 documents.

22 MR. FISHER: That's a very interesting
23 question about partly the -- well, the status of
24 the guidance documents and whether you're talking
25 about the concept of guidance documents or the

1 specific guidance documents that were proceed by
2 the TGWG.

3 MS. STACONA: I don't care whether who
4 does it, but I believe -- we're getting into a
5 lot of issues out there that even the TGWG
6 guidance had examples of things in here that
7 address each of these, and I think some type of
8 document out there needs to be available because
9 this is -- it's gone down to a general idea now.
10 And you're going to miss people out there, I
11 guarantee it. I'm an auditor, an accountant just
12 by nature, and I get where this is going, but
13 you're going to have a lot of people that aren't
14 like that, that are going to miss this whole
15 concept of what else do I look for like at the
16 detail level. But if you have something like
17 that out there where they can refer to, I think
18 that will help.

19 MR. MCGHEE: The guidance document will be
20 driven by what's here, so if you could think of
21 something, say, that you're thinking, well, I
22 don't see it up there, but it for sure should be
23 in that guidance document, it needs to be able to
24 at least -- whatever you're thinking of has to at
25 least tie to one of those words.

1 MS. STACONA: And it did. What I was
2 thinking of from the moment you order the
3 documents to make sure that nobody can -- outside
4 your operation can get on your phone and call
5 your vendor and say, I want bingo cards delivered
6 to so and so, and do you have policies and
7 procedures to stop that. But when I look in the
8 guidance documents, it talks a little about that
9 kind of stuff.

10 MR. MCGHEE: But that would be
11 misappropriation. Would that fall under what
12 you're thinking could happen?

13 MS. STACONA: Yeah.

14 MR. MCGHEE: Would that fall under one of
15 those forgery, theft, or fraud?

16 MS. STACONA: Yeah, I tried to fit it in
17 all of those, but I kind of refer to the guidance
18 document going through my mind, okay, what if
19 this happened, what if this happened, what if
20 this happened, would it catch all that. But if
21 you don't think of all that like you do an
22 auditor or an accountant, you're going to miss
23 some of this stuff.

24 MR. MCGHEE: Yeah, like the -- whichever
25 the -- if they go this way and NIGC provides

1 guidance documents, the people should be able to
2 look at that guidance document and say if I at
3 least do all of this in the guidance document, I
4 will have satisfied that risk, at least at a
5 minimum level. So it -- if it's a TGRA who
6 doesn't have a lot of experience in the area,
7 then they would want to rely on the NIGC
8 guidance, advice, technical assistance in trying
9 to say are my controls strong enough, you know
10 what I mean?

11 MR. MAGEE: To kind of pick up where
12 Michele left off or add to, part of the concerns,
13 listening to Matthew, is that, you know, you're
14 streamlining these regulations from 300 pages to
15 100 pages, however you put that. Which brings my
16 mind, you know -- prior life I sat on the council
17 for a number of years and we're always concerned
18 about protecting the tribe, protecting the image
19 of the tribe, integrity of the gaming. And if
20 it's not spelled out, and a lot of the
21 regulations are left up for interpretation and/or
22 left up to another tribe to insert, what begs the
23 question in my mind is the integrity of the
24 gaming, you know. Again, you want to leave it up
25 to the TGRA, but on the other hand, that just

1 leaves us a lot of room for interpretation. And
2 I can see that this in some respects weakens the
3 industry. And I'm not trying to be a hindrance
4 here, but I also need to think long term for the
5 industry and for my tribe and other tribes yet to
6 get into gaming, what are the possible downfalls
7 or the side effects of streamlining the
8 regulations. That's just a general comment that
9 I wanted to make and something that's been
10 bugging me for a couple of days.

11 MR. FISHER: Let's go to Tom and then
12 Matt.

13 MR. WILSON: The -- I think the difficulty
14 in -- and I won't even say this concept because
15 it's not a really a concept as it is just a --

16 MS. HAMEL: A proposal.

17 MR. WILSON: -- of this proposal is it
18 puts the responsibility on the tribes that they
19 have not had before. And so inherent with this
20 methodology is the empowerment that a tribe
21 through whatever mechanism, be it internally or
22 through -- you know, however they would come to
23 say we've got to give up the controls around
24 these risks. And on one hand, that is a very --
25 allows a great amount of what could be perceived

1 as freedom to a tribe, but I'm of -- myself and
2 my tribe are of the opinion that we are -- we are
3 perfectly capable of reaching the appropriate
4 controls to mitigate the risks. But more
5 importantly, if the NIGC did not exist, if the
6 MICS did not exist, we would still be controlling
7 our operation the same way. And that it's not --
8 what drives us is not having MICS. What drives
9 us is protecting the integrity of the game and
10 protecting the assets of the tribe. So if all of
11 this didn't even exist, we would still be taking
12 the same approach to how do we achieve this.

13 MR. MORGAN: I guess a global -- I don't
14 know if it's global. Going back to, John, your
15 comment. I do understand your concern. I mean,
16 that's something that we contemplated a lot, how
17 far is too far. Especially given public
18 perception of gaming, Indian gaming that exists.
19 And we want to make sure that you protect the
20 integrity. You want to make sure you protect the
21 reputation. If you don't have those two things,
22 you don't have players, you don't have an
23 operation. And something that's came out today,
24 which quite honestly I wasn't sure how it was
25 going to work out, but it seems this is the way

1 it keeps going back to is that when you read the
2 standards, when there's questions, it's almost
3 like we're agreeing that now that I've read the
4 guidance document, I can agree with that because
5 I understand it. So it's almost a question comes
6 back to do we somehow need to quote, unquote,
7 "bless" that guidance document. And if so, how
8 do we do that?

9 MR. LITTLE: Maybe you need to address a
10 general overriding, you know, point that --

11 MR. MORGAN: My suggestion is -- because
12 my worry is that if we get into a line-by-line
13 section, we're not going to get done. And I do
14 think it's incumbent upon us that we do need to
15 read those to help our understanding. But
16 basically if you don't have an objection to
17 something within the guidance document and you
18 can't agree that this is but one way to
19 accomplish that objective, that that is provided
20 as a recommendation to the NIGC that we do
21 recommend that you adopt this guidance document
22 to go along with this standard, you know. And
23 I'll say, I am going back to what I thought the
24 way it would work, because I was worried about
25 bogging down. But that seems to be helpful for

1 folks to do, if I read those, because the -- it's
2 kind of a total package. You can't read one side
3 without reading the other and get a good grasp of
4 it and would that be helpful to do that. And
5 maybe that goes to your comment, John. And I was
6 thinking, if it's pared down too much, we're just
7 not only talking about the standards. We're now
8 talking about the guidance document in support of
9 that standard, in a sense.

10 MR. MAGEE: Yeah, and I agree with you,
11 Matthew, but I'm just concerned long term for the
12 industry and for the tribe's reputation and that
13 if it's -- if we don't fill in those holes or
14 gaps with something, somebody is going to take
15 advantages that may not be in the best interests
16 of the industry at all in total. And I can think
17 of a number of examples. I think we all can.
18 But I'm not going to go down that road. I think
19 maybe you're right. You make a reference to the
20 guidance documents and someplace, somehow, maybe,
21 you know, NIGC says we can accept those as
22 guiding principles, I'm not sure. But at some
23 point, yeah.

24 MR. WILSON: The -- I don't think that
25 this can be successful without a guidance

1 document. If NIGC were to, let's just say, adopt
2 the MICS as they stand, but for whatever reason
3 decide we don't need to -- it's not our worry to
4 have to come up with a guidance document or
5 whatnot, I mean, it's clear that the fundamental
6 risk in this whole process is that somebody is
7 going to get it wrong. And that's the fear that
8 I hear you saying, that you know what, this is
9 all great conceptually, and for people that get
10 it, they get it and it makes sense. But for
11 people who might not get it, or more importantly,
12 who have designs to do something other than what
13 the right integrity thing to do is, could they
14 take advantage of this or claim, you know,
15 something that, well, gosh, I interpreted it this
16 way. I will say that one of the safeguards to
17 that is through the auditing. I mean, that is
18 part of the process. That is part of the control
19 that's inherent in having any process. But I
20 think that if we don't make a statement that
21 guidance has to be a part of this -- and from my
22 perspective, I view it as two separate things.
23 And maybe developing the guidance is another
24 process because, you know, here we're talking
25 about approving the risks that we're trying

1 mitigate. The guidance really helps to determine
2 the kinds of controls and things that you need to
3 consider and think about to get there. And so, I
4 mean, I'm just wondering if it's sufficient for
5 us to say that at the end of the day, there has
6 to be a strong guidance document that goes part
7 and parcel with the MICS in this type of mix,
8 otherwise you can't really adopt this type of
9 MICS and expect to have the success that you'd
10 like to have.

11 MS. LASH: I would just like to reinforce
12 Tom's point. I think it is very important that
13 we have guidance documents that go with these
14 MICS just for that clarification. And I think
15 it's also important that this group approve the
16 guidance documents. And this is kind of in
17 response to the question Matt put out there, how
18 do we do it. And I thought we would probably
19 address it more in detail at our next closed
20 session, but I'll throw it out there now. I
21 think a good way to do that would be to have each
22 person, as we go through these parts, each TAC
23 member review the guidance documents. And if you
24 have an issue or concern with something in the
25 guidance document, bring that forward and we can

1 discuss issues. And if there aren't issues or we
2 can make the changes, then we would approve the
3 guidance document and present that as a
4 recommendation for the NIGC, along with the MICS
5 as we're working on them. But I do think it's
6 important that we review the guidance documents
7 and we also approve those and for those.

8 MR. FISHER: I as well need to figure out
9 how we're going to do that. So Daniel, then Leo.

10 MR. MCGHEE: I would disagree with trying
11 to approve the guidance document that came with
12 this to be the one used or going to be used.
13 They're longer and they're more detailed. And
14 experience has shown, even with such a small
15 statement as this, there's a difference of
16 opinion. When you get into this, several
17 difference of opinions on how exactly that should
18 go, it would take a really long time to settle on
19 one document. What I think we might want to
20 consider is that if we're going further with this
21 alternative procedure, that we don't recommend
22 this procedure, period, unless guidance documents
23 -- it's accompanied by guidance documents from,
24 you know, the NIGC. You know, they may use this
25 document. They may be -- at the end of the day,

1 right now, from what I was hearing is, yeah, it's
2 the tribe's responsibility to make sure their
3 operation has integrity and this kind of thing.
4 But what I was kind of maybe hearing, and maybe
5 wrong, is sometimes it's helpful to be able to
6 say we also have the federal government, you
7 know, just doing this, but it adds to the
8 integrity. Maybe or maybe not. But at least we
9 can say if the NIGC issues this guidance document
10 and it says if I at least follow these, I will be
11 hitting the minimum, it's really no different
12 than the minimum approach than you had before.
13 So you would be no further away from a position
14 of integrity to the federal government than you
15 were before, you know what I mean? It's not --
16 the difference is it's not mandated as it once
17 was. Nothing wrong with having those controls
18 and then providing them. Because if I were new,
19 inexperienced, I would welcome it and say, okay,
20 I feel comfortable knowing I'm the first year
21 administrator of this mission; that if I at least
22 make sure these are all followed, I'm safe. And
23 then as I go along, I can strengthen them. So I
24 think we need to buy on we don't support this
25 document unless it is accompanied by guidance

1 documents. And then knowing that means there
2 will be guidance documents with this. Instead of
3 saying if there's a guidance document, it will be
4 a matter of yeah. I don't want to prove the
5 guidance document. We did guidance documents,
6 but even TGWG doesn't spend a lot of time as a
7 big group on them. It was just here's how we do
8 it, here's a good way of doing it. We've never
9 had a finding. You know what I mean? So I don't
10 -- a recommendation, we agree with
11 recommendations, but I don't review them as a
12 group. I do agree with reviewing them prior to
13 coming to the meeting as a supplement to you
14 coming to the big decision, but not --

15 MR. LITTLE: I would add on that, you
16 know, you may want to think about a
17 recommendation, overarching recommendation, like
18 both Dan and Matt and Tom and others have talked
19 about, that does provide some gravity to this
20 issue that this process that you're going down --
21 and once again, I'll say, the commission has made
22 a decision; we can support it or not. If you are
23 going to go down this, you should probably -- or
24 think about doing an overarching recommendation
25 that these guidance documents are imperative to

1 the entire process here, and without them, I'm
2 not sure if it works. And then also, maybe
3 amongst yourselves, you should talk about how,
4 with that in mind, that you're going to be using
5 guidance documents that the specific regulations
6 may not necessarily need to be as specific as
7 they were without a guidance document. So just
8 something to think about as you move forward
9 here. It is important to the commission that
10 these recommendations that you make will have,
11 you know, gravity, larger gravity or heavier
12 gravity than notes that I'll be taking or we'll
13 be reading off the transcript.

14 MR. CULLOO: I agree with the importance
15 of the guidance documents. On example, a way to
16 comply. And if we start trying to approve them,
17 just on that one thing about the destruction of
18 the card, and then you heard some other, I don't
19 know how we'd come to a consensus on that. It
20 would seem to me that one example and then who
21 determines what that example is. And is that
22 example the clearest example we could give to the
23 group, to anyone looking at it. So fundamentally
24 I think it's great to have, but I don't know how
25 we get there and not get involved in minutia,

1 whose example is the better example to use.

2 MR. MAGEE: Not to get too bogged down on
3 this, because I think we should get moving on. I
4 just made my comments along with Michele's as to
5 kind of, I don't know, just to give background
6 from where I'm coming from. But, you know, I
7 kind of agree in protecting the tribe's
8 sovereignty, tribal self-governments, you know.
9 I'll support that 100 percent. But, you know,
10 Tom has raised several times in the last couple
11 times is the risk, identify the risk. Well, the
12 risk of taking out some of these procedures and
13 putting them into a guidance document and not
14 having them included as part of the overall
15 regulations does create the risk. It creates a
16 risk of having somebody else interpret and
17 creates a guideline for -- create a situation
18 that might not be in the industry's best
19 interests, which overall affects the tribes, in
20 general, in our integrity to provide gaming. So
21 having said that, I mean, we could debate this
22 issue forever on the philosophy of putting it in.
23 But I wanted to pick up on what Tom was talking
24 about earlier, risk and, you know, he has the
25 ability, they would do this no matter what. But

1 not all tribes have that sophisticated -- and I
2 guess there are some people who probably would
3 not follow industry best practices. But I am --
4 I am supportive of moving forward, though.

5 MR. FISHER: It actually raised a really
6 important question, because people have been
7 referring to the guidance or this issue I can
8 take care of in the guidance. So how we and how
9 you decided to handle the guidance and the
10 relationship of the guidance to the
11 recommendations is a really important question to
12 figure out. Matt and Jeff.

13 MR. MORGAN: Just really quickly. One of
14 the things I try to keep in mind is that when you
15 devise internal controls, you can design the best
16 internal control, but you could never account for
17 human nature. I mean, if a person -- and that
18 could be multiple persons are going to do what
19 they're going to do no matter how well the system
20 is designed. That's when enforcement becomes
21 very important, unfortunately. That's the way
22 you have to turn to. And, you know, to try to
23 strive to do your best to design a workable,
24 flexible document that fits more people, more
25 situations, I think that it is true, you have to

1 keep in mind -- there are going to be people out
2 there, in my opinion right now, that are not
3 following what they put down as very procedural.
4 That's just the truth. There are probably groups
5 out there that do that. And that's always going
6 to have an element out there and a risk.

7 MR. MAGEE: Somebody in our casino is
8 stealing from us right now. We just don't know
9 who it is.

10 MR. WHEATLEY: And I understand where John
11 is coming from, but I think there's still that
12 level of oversight there. And I just see from
13 your independent auditors to ensure that the
14 tribe has developed strong enough controls to be
15 able to comply with the new regulations. And,
16 you know, if the audit comes back from either
17 NIGC or your independent auditors that those
18 controls aren't large enough or strong enough,
19 they're going to report that and they're going to
20 make recommendations that will be strengthening
21 those areas. That's all I got.

22 MR. FISHER: Okay. So where does that
23 leave us? We've got a couple of different
24 suggestions, one of which was an overarching
25 recommendation that this -- the way that the, I

1 guess, the structure of the -- of what has
2 developed here by the TGWG and what's proposed is
3 based on having guidance documents so that you
4 have an overarching recommendation of that.
5 We've had some people say maybe we should be
6 looking at the guidance documents, and other
7 people saying use them for reference purposes but
8 not go as far as to try to approve or recommend
9 specific guidance documents. So what's your --
10 how would you like to proceed here?

11 MR. MAGEE: Procedural issue. We don't
12 have guidance documents on the agenda for
13 approval. It seems to me that we should have at
14 the next agenda maybe a conclusion of this and to
15 stay on track with today's agenda, have that
16 discussion for later.

17 MR. FISHER: Later. Okay.

18 MR. WILSON: Are you comfortable with that
19 discussion later, that it doesn't preclude voting
20 on this?

21 MR. MAGEE: Absolutely.

22 MR. MCGHEE: I'm just curious. I think
23 the part about saying that we support this
24 document only when it's accompanied by guidance
25 documents is important to do now. Because you

1 don't really want to talk about the bingo section
2 without that. As far as the details of how you
3 want to deal with those guidance documents, look
4 at them closely, whatever, that should be later.
5 But we have to at least all agree that if these
6 -- if the way this is written were adopted
7 tomorrow by NIGC, we would only be comfortable
8 with that if it was accompanied by guidance
9 documents. That needs to be something we all
10 understand and say -- otherwise I don't even want
11 to look at this anymore if you're not going to do
12 guidance documents. At least as a
13 recommendation. That's all we can really do.
14 But that's got to be decided before we go any
15 further because why look at the small section,
16 because if they didn't produce a guidance
17 document with it, I wouldn't be in favor of
18 approving the bingo section.

19 MR. MAGEE: I think at this point the
20 guidance document is only a reference to the
21 sections, which is fine.

22 MR. MCGHEE: I don't want this to be put
23 out there by NIGC without guidance documents.

24 MR. FISHER: Let's go to Steve and then
25 back to Dan.

1 MR. GARVIN: I'm only comfortable voting
2 on some of these based on the guidance documents.
3 So could that possibly be part of your position
4 paper or the cover letter that we discussed where
5 you hit on the importance of it? That way I'll
6 know it's built in there and we all understood
7 that was going to be part of the -- part of our
8 discussion, part of our agreement.

9 MR. WILSON: I can do better than that. I
10 think we should just recommend right now exactly
11 what is being said, that the overarching
12 principle is if there's not guidance documents
13 associated with that document that we're
14 discussing, then it's a show-stopper, I guess.
15 Because we're all agreeing that without
16 guidance -- I mean, we all have different reasons
17 for wanting the guidance, but it seems like we're
18 in agreement, there's got to be guidance. And
19 maybe the issue isn't -- I'm not so concerned
20 right now about the technical look, feel, words
21 of the guidance, as I am about the concept that
22 there has to be guidance documents with this part
23 and parcel.

24 MR. MCGHEE: We could still put it in that
25 paper. I just want to make sure everybody is in

1 agreement with that.

2 MR. WILSON: I would kind of like to leave
3 here today knowing that we all as a TAC believe
4 that principle. And I don't have any problem
5 speaking for my tribe going on record to that
6 fact.

7 MR. LITTLE: Can I raise a procedural
8 issue? The process to how it would play out is
9 that we would receive your recommendations and
10 then we would go into a notice of proposed rule
11 making. It would not include guidance documents,
12 to tell you right now. We'll publish it. We
13 will then open a comment period, and then we will
14 go and consult with tribes. Once that's
15 concluded, then we'll go for final rule making,
16 and if there's no major objection, only after the
17 rule became final is when we would then work on
18 guidance documents. If that was the path the
19 commission decided they wanted to go down. So
20 you should maybe think about that.

21 MR. MCGHEE: That doesn't stop us from
22 recommending that.

23 MR. LITTLE: Am I correct, Mike?

24 MR. MCGHEE: We're not asking it to be
25 published, guidance documents be published.

1 MR. LITTLE: Am I correct in that?

2 MR. HOENIG: Yes, you're correct. And
3 then depending -- but, yeah, there's nothing to
4 stop them from suggesting the -- stop the group
5 from suggesting the guidance, but it won't be a
6 part of the rule-making process.

7 MR. WILSON: One quick point, though.
8 Could not the regulations state the NIGC has to
9 create appropriate guidance to support the
10 regulation, the implementation of the regulation?
11 And then that way, you are directed that you have
12 to create these guidance documents or something
13 in order for the effective implementation of the
14 regulation.

15 MR. LITTLE: That's a good point. I will
16 ask them. It depends on how we write the rules.

17 MR. HOENIG: It depends on how you write
18 the rule. And it depends on -- I mean, you could
19 probably reference them. I haven't done any
20 research on this exact situation, this exact
21 scenario. But you could reference guidance
22 documents. You know, I think -- I can't give a
23 definitive answer right now. I don't know. I
24 haven't looked at this particular situation.
25 But, yeah, I think that -- I don't see any reason

1 why the regs themselves couldn't reference a
2 general guidance document. You wouldn't want to
3 be too specific because -- and if certain
4 documents change, you don't want to have to go
5 back and amend the regulation again.

6 MR. MCGHEE: For instance, like 543.5,
7 5(c), could technically be a section that somehow
8 it did that?

9 MR. HOENIG: I'm sorry, can you repeat
10 that?

11 MR. MCGHEE: You're talking about
12 including it in here. You'd have to put it in
13 here at 543.5, blah, blah, blah, whatever we
14 decide to come up with the language here. It
15 could be in there and that would be -- the
16 guidance documents would be accompanied by, you
17 know --

18 MR. HOENIG: Yeah, you could.

19 MR. MCGHEE: To be provided as needed,
20 whatever.

21 MR. HOENIG: Guidance documents or see
22 NIGC guidance documents or however it is. But
23 until -- I mean, just to raise another point,
24 until those guidance -- you want to have
25 everything ready at the same time because you

1 don't want a rule going out that's referencing
2 guidance documents that don't exist, that are
3 then being talked over. Because then you have
4 some giant gap where what's being pointed to
5 doesn't exist.

6 MR. FISHER: That also might create a time
7 delay.

8 MR. HOENIG: Yes. Okay.

9 MR. FISHER: I started to write it down.
10 I don't know if this captures it or not. Jeff?

11 MR. WHEATLEY: So as a part of -- when
12 this new rule comes out, whatever the
13 commission's set of regulations is, there's going
14 to be a time frame in which tribes would have to
15 comply, correct, where they would have to -- each
16 TGRA would have to submit what their tribal
17 controls are that shows they're complying with
18 this new regulation. At that point, that's going
19 to give --

20 MR. LITTLE: No.

21 MR. WHEATLEY: Just have to have them?

22 MR. MCGHEE: Have them in place.

23 MR. WHEATLEY: I'm not saying approve
24 them, but I'm saying they have to be on hand for
25 the NIGC to review to look at and be able to

1 audit against.

2 MR. LITTLE: Right.

3 MR. WHEATLEY: At that point is when -- if
4 there are any deficiencies within that particular
5 operation and within their internal control
6 standards, that's when the work and guidance
7 documents can be provided to that operation to
8 assist them in strengthening their controls, is
9 my thought process behind that. So I don't know
10 that -- I mean, most operations already have
11 these in place. They already have their internal
12 controls in place, and they're pretty much going
13 to be complying immediately for the most part, is
14 my impression. So I don't see it -- if it's that
15 large of an issue, other than making the general
16 statement that obviously internal control
17 policies have to make this possible. They have
18 to be strong enough to comply with this
19 regulation.

20 MR. FISHER: Matt.

21 MR. MORGAN: This is to pick up an earlier
22 point in the day from Kathi. It's one of the
23 reasons that doing this in order was so
24 important, because 543.3 talks about a lot of
25 this stuff and how you set up this overarching,

1 and I'll say system of internal controls of how
2 you take care of a lot of these things. It's
3 543(b) says, one, that the TGRA must, in
4 accordance with the tribal gaming ordinance,
5 determine whether and to what extent their TICS
6 require revision to ensure compliance with this
7 part; that's (b)(1). Now, (b)(2) says how long
8 do you have to come in compliance. (c) says
9 SICS. You know, SICS internal controls and the
10 gaming operation must develop and implement a
11 SICS that, at a minimum, complies with the TICS.
12 And if you go read the definition of what that
13 SICS is is an overall operational framework for a
14 gaming operation incorporating principles of
15 independence and segregation of function
16 comprised of written policies, procedures, and
17 standard practices based on overarching
18 regulatory standards specifically designed to
19 create a system of checks and balances in order
20 to safeguard the integrity of a gaming operation
21 and protect its assets. So you would go into it
22 knowing you have to kind of have all of this in
23 place in order to meet that. And so I do
24 understand your concern of how we do that. I
25 agree with the attorney. There are several ways

1 you could do that. And, hopefully, there will be
2 several guiding documents out there floating
3 around that could achieve that. But when you
4 adopt this rule, it already calls for that. And
5 that was one of the reasons that Kathi brought up
6 this morning that it's so important that you kind
7 of move in order there, because it does set the
8 framework of how all of this works together.

9 MR. FISHER: One thing we could do to move
10 ahead, given the time, is to go back to the bingo
11 section, see if there's anything in the bingo
12 section that on its face is a problem or needs to
13 be changed, and then kind of say tentatively, we
14 like it, but we have to make sure we're okay with
15 the beginning parts of the regulation first. And
16 then pick that up at the next meeting. So we
17 might be able to conclude the bingo section,
18 conditioned upon the other things happening. Or
19 we may have to figure out if we can do any more
20 work on bingo right now before we switch to our
21 housekeeping tasks.

22 MS. LASH: I just wanted to kind of touch
23 on the important aspects here. So we have the
24 MICS, and the MICS identify risks and set a
25 minimum standard of mitigating risks. So that's

1 the MICS. Secondly, then, we have the guidance
2 documents, and they provide a way to address the
3 risks. Thirdly, we have compliance with the
4 guidance documents, and that provides a safe
5 harbor of satisfying the MICS. And lastly, the
6 existence of guidance documents still allows
7 other ways of compliance. And I think that's
8 just kind of the framework to keep in mind as
9 we're discussing these points. We're dealing
10 with MICS right now.

11 MS. TAHDOOAHNIPPAH: Repeat number four.

12 MS. LASH: The existence of guidance
13 documents still allows other ways of compliance.

14 MR. FISHER: What do you want to focus on,
15 the overarching recommendation, or back to the
16 bingo provisions?

17 MR. WILSON: I'd like to call for a vote
18 for the overarching statement up there. You
19 know, we recommend that. Because I don't sense
20 from the group until we do that, that we can
21 really move on.

22 MR. FISHER: Okay. People want to take a
23 look at this language. I was just jotting down
24 things that I heard, so this may or may not
25 capture what you have in mind.

1 MR. MORGAN: Last line, NIGC will create
2 the appropriate guidance; last line.

3 MR. WILSON: Create or adopt.

4 MS. LASH: Create or adopt appropriate
5 guidance.

6 MR. CULLOO: Shouldn't we add "needed"?

7 MR. WILSON: Appropriate guidance.

8 MR. MCGHEE: My comment was only that as I
9 was thinking about it, it's not uncommon because
10 even in the current regs that are out there, it
11 says a minimum bank roll formula is available
12 upon request. They can call you and they can
13 provide you with guidance on what a minimum bank
14 roll formula looks like. Checklists are
15 available by request. All we're doing is saying,
16 please have guidelines, guidance documents
17 available upon request that someone could say,
18 Hey, I'm not comfortable, do you have something I
19 can go by that will put me in compliance? Yes,
20 here you go. So it's not uncommon.

21 MR. MAGEE: They also issue bulletins for
22 clarification as well.

23 MR. MCGHEE: Yeah.

24 MR. FISHER: All right.

25 MR. WILSON: Let's test it.

1 MR. FISHER: Okay. Let's test it. If you
2 support the recommendation that's up on the
3 screen, raise your hand.

4 (All hands raised.)

5 MR. FISHER: You switched hands. Just
6 checking to see if there was any significance to
7 that. Okay. That's good, everybody. It's good.
8 So I'll mark this one. Okay. So now you want to
9 go back to bingo?

10 MR. WILSON: My challenge to my fellow
11 TAC-ians is that we complete bingo.

12 MR. FISHER: Don't forget, we have some
13 housekeeping things to do, and we're scheduled to
14 adjourn at 2.

15 So here is the bingo card section. So
16 Daniel suggested we do these sections, the risk
17 categories category by category. So this is the
18 bingo card section.

19 MR. MCGHEE: Physical inventory.

20 MR. FISHER: Physical inventory first.

21 MR. MCGHEE: Period. Just that.

22 MR. FISHER: So you want to change this?

23 MR. MCGHEE: I don't understand why it's
24 in parens, is all. It decreases --

25 MR. FISHER: Is that what you're saying?

1 MR. MCGHEE: That's not what I'm saying.

2 MR. FISHER: No?

3 MR. WILSON: Inventory reconciliations is
4 a control. Can somebody help me to understand?
5 Because I know we added that.

6 MR. FISHER: Can you wait. I didn't
7 understand.

8 MR. MCGHEE: More or less like you had it.
9 It was decreases, comma, included but not limited
10 to destruction of inventory, comma. No parens.

11 MR. FISHER: You want it to say this?

12 MR. MCGHEE: That's basically what was
13 suggested.

14 MR. FISHER: Okay. Tom?

15 MR. WILSON: Jason, I think what you --
16 I'm trying to understand.

17 MR. RAMOS: Mine wasn't reconciliations.
18 Mine was destruction.

19 MR. MCGHEE: The only thing added was
20 what's in between the commas.

21 MR. WILSON: I just want to point out the
22 inventory reconciliations is a control you use to
23 determine if you have variances, I guess. I'm
24 just trying to understand the context of that
25 inventory reconciliations in there.

1 MS. THOMAS: I would read it you have to
2 have controls for inventory reconciliation.

3 MR. FISHER: That's what it is. Such
4 controls shall address inventory reconciliation.
5 This is a long string.

6 MR. WILSON: Okay. That makes perfect
7 sense.

8 MR. FISHER: Anything else in the physical
9 inventory section?

10 MS. TAHDOOAHNIPPAH: Leo was pointing out
11 that increases and decreases, and then you put a
12 comma, and when you took it out of parentheses,
13 you're talking about destruction. Now you're
14 talking about destruction as increases and
15 decreases, where destruction is only to decrease.
16 But now you just changed it to refer to increase.

17 MR. FISHER: Do you understand what she's
18 saying?

19 MR. MCGHEE: Yeah, I do.

20 MR. WHEATLEY: You could say increases and
21 decreases of inventory, destruction of inventory,
22 and inventory reconciliation.

23 MR. FISHER: All right. That would be
24 cleaner. Give me a second to get there, okay?
25 So anything more on the physical inventory?

1 Ready to move on to sales?

2 MR. MCGHEE: We're going by section,
3 right?

4 MR. FISHER: You wanted to vote on each
5 individual section? Okay. If you support this,
6 given the overarching recommendation that we did
7 immediately preceding this, raise your hand.

8 (All hands raised.)

9 MR. FISHER: Okay. Done.
10 Bingo sales. Okay. Anybody have
11 questions, comments, concerns, suggestions?

12 MR. MCGHEE: I mean, could anyone think of
13 when sales involved -- is there any other thing
14 to consider besides recording the sales that
15 happen, tracking them, and reconciling them at
16 the end of the day, basically, that needs to be
17 mitigated? Because the part I remember including
18 voids was something that was added by -- we added
19 to it as what do we want to do when we want to
20 void something. It's not necessarily -- someone
21 thought of it later, so we had a concern. So it
22 may be something. We may be missing something.
23 Y'all need to look at it and make sure.

24 MR. FISHER: Anybody identify anything
25 that's missing in response to Daniel's request?

1 MR. MCGHEE: We tried to track out when we
2 had a session.

3 MR. FISHER: All right. So anybody have a
4 comment? No. Okay. So shall we test it? So if
5 you agree with --

6 MR. MCGHEE: There's (ii) and (iii) to
7 that section of bingo sales.

8 MR. FISHER: That's what I forgot. Jeff?

9 MR. WHEATLEY: Can someone help explain
10 (ii) to me? Maybe it's my ignorance of session
11 bingo. But when a sale of -- the sale of bingo
12 cards is recorded manually, such sales must be
13 verified by an independent agent. So the sale
14 has to be watched by somebody else? I don't
15 understand.

16 MS. HAMEL: It's the recording has to be
17 -- when they're recorded manually, they have to
18 be verified by somebody independent of the person
19 that performs the sale.

20 MR. WHEATLEY: For each sale?

21 MS. HAMEL: No, it's the recording the
22 whole of those sales.

23 MR. WHEATLEY: For the day, like an audit?

24 MS. HAMEL: Yes, the sale of bingo cards.

25 MR. WHEATLEY: So in other words, an audit

1 of the manual -- the record of sales?

2 MS. HAMEL: It could be that it's -- it
3 could be a cashier; smaller operations it could
4 be a security officer; it could be helping you
5 guys, someone independent from the person that
6 sold the cards.

7 MR. WHEATLEY: Okay.

8 MR. FISHER: Did that answer your
9 question?

10 MR. WHEATLEY: I believe so.

11 MR. FISHER: I think that's the purpose of
12 saying "such sales," if I had to guess. Okay.
13 Any other questions or comments, bingo sales,
14 (i), (ii) or (iii)? So you ready to test it?
15 Okay. So if you support this recommendation
16 raise your hand.

17 (All hands raised.)

18 MR. FISHER: Okay. All right. Next
19 section is on subsection -- I guess I should say
20 is on the draw. Any questions or comments or
21 suggestions? People need another minute to read
22 it?

23 MR. MCGHEE: I think people are still
24 reading.

25 MR. FISHER: Okay. Take a minute to read

1 it.

2 Okay. Ready to test it? Yeah, I didn't
3 hear anything. Okay. So if you support the
4 recommendation for the draw, the draw language on
5 the screen, raise your hand.

6 (All hands raised.)

7 MR. FISHER: Okay. Done.

8 Next section is on what used to be manual,
9 now it's payouts. Okay. Any comments?
10 Questions about this section? Everybody ready to
11 test it?

12 MR. WILSON: Point of clarification.
13 Where it says the controls established in
14 subpart, and then Class II gaming systems, that's
15 all crossed out. But the new subpart is the
16 technologic aids in play of bingo, there's a
17 subpart called that; is that correct?

18 MR. WHEATLEY: Are you in cash or --

19 MR. MCGHEE: We're in payouts.

20 MR. WILSON: Oh, I'm sorry. I'm anxiously
21 moving ahead.

22 MR. FISHER: Some of us are ready to move
23 ahead. Plus, time-wise, we need to pick up the
24 pace. Because we want to accomplish bingo before
25 we're done and we still have a couple of

1 housekeeping things to do. So ready to test it?
2 So if you support changed -- or the language to
3 payouts listed on the screen, raise your hand.

4 (All hands raised.)

5 MR. FISHER: Okay. That's everybody in
6 the room.

7 Next is cash and cash equivalent. So Tom.

8 MR. WILSON: So at the bottom of Page 9
9 where it says equivalent controls established in
10 subpart, I just want to be clear there is a
11 subpart called technological aids?

12 MR. FISHER: You're asking if that's the
13 right reference?

14 MR. MCGHEE: Subpart 543.14.

15 MR. WHEATLEY: It's referencing to the
16 cage section.

17 MR. FISHER: 543.14 is what are the
18 minimum internal control standards for the cage,
19 vault, cash and cash equivalent.

20 MR. WILSON: Oh, so 543.14 is technologic
21 aids?

22 MR. FISHER: It's cash equivalent, vault,
23 cage.

24 MR. WILSON: Okay. I got it. I have no
25 question.

1 MR. FISHER: Okay. So this is a short
2 one. Let's test it. If you support this
3 recommendation, raise your hand.

4 (All hands raised.)

5 MR. FISHER: All right. That was a fast
6 one.

7 Okay. Here we are. Technologic aids.

8 MR. WHEATLEY: I don't see anything on
9 repair and maintenance. Does anyone have any
10 comments on that? To me, I feel it's a risk if
11 we don't list it as something that procedures
12 need to be established for, specifically
13 maintenance.

14 MS. HAMEL: That's operations, right?

15 MR. MCGHEE: I mean, it can happen in a
16 lot of different places, but during a
17 malfunction, you're going to have to come and
18 repair. During the -- if you're doing a
19 modification. I'm not opposed to adding it for
20 clarification.

21 MR. MORGAN: You want it in the list?

22 MR. WHEATLEY: I'm thinking it's important
23 enough to make the list. I know the list says
24 not limited to, but I'm thinking, like, cleaning
25 bingo balls. Obviously the TICS are going to

1 address how you do that and why you do that and
2 what interval you do that, but --

3 MR. MCGHEE: You're saying malfunction and
4 repairs?

5 MR. WHEATLEY: No. I'm saying repairs and
6 maintenance specifically.

7 MR. MCGHEE: You don't want to say
8 repairs? You want to say maintenance.

9 MR. WHEATLEY: I am more concerned with
10 maintenance, but I associate the two together
11 commonly.

12 MR. MCGHEE: Just add maintenance.

13 MR. FISHER: Did you want to say repair
14 and maintenance, or just maintenance? It's your
15 proposal.

16 MR. WHEATLEY: I initially said both.

17 MR. MCGHEE: Repair is different. One is
18 cleaning.

19 MR. FISHER: Okay. So we added a new (10)
20 there. I moved the "and" down. So you want to
21 go back to the whole test now, the whole
22 subsection?

23 MR. WEST: What did you say was covered by
24 technological aids, CardMinders and --

25 MR. MORGAN: Yeah, and bingo blowers, the

1 balls themselves, the bingo balls.

2 MR. MCGHEE: Player interfaces.

3 MR. MORGAN: Player interfaces. That's
4 what jumps out to me. Those are just examples of
5 things.

6 MR. FISHER: Okay. So should we -- ready
7 to test it? Okay. So if you support this
8 recommended subsection, raise your hand.

9 (All hands raised.)

10 MR. FISHER: That got everybody. And that
11 is the end of the bingo. It's the end of the
12 bingo language, not the end of the bingo
13 discussion.

14 You have a question?

15 MR. WEST: There was some information in
16 the 2010 -- there was a question in the 2010 MICS
17 about voucher systems. Was that moved somewhere,
18 or was that totally deleted?

19 MR. MCGHEE: Included under cash or cash
20 equivalent. Because a voucher is cash or cash
21 equivalent.

22 MR. FISHER: That 543.14.

23 MR. WHEATLEY: Vouchers themselves or
24 voucher systems?

25 MR. WEST: Voucher systems.

1 MR. MCGHEE: A voucher system is a
2 component, right?

3 MR. WHEATLEY: I think it's 543.16,
4 standards for security and management of server,
5 server software and data associated with Class II
6 gaming systems. Because we considered the
7 voucher system to be a part of the Class II
8 gaming system unless it was third party, and then
9 we didn't worry about it. Actually it says in
10 here, control of physical and logical access
11 including voucher and cashless.

12 MR. FISHER: Does that answer your
13 question?

14 MR. WEST: Kind of, but that's more on the
15 IT side as far as access controls and stuff. I
16 don't know if that covers what was in the
17 original 2010 proposed, but I just wanted to
18 bring that up, see if the committee, TGWG, their
19 thoughts on that.

20 MR. MORGAN: Specific language.

21 MR. FISHER: Can you find the place in
22 the --

23 MR. LITTLE: It's in the comparison
24 document. Last page. Page 24, Page 25.

25 MR. FISHER: It's all that red.

1 MR. MCGHEE: Payment of a voucher, it
2 still talks about cash and cash equivalent. I
3 mean, it's the way it's here. Where appropriate
4 it would probably be in the section he's talking
5 about. Otherwise it would be in the cash and
6 cash equivalent section.

7 MS. HAMEL: And it's in the technical
8 standards.

9 MR. WHEATLEY: So my impression is these
10 would be answered in the guidance documents under
11 the cash and cash equivalent section because
12 they're very procedural.

13 MR. WEST: That's what I was thinking.
14 Yep.

15 MR. FISHER: Did you have other questions?

16 MR. WEST: No.

17 MR. LITTLE: We're good.

18 MR. FISHER: Anything else on the bingo
19 section? Well, in that case, we just had another
20 accomplishment. Round of applause.

21 (Round of applause.)

22 MR. FISHER: So we -- actually, that's
23 like a two-fer, that accomplishment, because it
24 means that we just completed our -- the first
25 part of the MICS and we actually completed all

1 the primary topics on our agenda except for the
2 housekeeping stuff we're about to move into,
3 because card games was a -- was the next topic if
4 we had time. So we don't have time for that. So
5 we accomplished the primary objective of the
6 agenda as well. And we incorporated into the
7 agenda time the time for the closed session and
8 for a couple of other things, and so we're
9 tracking. Okay.

10 Everybody ready to shift to some of
11 housekeeping things we need to do before we
12 adjourn? So one housekeeping thing is I want to
13 confirm that the agenda planning group that was
14 previously constituted with the addition of Mia
15 is now the -- is going to continue to keep
16 working and will work on the December agenda; is
17 that right? That's everybody's understanding?
18 Yes. Okay. Good. And so I'd like that group to
19 meet -- try to get that group to meet quickly
20 because we don't have a whole lot of time between
21 now and the December meeting, and we also had
22 have a holiday, federal holiday next week. Some
23 people will be taking part of the week off, so
24 could that group meet by conference call at 1:30
25 p.m. eastern time on Monday?

1 MR. LITTLE: We'll get the conference call
2 information.

3 MR. FISHER: I think I checked with
4 everybody on schedules. I think that time should
5 work for everybody.

6 So then the second thing is you may
7 remember that -- well, on the meeting summary, so
8 we need to talk about two things on the meeting
9 summary. One is when people be going to get
10 comments on the October summary to us and when
11 we'll turn that document around.

12 And then secondly, in terms of what is
13 your expectation for the summary from this
14 meeting? What would you like us to do? We could
15 do -- we could not do the same format that we did
16 last time and we could do instead just a
17 compilation of the consensus recommendations that
18 shows, you know, the basic stuff, who attended
19 and a compilation of the recommendations. So I
20 need some feedback about what you'd like to see
21 in the November summary.

22 MR. WILSON: For me, as long as I'm
23 getting the notes or, you know, as we already
24 talked about --

25 MR. FISHER: Transcript, you mean?

1 MR. WILSON: Well, I don't know, because
2 that's her thing and the -- the notes. Then for
3 me a compilation of just here's what we have
4 recommended works as well because then I'm able
5 to focus on that document. But if I have any
6 questions, I can look back on the minutes or
7 whatever we're talking, the notes.

8 MR. FISHER: Again, so that does present a
9 little bit of a problem. So because those notes
10 aren't being taken from the perspective of being
11 distributed, they were being taken for the
12 purposes of preparing a summary. So I didn't
13 realize you wanted that set of notes to accompany
14 you. You have a transcript, so I'm a little
15 confused.

16 MR. WILSON: We don't have the transcript.

17 MR. FISHER: Eventually you're going to
18 get a transcript.

19 MR. WILSON: But the notes, you already
20 sent those to us from the last meeting.

21 MS. HAMEL: That was a summary.

22 MR. FISHER: Yes, I did, because you
23 requested them. And so to facilitate moving
24 ahead, I sent those notes. I'm hoping there's
25 nothing embarrassing in those notes.

1 MR. WILSON: If there is or isn't doesn't
2 matter to us. But I thought we had established
3 that you were going to provide us with those
4 notes.

5 MR. FISHER: That was not my
6 understanding.

7 MS. LASH: I think that was our intent.

8 MR. MCGHEE: From now on. Not just from
9 the notes from the meeting, because I think the
10 request was could we have the notes from the
11 meeting. So we can say we want the notes from
12 all the meetings, if that's what we want to do.

13 MS. LASH: Do we have a consensus vote on
14 that?

15 MR. MCGHEE: If you need to vote, raise
16 your hands.

17 MR. FISHER: We might need a different
18 process for creating the notes. If you want to
19 test your consensus, do that. But that might
20 mean we might have to have a different process
21 for creating the notes.

22 MS. LASH: So does --

23 MR. MAGEE: What's your justification?

24 MR. FISHER: Well, because it's not a
25 verbatim transcript of what's being said. And so

1 -- and I looked over a couple times, and Kim
2 hasn't been typing, so I don't know how much is
3 recorded in there versus what was said. And so
4 there's no guarantee that that's a complete set
5 of everything that happened.

6 MR. WILSON: We understand that it's not a
7 -- we understand what that -- what her notes are
8 designed for. I don't believe that we're using
9 them to say, oh, well, you didn't include this in
10 the notes or you didn't include that. It is
11 merely a reference point to jog things in your
12 mind as you're looking at this summary document
13 or whatnot. I mean, at least for me. I can't
14 speak for everyone else. But I'm not using it to
15 opine on her thoroughness or not thoroughness in
16 taking the notes.

17 MR. LITTLE: My only concern would be that
18 perhaps she had shorthanded some things to go
19 back eventually or different ways of, you know,
20 keeping track. And from the outside observer,
21 her comments may not be understood. And we all
22 know that once things go out, they become public
23 everywhere and that the outside observer could
24 confuse these notes as being an official
25 transcript, which we have over here. That's my

1 only concern. What you guys do with it or not,
2 it's just we know for a fact that once these are
3 distributed, they're all to everybody, not just
4 for this group.

5 MS. LASH: They're going to be sent to us
6 as a reference point for us to use, and I don't
7 see any of us broadcasting them or putting them
8 on websites or anything. And I think it's a
9 reference point. And there's some of us that
10 would like to see the notes and I don't --

11 MR. CULLOO: Can't you put a disclaimer on
12 there?

13 MR. MCGHEE: Can't we do it upon request?

14 MR. GARVIN: Couldn't we ask Kim if she
15 objects to it?

16 MR. FISHER: She was listening intently to
17 what was being said to the committee.

18 MR. WILSON: What is the turnaround time
19 on the transcript?

20 COURT REPORTER: It will be three weeks.
21 You're looking at approximately 700 pages.

22 MR. FISHER: So I understand the question
23 is from the committee to get copies of notes that
24 are being taken from the meeting, and we'll
25 figure out what's the best way to produce those

1 notes that works and we have an official note
2 taker who understands that the notes are to be
3 distributed beyond just internal reference.

4 MS. LASH: Do you agree, for those of you
5 that wants the notes, that we have a consensus
6 that we can get the notes from our group?

7 MS. CHINO: I like the idea upon request.
8 We're having all the discussion, and I feel
9 confident that that's what their role is and that
10 we remember because of the stuff we're putting
11 together here. A request is fine. I certainly
12 wouldn't have time to read all of it, but some of
13 you probably do.

14 MS. TAHDOOAHNIPPAH: Is there going to be
15 a summary, or what?

16 MR. FISHER: That's where we started. I
17 asked what did you want in the summary; what
18 would be useful? And that's how we got around to
19 is it the summary plus the notes, or the summary,
20 a compilation of the consensus recommendations,
21 plus the notes?

22 MS. STACONA: Is it -- the yellow stuff
23 and we voted on and the big concepts, is what I'd
24 like to see in the summary.

25 MS. LASH: And what we need to do the next

1 meeting. Because I've got bullet points of
2 things that we need to do.

3 MR. FISHER: We can create an action item
4 list for what's, you know, in the summary, like I
5 did from the last meeting. And so we can do
6 that. Okay.

7 MR. MAGEE: What's the purpose of having a
8 note taker come, is it to provide like a minute
9 format of the action items, or is it just merely
10 a summary for the meeting? Because there is an
11 official, like, way of taking minutes and
12 approving minutes, but if it's just a summary of
13 the meeting according to someone's perception --

14 MR. FISHER: Right. So what is it that
15 you want? Because the way that we set out is to
16 just provide a summary, a summary of the key
17 things that were raised or needed to be raised,
18 plus the consensus.

19 MR. MAGEE: And that works for me.

20 MR. LITTLE: I got to ask if we could
21 change off topic for one second. Mike has got to
22 get to the airport, and he needs talk about --
23 quickly clarify an issue.

24 MR. FISHER: Let's put this on hold and
25 turn to Mike on --

1 MR. HOENIG: I'm going to be really brief
2 and I do have to run. But I gave Nimish a stack
3 of my cards, so if anybody has any questions,
4 please call me. But basically I just wanted to
5 clarify, I know there's some questions that came
6 out after the meeting in Connecticut, and about
7 FACA and how it may apply to experts that come up
8 to the table. And it's kind of simple. The
9 exception that this group is operating under FACA
10 basically provides an exception for meetings
11 between federal officials and tribal elected
12 officials or their designated employees that are
13 authorized to act on their behalf. So if an
14 employee from one of the facilities wants to come
15 up as an expert, that's great. It's just that
16 employee needs to be designated by the tribal
17 leadership to act on their behalf and has to be
18 authorized to speak on their behalf. Because if
19 not, then they run into problems that there may
20 be a possible violation of FACA and who was
21 participating in the meetings. And based on the
22 two cases that are out there, the result of that
23 is a court could easily say we're not allowed to
24 use anything that you guys bring up here in
25 determining how we're going to move forward on

1 our regulations, so this would basically go
2 straight out the window. And I think everybody
3 here would hate to see that happen. So I think
4 the easiest thing to do is since everybody, it
5 sounds like, was already planning on saying
6 beforehand who was going to be coming to speak as
7 experts at the table, if you could submit a
8 letter with that from tribal leadership basically
9 saying they're designated and they're authorized
10 to speak for them. I think that would save -- I
11 think that would be more than sufficient, and it
12 would save any risk of all this falling apart
13 again.

14 MR. MAGEE: So would that mean that a
15 particular tribe could have more than one
16 representative at the table, then?

17 MR. HOENIG: Well, I mean, it's the
18 experts coming up. And the exception talks about
19 employees participating in meetings with the
20 commission, so -- I mean, I would think that if
21 you want your experts to come up and speak, that
22 that's what they have to do. Now, what level of
23 participation they take, I think it seems like
24 that was already decided.

25 MR. WHEATLEY: So quick question on that

1 point. It was asked in Connecticut to see if we
2 had a pull tab expert available while in
3 Washington. So I have contacted somebody, and
4 they said tentatively they had agreed. They are
5 not a member or employee of a tribe that is
6 represented on the TAC, but are an employee of a
7 tribal member.

8 MR. HOENIG: That does bring up another
9 point in that bringing in other tribal employees
10 could also be seen as the TAC being opened up to
11 other tribes that weren't initially chosen by the
12 commission to participate in the TAC. So it
13 creates kind of a -- it could give the appearance
14 that the TAC is being opened up to other tribes.

15 MR. MCGHEE: The person who used to do our
16 pull tabs still works here. We haven't -- don't
17 pull tabs in two or three years, but I could
18 check.

19 MR. FISHER: Is there more that you need
20 to tell us?

21 MR. HOENIG: No, that's about it. If
22 there are any other questions?

23 MR. FISHER: Any other questions?

24 MR. WHEATLEY: I just need to know how TAC
25 and NIGC wants me to handle that situation, if we

1 still want that person to come in and if they do,
2 how we handle that.

3 MR. MORGAN: How many tribal councils does
4 he have to go before and get written
5 authorization?

6 MR. HOENIG: We can suggest some language.
7 If you want a form to use, I'm happy to do that.
8 Another possibility is if that's a situation you
9 want, the commissioners and the NIGC can do a
10 break-out session with that person to get the
11 input we need to come back, and we'd just step
12 out and not participate in the --

13 MR. FISHER: You can do it in the closed
14 session.

15 MR. WHEATLEY: That seems like the easiest
16 way to do that. It's --

17 MR. HOENIG: It's just the participation
18 with the commission.

19 MR. MORGAN: Who is the commission?

20 MR. LITTLE: (Pointing at himself.)

21 MR. HOENIG: Also Nimish, any of our
22 employees.

23 MR. FISHER: It does not include us.

24 MR. LITTLE: If you'd like us to put
25 together a form letter where you can take it and

1 get it signed, that would be the easiest, but
2 that would be an option.

3 MR. MORGAN: I think it's easiest to go
4 into closed session.

5 MR. LITTLE: That's for your expert.

6 MR. FISHER: Okay. Maybe we can take that
7 up in the agenda planning group on how to handle
8 those things. Okay. I'm trying to keep this on
9 track and get back --

10 MS. LASH: We're still on the notes.

11 MS. TAHDOOAHNIPPAH: I think that tribes
12 that aren't here, too, would like to know what
13 kind of took place and --

14 MR. WILSON: Isn't that what the purpose
15 of the transcript is?

16 MS. LASH: That's where they'll get their
17 information, is from the transcript when it's
18 posted. This is for us. This is for the ones
19 who are here who were participating in the group
20 who would like a copy of the notes. It's not
21 difficult.

22 MR. FISHER: It's fine. We'll distribute
23 a copy of the notes. But for the next meeting,
24 we need to sort out an official note-taker and
25 what that official note-taker is going to do.

1 MR. MCGHEE: Or at least the person doing
2 this must be aware that the people seeing this is
3 going to be attached to a lot of work. It puts
4 the reputation out there, if they don't know who
5 did it, why they did it, and, you know.

6 MR. WILSON: Are these notes that Kim
7 takes from the NIGC standpoint archived or kept
8 part of a permanent record?

9 MR. LITTLE: No.

10 MR. FISHER: They're not part of NIGC's
11 records at all. At all. They're not -- well,
12 now they are because they got distributed to
13 NIGC. But up to that point, they had not been
14 distributed to in NIGC. They were just internal
15 to us.

16 MR. WILSON: So the note-taker is just
17 your resource to help you facilitate?

18 MR. FISHER: Correct, and to create the
19 summary. That was what was here for initially.

20 MR. LITTLE: Just look at the point, that
21 this is a cost for DOI. The commission is going
22 to be paying for a transcriptionist, which will
23 run probably close to \$10,000. Not that much?
24 Well, we better use your company. Just to be
25 cognizant of costs.

1 MS. LASH: Notes are free. Giving them to
2 us is free.

3 MR. LITTLE: We need to decide if we want
4 to have a note taker versus a transcriptionist.

5 MS. LASH: What she's doing is fine.
6 That's all I'm requesting.

7 MR. FISHER: Okay. So what does that mean
8 in terms of what's in the summary?

9 MR. MCGHEE: What's the question? Notes
10 as needed or notes to everybody?

11 MR. FISHER: I heard notes on request to
12 those who want them.

13 MS. LASH: So we agree? Can we have a
14 vote, please? Notes for those who request them?

15 (Indicating.)

16 MR. MAGEE: Back to the summary, does the
17 summary go out to everybody?

18 MR. FISHER: The summary goes out to
19 everybody on the TAC, and then it was intended
20 that the summaries would be -- once final, would
21 be published on the NIGC website.

22 MR. WILSON: I just want to say that we're
23 not -- we're not requesting by this request that
24 you have to get a different person or something.
25 That's strictly a decision that you would make in

1 terms of your comfort level with how those notes
2 are presented, I guess. I mean, I don't want you
3 to think that you have to hire additional
4 resources to meet the requests. That's not the
5 intent of the requests.

6 MR. FISHER: I hear that. But we are
7 going to have to figure out what the official
8 note-taker is doing now that there is a need for
9 an official note-taker.

10 MS. LASH: We're not asking for that.
11 Just like what I said, what was provided was
12 fine. That's fine.

13 MR. MCGHEE: If y'all want to incur
14 additional costs, but basically they're fine with
15 the way you've been doing it with the costs you
16 have.

17 MR. FISHER: Okay. I understand what
18 you're saying.

19 MS. STACONA: Question. Did NIGC figure
20 out what was going on with Oklahoma and their
21 note-taker, did they get that straightened out,
22 iron all that out?

23 MR. LITTLE: It made it sound like -- I
24 mean, folks want an official transcript, so we're
25 going to provide that from the next meeting on

1 out. This time it's being funded by OIGA, and
2 we're hoping they're going to provide us a copy
3 to put on our website. But moving forward, we
4 will have a transcriptionist at every event.

5 MS. STACONA: So if we're going to do
6 transcripts, then are we still going to get a
7 summary?

8 MR. LITTLE: I think the idea is she's
9 here to help Robert develop a summary. And it
10 was kind of like if I take notes, do you guys
11 also want copies of my notes? That was kind of
12 the whole purpose of it, you know.

13 MR. MCGHEE: She's working for him.

14 MR. LITTLE: Do you want Rust's notes?

15 MR. WILSON: From my perspective
16 initially, this was a concern for me from the
17 last meeting because I viewed that person as the
18 official scribe that was describing the things.
19 And so this -- the reporter thing,
20 transcriber/stenographer is something new that
21 came about. So for the reasons that I would have
22 wanted the notes for myself is less mitigated by
23 the fact that there are transcripts. But I don't
24 want to preclude somebody who thinks that they
25 need the notes for whatever.

1 MR. FISHER: Okay. In terms of preparing
2 the -- you may remember I said yesterday that I'd
3 like a couple of volunteers to work with me about
4 how to present the consensus recommendations that
5 are developing with an eye towards how that would
6 become a final -- in the final report. Because
7 it's not that easy to -- there are a couple of
8 different ways to do it, and so I just want to
9 bounce that off of somebody on the TAC before I
10 create that and send it out.

11 MR. MCGHEE: I'm volunteering.

12 MR. FISHER: How about one other person to
13 volunteer so we can bounce this off of two
14 people?

15 MS. HAMEL: Are you volunteering me?

16 MR. WHEATLEY: Not to volunteer somebody,
17 but I was thinking Thomas, since he's writing the
18 point paper that's going to go with the
19 recommendations.

20 MR. WILSON: I'd be happy to.

21 MR. FISHER: You're spared.

22 MS. HAMEL: No, that's fine.

23 MR. FISHER: So by my look on the
24 calendar, we have less than two weeks between now
25 and the next meeting. And so this -- if my

1 calendar is correct, this is the 17th and we meet
2 again on the 6th. And so that's two weeks from
3 this past Tuesday. No, three weeks. Two and a
4 half weeks. All right. So what -- in terms of
5 turning around the documents and things, we're
6 probably not going to be a two-week schedule to
7 turn around documents. It's likely that any
8 summary from the November meeting will not come
9 until right before the December meeting. If you
10 get the comments -- comments on the October
11 summary should be sent to me.

12 MS. LASH: I'll have mine in by Tuesday.

13 MR. FISHER: Anybody who has comments by
14 the end of the day on Tuesday, and then we'll
15 circulate a revised draft of the October summary
16 the week of the 28th, sometime the 28th. And
17 then I don't know how long it's going to take the
18 commission to do the comparison documents for the
19 next meeting, but they're likely to come right
20 pretty close to the meeting.

21 MR. LITTLE: Yeah, now that we got a
22 pretty good idea of what we're working off of.
23 This is a very helpful process because I think we
24 can churn them out pretty fast. It will be a
25 matter of getting them formatted, getting them

1 reviewed by Rust and Mike. And we'll get a copy
2 of the hard copy of the working group's document
3 to everyone.

4 MS. HAMEL: Are we going to look at 543.3
5 and 4?

6 MR. LITTLE: Yes.

7 MR. FISHER: That's where the agenda
8 committee will pick up.

9 MS. HAMEL: If they need to do something.

10 MR. FISHER: That's partly why the agenda
11 planning committee is meeting on Monday, so they
12 can begin the preparation of the comparison
13 document. Okay. Any other housekeeping things
14 that we need to take care of?

15 MR. LITTLE: I have a couple.

16 MR. CULLOO: I was just going to give
17 information on transportation on the airport.

18 MR. LITTLE: And this is -- well, I can
19 wait until we conclude. Everyone, I'm sure, has
20 a room blocked for Clearwater, but if you don't,
21 the deadline to get the block is tomorrow.

22 MR. WHEATLEY: We're covered.

23 MR. LITTLE: Everyone here, staff, just
24 the public.

25 MR. FISHER: Anything else?

1 MR. LITTLE: I'll wait until the closing.

2 MR. CULLOO: I was going to tell everyone
3 it's about a 70-mile drive from the airport to
4 Clearwater, but it's 15 miles north of the
5 airport in downtown Seattle to take a passenger
6 ferry. It's a 35-minute cross, and then you're 7
7 miles away from the casino. The ferry schedules
8 are on the website. I'll send it to you if you
9 want.

10 (Discussion held off the record.)

11 MR. FISHER: Okay. Thank you for that.
12 And you'll circulate it.

13 MR. CULLOO: I'll send it out.

14 MR. FISHER: All right. Anybody else have
15 any housekeeping things? So if not, then let's
16 move into kind of closing round to see if anybody
17 has anything they want to say in closing.

18 MR. RAMOS: Sure. I just want to thank my
19 other TAC members. I know that sometimes this
20 things gets laborious and we're at each other
21 here and there, but I think this process as a
22 whole has been productive. And I think that at
23 the end of the day, we reach our objectives. And
24 I know it's been a real pleasure for me to
25 participate in the situation. So thank you all

1 and thanks to NIGC again for being an active
2 participant in this process.

3 MR. WHEATLEY: Nice work. Good job.
4 Thanks.

5 MS. TAHDOOAHNIPPAH: I'm happy, I think
6 it's -- this time it went a lot better.
7 Everybody seems to get along with each other a
8 lot better, and it went well.

9 MR. MORGAN: I echo Jeff's sentiments.

10 MS. TAHDOOAHNIPPAH: I want to thank
11 Nimish for all his help for the technical
12 standards.

13 MR. GARVIN: Yeah, thanks. In particular
14 I want to thank Tom for introducing the executive
15 session idea and us making use of that. And I
16 hope that's not viewed as a slight to NIGC or to
17 the facilitator. And I also don't want to view
18 it as an opportunity to avoid the transcript.
19 Because that wasn't -- that didn't have to do
20 with it at all. And I'm glad it became a
21 non-issue for us.

22 MS. STACONA: Ditto all that they said.

23 MR. MAGEE: You know, for me, it was
24 enlightening to see the level of expertise coming
25 out at this session. Truly broad-based knowledge

1 here and experience. And for me, that was
2 enlightening. I think it was overall great.

3 MR. CALLAGHAN: Again, good to be here.
4 Good to be leaving. And I, too, recommend the
5 ferry. That's a beautiful way to see that area.
6 That is gorgeous.

7 MS. LASH: I think we had a great meeting.
8 I really enjoyed the executive session and just
9 the, you know, the closeness that we have and how
10 well we're working together. And I really
11 appreciate everyone's assistance and the comments
12 and thank you for your help with the documents,
13 the NIGC, and it was a very positive meeting.

14 MR. WILSON: Ditto.

15 MS. THOMAS: I could do the same thing, I
16 would agree. I am really excited we got through
17 the technical items.

18 MS. CHINO: For me it was interesting.
19 I've learned a little more than I knew. I
20 particularly appreciate everybody that was part
21 of giving the expertise and the information
22 behind some of the documents that are real
23 helpful to me. Am specifically because Navaho
24 Nation only has 120 machines, it was interesting
25 to hear all of this information that applies to

1 that. And particularly probably for the
2 appreciation for our attorney, you know, who is
3 sitting back there and learning all this, and
4 she'll carry it forward when I'm relieved of my
5 duties. Other than that, thank you.

6 MS. HAMEL: I would ditto everyone's
7 sentiments. The only thing I can say is I wish I
8 could remember more of why we made decisions the
9 way we did on the TGWG to offer more assistance.
10 I'm glad to be here and able to participate.
11 Thank you.

12 MR. CULLOO: I appreciate everyone's
13 participation. I learned something every day
14 from this group, a wealth of knowledge here in
15 areas I'm not as knowledgeable on, and I
16 certainly appreciate that. And I appreciate the
17 way the team is coming together and the way we
18 get through this stuff. So for Tom, I'll give
19 you up top.

20 MR. MCGHEE: Thank you for being here and
21 I look forward to the next meeting. I'm glad I'm
22 getting to know each and every one of you a
23 little bit better.

24 MR. LITTLE: I got a lot to say.
25 Thoroughly, I just want to thank everybody for

1 the extra effort you put all in here. I remember
2 the very first day when we met, we talked about
3 difficult situations and, you know, working
4 through these respecting everybody.
5 Understanding that mistakes are going to be made
6 and that, you know, we're in a safe zone here and
7 work through them. And I want to thank everybody
8 for, you know, not giving up and continuing to
9 work through these difficult subject matters. On
10 behalf of the commission, you know, even
11 contacting the commission, I'd like to say
12 Stephanie and Tracie are very grateful for the
13 sacrifices you all made to be out there in this
14 lovely warm weather. If they could be here, they
15 would. We've got a lot of things up in the air
16 right now. They're testifying before the Senate
17 Affairs Committee today, among other things.

18 I want to make a special thank you to our
19 staff. Obviously Nimish, he goes above and
20 beyond every day helping here with the training.
21 You know, he's on the clock 24/7. Nimish, thank
22 you for your help. Mike Hoenig, who left, he's
23 one of the hardest working attorneys who I've
24 ever met. One thing Mike will tell you, his dad
25 had a confirmation before the U.S. Senate this

1 morning to be the vice chair of the FDIC. I
2 thought that was really cool. So he was in the
3 back watching his dad at the hearing before the
4 Senate Banking Committee, so it was cool. Rust,
5 another hard working staff member here on the
6 commission, you know, he's doing this stuff 24/7.
7 He's been sick as a dog, but he's here. And he's
8 been on the road all last week. And then there's
9 the other folks back in the back. You all know
10 Rita, she busts her hump all the time. Tom
11 Bowman from our local office was here this
12 morning, and you might know him. And then just
13 the other folks in D.C. and the regions that
14 really work hard on behalf the commission putting
15 stuff on the internet and making copies, I want
16 to thank all of them. And, finally, I just want
17 to wish you all really safe travels home. I
18 really appreciate the dedication and sacrifice
19 that's you all make.

20 MR. FISHER: Okay. See you in December.

21 (The National Indian Gaming Commission
22 Tribal Advisory Committee Meeting was concluded
23 at 2:13 p.m., November 17, 2011.)

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