



Memo To: Class II Game Classification and Technical Standards Tribal
Advisory Committee Members

From: Chairman Phil Hogen

Date: January 7, 2005

Re: January 12-13, 2005 Committee Meeting

I am in receipt of Charlie Lombardo's letter of January 6, 2005, which was submitted on your behalf. I want to first of all thank Charlie for his very candid and thoughtful expression of your common concerns regarding the proposed Class II game classification standards. In response, I also want to emphasize that the Commission has always been and remains open-minded regarding all of the issues raised in your letter. We understand and have given careful thought to each of these issues, as evidenced by the extensive relevant changes that have already been made in past drafts, of the proposed standards. As we move forward formulating and reviewing future drafts the Commission will continue to thoughtfully consider every issue raised by you, tribal leaders and other interested persons.

Because many of the current issues involve legal questions, we believe it would be constructive, as requested in your letter, for each Committee member, if they desire, to bring an attorney to our upcoming meeting in Palm Springs, to assist them in commenting on any legal issues that may come up during the meeting. As always, we also invite your counsel and all tribal leaders and their attorneys to submit written comments to the Commission outlining any objections, concerns, recommendations, analyses or opinions that they may have concerning the proposed standards or other relevant issues.

Attached for your review in preparation for next week's meeting, please find the following:

- Meeting Agenda

- Copy of Proposed Revisions to the Rule Definitions of “Electronic or Electromechanical Facsimile” (25 CFR § 502.8) and “Games Similar to Bingo” (25 CFR § 502.9)
- Copy of the Fourth Working Draft of the Proposed Class II Game Classification Standards Regulation

Comments received to date from individual Tribes, tribal associations, state gaming regulators, and others on previous working drafts of the proposed Class II game classification and technical standards are being scanned onto CDs, and will be provided to you at the meeting for your reference.

As decided at our last meeting in Oklahoma City, the classification standards and technical standards for technologically aided Class II gaming are now being formulated as separate proposed rules.

The attached 4th Draft represents the first version of the proposed classification standards as a separate regulation. It and the proposed rule definition changes will be posted on the NIGC website on January 10, for further informal pre-rulemaking review and comment through January 28, 2005. After consideration of all received comments and your advice, new drafts of the proposed definition changes and classification standards will be prepared and published in the Federal Register on or about February 23rd as proposed new regulations, with provision for a 60-Day public comment period.

On January 31, 2005, a revised separate working draft of the proposed technical standards will be forwarded to you and also posted on our website as a separate regulation for further pre-rulemaking review and comment. The deadline for comment on that draft will be February 25, 2005. After consideration of all received comments and your advice, a new draft will be prepared and published in the Federal Register on or about March 23rd as the Commission’s proposed Class II game technical standards regulation, with provision for a 60-Day public comment period.

After next week’s meeting, we are scheduled to meet on March 2-3, and then again on June 2-3, to review and discuss the proposed definition changes and each of the two proposed draft regulations, their related comments, and the formulation of each of the final rules.

As mentioned in your letter, formulation and implementation of these Class II rules is a challenging undertaking of critical importance to the Indian gaming industry. Your continuing advice and assistance to the Commission in this effort is an invaluable aid to development of the best possible definitions and standards for Class II gaming, and is greatly appreciated by the Commission. Accordingly, I want to thank each of you for your dedicated service and thoughtful advice and counsel as members of the advisory committee.

Needless to say, we have a lot of hard work ahead of us, and the Commission looks forward to seeing all of you at our upcoming meeting in Palm Springs.