SUPPORTING STATEMENT FOR RECORDKEEPING AND REPORTING REQUIREMENTS FOR 25 CFR PART 547

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Indian Gaming Regulatory Act (25 U.S.C. §§ 2701 *et seq.*, 102 Stat. 2467, Pub. L. 100-497) (IGRA) governs the regulation of gaming on Indian lands. IGRA establishes the National Indian Gaming Commission (NIGC) as an independent federal regulatory agency with authority to oversee Indian gaming, 25 U.S.C. § 2704, and gives to the NIGC the power to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act" 25 U.S.C. § 2706(b)(10).

IGRA divides Indian gaming into three classes. Class I encompasses "social games" played "solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations." 25 U.S.C. § 2703(6). IGRA places Class I gaming on Indian lands within the exclusive jurisdiction of the Indian tribes and outside of IGRA's own provisions. 25 U.S.C. § 2710(a)(1).

Class II encompasses, among other games, Bingo, lotto (another name for Bingo, not the game offered by most state lotteries), "games similar to bingo," pull tabs, punch boards, tip jars, and instant bingo, all of which IGRA permits to be played with "electronic, computer, or other technologic aids." 25 U.S.C. § 2703(7)(A)(i). IGRA makes the Indian tribes the primary regulators of Class II gaming on Indian lands and gives to the NIGC a regulatory role in that regulation. 25 U.S.C. §§ 2710 – 2711.

Class III is a catchall category and includes "all forms of gaming that are not Class I gaming or Class II gaming," 25 U.S.C. § 2703(8), and includes any "electronic or electromechanical facsimile of any game of chance" or slot machine. 25 U.S.C. § 2703(7)(B)(ii). IGRA authorizes Class III gaming on Indian lands only if, among other requirements, it is "conducted in conformance with a Tribal-State compact entered into by the Indian tribe and the State" within which the tribe is located. 25 U.S.C. § 2710(d)(1)(C).

Because IGRA also authorizes the use of "electronic, computer, or other technologic aids" with the play of Class II games, Class II gaming facilities nationwide offer bingo and pull tabs electronically aided in various forms. These include electronic card minders that automatically mark matching numbers and track the occurrence of winning patterns, thereby allowing players to play large numbers of bingo cards. Also common are electronic implementations of bingo in the form of electronic player stations linked to central computer servers. Part 547 establishes minimum uniform technical standards that are applicable to Indian gaming nationwide, compliance with which is intended to ensure the integrity and security of Class II games and the proper accounting of the money that they earn.

Part 547 was initially published in the federal register on October 10, 2008 and went into effect on November 10, 2008. On June 1, 2012, the NIGC published a notice of proposed rulemaking to modify the technical standards. 77 FR 32465, June 1, 2012. Amendments to the technical standards were published as a final rule on September 21, 2012. 77 FR 58473, Sept. 21, 2012. Although the technical standards themselves changed with the 2012 final rule, the information collection requirements have not.

25 CFR § 547.5

Section 547.5 establishes a process for assuring that technologic aids used with the play of Class II games comply with these technical standards. Part 547 uses the term "Class II gaming system" to refer to any particular collection of hardware, software, and other components used to play a Class II game.

Section 547.5(c) contains the general rule. A tribe's gaming regulatory authority must require that all Class II gaming systems, or modifications thereof, be submitted to a qualified, independent testing laboratory for review and analysis of the system's compliance with part 547. As a matter of established practice, it is the game manufacturer who makes the submission to the testing laboratory, although the rule also leaves open the possibility that the gaming operation may do so. The submission must include a working prototype of the complete system – all pertinent hardware and software – together with an information collection that includes the complete documentation and description of all functions and components.

In turn, the laboratory will provide the next information collection, a written report stating that the system does or does not meet the part 547 requirements and of any additional requirements adopted by the tribe's gaming regulatory authority. The laboratory will provide the report and certification to the tribal gaming regulatory authority (TGRA) for its approval or disapproval of the gaming system. The TGRA must retain a copy of the lab report as long as the gaming system in question remains in play. These information collections allow federal and tribal gaming regulatory bodies to ensure compliance with the part 547 requirements for all Class II equipment offered for play to the public.

25 CFR § 547.5(a)-(b)

Section 547.5(a)-(b) contains minor variations on the submission and reporting process for particular circumstances, and these variations bring with them other possible information collections.

Gaming systems that were manufactured before November 10, 2008, may be grandfathered – exempt from strict compliance with the part 547 provisions – provided that they be found, through the above submission and reporting process, to be compliant with certain designated minimum provisions. Upon a finding that a particular system is grandfathered, the TGRA must issue a certificate to that effect to the system manufacturer and send a notice of that effect to the NIGC identifying the name and components of the grandfathered system. These information collections allow federal and tribal gaming regulators to ensure that grandfathered

systems meet the required minimum standards and that the location of all grandfathered systems and components is tracked while they are still in use. While grandfathering gaming systems is not made mandatory by the rule, the NIGC expects that gaming operations will seek to do so.

25 CFR § 547.5(f)

Given the integral role that independent testing laboratories have in the submission and reporting process detailed above, § 545.4(f) requires testing laboratories to submit to suitability determinations made by the tribes that they serve, including criminal background checks for the laboratories' principals. These determinations are made according to the same standards used to license the primary management officials and key employees of Indian gaming operations under IGRA. This requires the submission of: corporate financial information; qualifications of the engineering staff; available information (and inspections) of the engineering facilities; and personal information for principals, including tax returns, bankruptcies and law suits, work histories and references. This information collection is essential to ensuring the competence, integrity, and independence of the testing laboratories and the suitability of their decision makers, *i.e.* to ensure that undesirable elements are kept out of Indian gaming.

25 CFR § 547.17

The NIGC recognizes that there is tremendous variety in Indian gaming. Operations range from one of the largest casinos in the world to rural bingo games played a few times per week or only seasonally. The NIGC therefore recognizes the possibility that there may be unique, individual circumstances in which uniform standards are inapplicable. As such, § 547.17 provides the opportunity for a TGRA to apply to use an alternate standard from particular requirements of the uniform rules by means of a formal request to the NIGC Chair. Seeking approval of an alternate standard is entirely voluntary, and thus § 547.17 creates no mandatory submission requirements.

If a TGRA wishes to use an alternate standard, the TGRA must send a written request to the Chair, together with the alternate standard and an explanation of how the standard provides a level of security and integrity equivalent to (or better than) the uniform standard that it seeks to replace. That explanation may include an evaluation of the alternate standard by an independent testing laboratory. Having reviewed the request, the Chair may approve it or object to it.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

25 CFR § 547.5

Information to a testing laboratory includes the complete documentation and description of the gaming system and is used by the laboratory for its evaluation. Games played with the use of technologic aids can involve complicated pieces of equipment. They can involve tens or even hundreds of thousands of lines of software code. The more complicated aids are not single pieces of equipment but can contain multiple peripheral pieces of equipment such as button panels,

communications boards, printers, currency acceptors, and video screens. Thus, § 547.5 requires the submision of sufficient information to enable review and analysis by the laboratory, leaving to the laboratory the final say over what is sufficient for its review. If this information collection is not provided as described, meaningful laboratory review cannot occur.

Information provided by the laboratory in the form of a report is provided to the TGRA in order that the authority may make an informed decision of whether or not to find that the system meets the part 547 requirements, to approve the gaming system, and to permit it to be offered for play. If this information collection is not provided as described, the TGRA cannot exercise the primary regulatory role over Class II gaming that IGRA assigns to it. In addition, if this information collection is not maintained by the TGRA as described, the NIGC cannot exercise the oversight role over Class II gaming that IGRA assigns to it.

Information provided by the TGRA in the form of a grandfather certification to the manufacturer and to the NIGC has two functions. It allows manufacturers to know that particular grandfathered systems are still permitted to be offered for play and it allows the NIGC to identify, at any given time, the existence and location of all gaming systems not fully compliant with § 547.5(c).

Information provided by the laboratory to the TGRA in the form of a suitability application is essential to assuring the competence, independence, integrity, and suitability of the testing labs and its principals. Without this information, the TGRA cannot exercise the primary regulatory role over Class II gaming that IGRA assigns to it, the process for assuring the integrity and security of Class II games will break down, and undesirable elements may find their way into Indian gaming.

The only information collection reported directly to the NIGC is the notification of a grandfathered system. The NIGC has used this information to track the use of grandfathered systems in tribal gaming facilities. Because grandfathered games are only permitted to be used until October 22, 2018, the NIGC will also use the information to ensure that all grandfathered systems have either been brought into full compliance with the general requirements of part 547 or are removed from the gaming facility.

25 CFR § 547.17

The information provided by a TGRA with an alternate standard request allows the Chair to make a complete and thorough review of the request for an alternate standard, and thus to be able to make an informed decision of whether or not to approve the request. The information provided serves no other purpose.

3. Describe whether, and to what extent, the collection of information involves the use of automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

25 CFR § 547.5

Information may be submitted to the laboratory by any compatible electronic means. In fact, the submissions contemplated by § 547.5 are modeled directly on similar regulations in state, Canadian provincial, and tribal gaming jurisdictions throughout North America. It is already common practice for manufacturers to submit documentation electronically on CD-ROM.

Information, whether a report or a suitability application, may be submitted by the laboratory to the TGRA by the same means, although § 547.5 does not speak to the question, and the issue is ultimately left to the decision of the tribal authorities themselves.

Information may be submitted by the TGRA to a manufacturer or to the NIGC by the same means and may be maintained electronically. Section 547.5 does not speak to the question, and the issue is ultimately left to the decision of the tribal authorities themselves.

No specific technological collection techniques are employed.

25 CFR § 547.17

An alternate standard request under § 547.17 may be submitted entirely electronically, if a TGRA so chooses.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.

25 CFR § 547.5

The required information is unique to every submission of a gaming system or modification.

However, although there are approximately 256 tribes with gaming operations, § 547.5 does not require a submission and report from a laboratory each time that a manufacturer wishes to place a gaming system into a tribal gaming operation. Rather, § 547.5 requires only one submission to a laboratory and one laboratory report. That report may then be submitted to multiple tribes and may be used by multiple TGRAs as a basis for allowing play of the system or modification.

Similarly, testing laboratories need not repeatedly submit applications for suitability determinations to TGRAs. The rule specifically permits a TGRA to rely upon and adopt a suitability determination made by another gaming regulatory body. There are only a handful of private testing laboratories, and as they already serve tribal, state and Canadian provincial gaming jurisdictions in North America, they have already had suitability determinations made in most of those jurisdictions. It is likely that most TGRAs will accept suitability determinations made by other gaming jurisdictions rather than repeating the entire process for themselves.

Further, most submissions of systems are, or will be, modifications of previous submissions. For example, manufacturers may bring out new versions of games that are substantially identical to ones previously submitted and reviewed. In such cases, the laboratory has the discretion to require documentation of the changes only.

Gaming in the United States (other than Indian gaming) is regulated at the state level, and all state gaming jurisdictions require submission and review of games and equipment prior to approval for play. The submission and review process in the rule simply adopted the existing procedure. Manufacturers that sell into multiple jurisdictions of necessity have the personnel and infrastructure in place to prepare and produce multiple copies of individual submissions. To the extent that a manufacturer has already submitted games and equipment for review and approval in non-Indian gaming jurisdictions, submissions pursuant to § 547.5 can be made using information already available.

25 CFR § 547.17

Each alternate standard request under § 547.17 will, of necessity, be unique, and thus duplication is not an issue, nor will existing information be implicated.

5. If the collection of information impacts small business or other small entities (item 5 of OMB Form 83-1), describe any methods used to minimize burden.

Not applicable.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

25 CFR § 547.5

As a practical matter, the NIGC expects that the submission and reporting requirements will be applied initially when tribal gaming operations wish to identify grandfathered gaming systems. Thereafter, they will be applied only when a manufacturer seeks approval or modification of a gaming system, whether or not grandfathered. The submission and reporting requirements are, therefore, entirely market driven. Submissions and the resulting reports by laboratories are not, and cannot be, regularly scheduled. Doing these things on any fixed schedule would either allow for the play of untested games and aids in Indian casinos (and thus defeat the very purpose of the rule) or unnecessarily slow the development of the Indian gaming industry (if, say, tribes had to wait for a certain date to arrive before games could be reviewed and approved).

The suitability determinations for testing laboratories are likewise market driven. Making suitability determinations on any fixed schedule may potentially allow unsuitable laboratories to participate in gaming while awaiting their determinations (and thus defeat the purpose of the rule) or unnecessarily hinder the Indian gaming industry (if, say, tribes had to wait for a certain

date to arrive before a testing laboratory became available to review gaming systems or modifications).

25 CFR § 547.17

If alternate standard requests are not conducted by submission to the Chair, then either alternate standards will occur without federal oversight (*i.e.*, implemented by TGRAs without any review or approval by the NIGC) or not at all. Review by submission is the most efficient way to make regulatory determinations regarding matters that are, by their nature, unique to each gaming operation.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**

25 CFR § 547.5

The frequency of submissions is market driven and is expected to vary. Section 547.5 provides until February 19, 2013, for the submission of gaming systems to be grandfathered. Following what is expect to be an initial increase in the number of submissions, the frequency of any other submissions and retention of gaming system records will be a function solely of the Class II market and the need or desire for new or modified Class II gaming systems.

Because testing laboratories have already acquired suitability determinations, we anticipate that any additional submissions will occur infrequently. Testing laboratories are under a continuing obligation to provide to TGRAs material changes in their information, *e.g.*, of new principal officers who must undergo background investigations or of adverse regulatory action taken against a lab in another gaming jurisdiction.

That being said, § 547.5 requires submission of gaming systems to testing labs and submission of reports from testing labs to TGRAs. Section 547.5 requires no submissions to the NIGC, except for the singular requirement that TGRAs send an identifying list of grandfathered Class II systems to the NIGC. That is expected to occur within a brief window during and following the 120-day period for submission of grandfathered systems, when testing labs provide the reports on those systems, and not again thereafter.

25 CFR § 547.17

Based upon the NIGC's experience with past requests to implement an alternate minimum standard, and upon the agency's experience with technical gaming matters, it is anticipated that there will be no more than one alternate standard request per year.

- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

There is no such requirement.

- **requiring respondents to submit more than an original and two copies of any document;**

  There is no such requirement.

- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

25 CFR § 547.5

Section 547.5 requires a TGRA to retain a copy of the laboratory's report, or of a modification made to a grandfathered gaming system, so long as the system at issue remains available to the public for play. It is possible, therefore, that reports and records of modifications must be retained for more than three years, although prevailing market forces typically cause turnover of gaming systems on the floors of gaming operations in less time than that.

25 CFR § 547.17

Section 547.17 contains no such requirement.

- **in connection with a statistical survey, which is not designed to produce valid and reliable results that can be generalized to the universe of study;**

  Not applicable.

- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

  Not applicable.

- **that includes a pledge of confidentiality that is not supported by authority established in statue or regulation, which is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

25 CFR § 547.5

A manufacturer's descriptions and documentation provided with a submission to a laboratory may contain confidential or proprietary information. Laboratories keep such information confidential by contractual agreement, although no statute or regulation requires them to do so. A laboratory's certification and report may reflect the manufacturer's confidential

and proprietary information in detailed descriptions of how a particular gaming system is engineered or works. Typically, TGRAs undertake contractually to keep the manufacturer's information confidential or may enact a tribal ordinance or regulation requiring confidentiality. Such an ordinance or regulation, however, is not required by IGRA, and thus its existence is purely a tribal decision.

Such information is not required to be submitted to the NIGC but only to TGRAs. In the event that a report is sent to the NIGC, any confidential information contained in it remains confidential. Such information is protected from disclosure under FOIA exception (b)(4). Further, 25 U.S.C. § 2716 removes from the NIGC any discretion it would otherwise have to disclose information that falls within FOIA exceptions 4 and 7 and requires NIGC to disclose such information only to other law enforcement agencies for law enforcement purposes.

Nothing in § 547.5 will impede inter-agency data sharing.

25 CFR § 547.17

A description of equipment or software made for the purpose of justifying an alternate standard may contain confidential or proprietary information. Again, laboratories keep such information confidential by contractual agreement, and TGRAs may undertake contractually to keep the manufacturer's information confidential or may enact a Tribal ordinance or regulation requiring confidentiality.

Accordingly, an alternate standard submission to the NIGC Chair may contain confidential or proprietary information. Such information remains confidential. As set forth above, IGRA removes from the NIGC any discretion it would otherwise have to disclose information that falls within FOIA exceptions 4 and 7 and requires the NIGC to disclose such information only to other law enforcement agencies for law enforcement purposes.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR § 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comment received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

The NIGC first published these information collection requirements in the Federal Register on October 24, 2007. No comments on the information collection were received at that time. Following that publication, the NIGC published a final rule on October 10, 2008. On June 1, 2012, the NIGC published a Notice of Proposed Rulemaking making a number of substantive changes to part 547. 77 FR 32465, June 1, 2012. The NIGC thereafter extended the comment period by two weeks. 77 FR 43196, July 24, 2012.

None of the changes to part 547 implicated the information collection requirements. The NIGC nevertheless received comments on the information collection. Specifically, a few commenters requested that the NIGC clarify the submission requirements of § 547.17. One

commenter suggested that requiring both an explanation of how the alternate standard achieves a level of security and integrity sufficient to accomplish the standard it seeks to replace, and the record on which the TGRA's approval of the alternate standard was based, is redundant. In the final rule, the NIGC clarified the difference in the two requirements and the purpose of requiring both. 77 FR 58473, Sept. 21, 2012.

Other commenters were concerned that the proposed rule would increase the information collection requirement by requiring the submission of every class II gaming system to a test laboratory, rather than the submission of a representative prototype. In the final rule, the NIGC changed the section of the regulation to clarify that only a prototype need be submitted, thereby decreasing the information collection burden. 77 FR 58473, Sept. 21, 2012.

- **Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format, (if any), and on the data elements to be recorded, disclosed, or reported.**
- **Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years - even if the collection of information activity is the same as prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

Both the original part 547, which went into effect on November 10, 2008, and the current regulation, which went into effect on October 22, 2012, were developed with the advice and assistance of an advisory committee composed of representatives of tribal governments, and committee members have at various times provided views on these issues. When part 547 was first implemented on November 10, 2008, the NIGC staff discussed the nature and number of potential respondents to the information collection requirements of § 547.5, burdens of compliance on respondents, and the costs of compliance with gaming laboratories that serve tribal, state, and Canadian provincial gaming jurisdictions in North America, and with game manufacturers who sell to the Indian gaming and non-Indian gaming markets. As the submission, review, and approval process contemplated by § 547.5 have not changed since implemented in November of 2008, the instructions, disclosure requirements, reporting formats, and data elements are already established and understood.

In addition to forming a Tribal Advisory Committee before publishing the final rule amendments to part 547 on September 21, 2012, the Commission conducted 15 consultations with tribes throughout the United States that began on June 8, 2011. These consultations specifically addressed part 547 and its requirements. In addition to these consultations, the Commission will continue to reach out to tribes and other interested parties within the tribal gaming industry for input on part 547 and its information collection requirements.

Similarly, the NIGC staff discussed requests for alternate minimum standards and the burdens and costs of compliance with these same gaming labs. The voluntary submission, review, and approval process contemplated by § 547.17 is fundamentally similar to the approval

process implemented as part of the original rule, and thus already established and understood by TGRAs.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

Not applicable. The NIGC does not provide any payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

See response to item #7, above.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Not applicable. No sensitive questions are asked.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the alternate standard. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens on Item 13 of OMB Form 83-1.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

25 CFR § 547.5(a)-(c)

The respondents are developers and manufacturers of Class II games and independent testing laboratories. There are approximately 25 such manufacturers and 3 such laboratories. In addition, it is the existing practice in the gaming industry, both Indian and non-Indian alike, for the game manufacturer to submit a gaming system prototype to a testing laboratory for review and analysis. Section 547.5 leaves open the possibility that a TGRA may require the management of a gaming operation to make a submission, for example, for the purpose of establishing the grandfathered status of a particular gaming system. The practice of submission and review set out in § 547.5 is not new. It is already part of the regulatory requirements in tribal, state, and Canadian provincial gaming jurisdictions throughout North America. Manufacturers already have significant compliance personnel and infrastructure in place, and the very existence of private, independent laboratories is due to these requirements.

The estimates herein are based on recent discussions with leading testing laboratories and with manufacturers for the Indian gaming and non-Indian gaming markets. Based on these discussions, the NIGC estimates that the average hourly rate for the information collection for the manufacturers, the laboratories, and the tribes, combined, is $44.12 per hour.

The amount of documentation submitted by a manufacturer as part of a submission of a gaming system and the size of a laboratory report is a function of the complexity of the gaming system submitted for review. Minor modifications of software or hardware that a manufacturer has already submitted and that a laboratory has previously examined is a matter of little time both for manufacturer and laboratory, while the submission and review of an entirely new game platform is time consuming. The provision of a grandfather certificate and a description of gaming systems components can be taken directly from a testing laboratory's report.

As described in response #1 above, in order to qualify under the grandfather provisions of the rule, a gaming system must be submitted to a testing laboratory for review and analysis during the first 120 days after the effective date of part 547. The NIGC anticipates that 10 gaming systems will be submitted for the grandfathering process. The NIGC estimates that it will take laboratories 10 hours and manufacturers 8 hours per grandfathered gaming system. In addition, the NIGC anticipates that TGRAs will issue grandfather certificates to manufacturers and send a description of grandfathered systems to NIGC. The preparation of these certificates and descriptions will be a small matter because all of the necessary information is contained in the testing laboratory reports. Thus, the NIGC estimates that it will take no more than 0.5 hours for tribes to complete this portion of the collection. Combined, the NIGC estimates that the total annual burden is 3005.5 hours.

The frequency of submissions of new gaming systems or of modifications to existing gaming systems will be entirely market driven. The NIGC anticipates that there will be approximately 5 submissions of new gaming systems each year. The NIGC estimates that gathering and preparing documentation for submission of a new gaming system requires an average of 8 hours for manufacturer's employee and an average of 10 hours of a laboratory engineer's time.

Submissions of modifications are, as a matter of course, a more common practice. Software commonly goes through many iterations in development and continues to be improved and revised even after sale and placement on a gaming operation's floor, for example to add features and functionality. The NIGC anticipates that there will be approximately 300 submissions of modifications and thus 300 reports produced by testing laboratories each year. For the submission of modifications to a gaming system, the NIGC estimates 4 hours for a manufacturer's employee, and 5 hours for a laboratory engineer.

Finally, § 547.5 requires TGRAs to maintain laboratory reports as long as the game system or modification at issue is available for play. This, however, is a ministerial function that involves little more than filing, and occasionally retrieving, the report. As this is already common practice among TGRAs, the NIGC estimates that 0.1 hours per report will be dedicated to these tasks.

At prevailing wages, the cost of the information burden imposed by § 547.5 (a)-(c) upon all testing laboratories is approximately $80,000 per year. This figure represents the average hourly wage of a group of engineers, of differing levels of experience and salaries, who prepare, review, and issue reports, multiplied by the total annual hours spent in preparing the reports and certifications. At prevailing wages, the cost of the information burden imposed by § 547.5(a)-(c) upon all manufacturers is approximately $51,200 per year. This figure represents the average hourly wage of a group of engineers and compliance employees, of differing levels of experience and salaries, who produce, prepare, review, and submit documentation and descriptions for games and aids. At prevailing wages, the cost of the information burden imposed by § 547.5(a)-(c) upon the TGRAs for issuing a grandfathering certificate and gaming system description is $1,200 per year. This is a ministerial function that amounts to creating a certificate and writing a letter, and the average figure represents the average hourly wage of a gaming authority employee of produce, prepare, and send such documentation.

25 CFR § 547.5(f)

Section 547.5(f) requires a determination of suitability for each of the approximately 3 testing laboratories. The information required can be substantial, including corporate financial information; qualifications of the engineering staff; information (and inspections) of the engineering facilities; and personal information for principals, including tax returns, bankruptcies and law suits, work histories, and references.

If a test lab has not been certified by a TGRA, it must demonstrate suitability in three key areas: (i) ownership independent of manufacturers and casinos where tested equipment will be used; (ii) financial stability of the test lab; and (iii) integrity of testing processes. Demonstrating suitability in each of the three areas above is a universal practice for compliance testing, and is required by regulated jurisdictions nationally and globally.

However, because this requirement was implemented in 2008, the three existing testing laboratories have already collected and provided this information – multiple times – in order to be licensed in tribal and non-tribal gaming jurisdictions nationwide. Gaming tribes in most jurisdictions have already made their determinations of suitability for the testing laboratories. To

the extent that any new submissions would be required, the NIGC estimates that the submission of such information would take the necessary laboratory employees 6 hours to collect. Furthermore, as stated above, § 547.5(f) permits a TGRA to rely upon a suitability determination already made by another gaming jurisdiction in the United States, whether tribal or state. Many TGRAs accept existing suitability determinations from other jurisdictions. The submission by a testing lab of an existing suitability determination amounts to the writing of a letter. The NIGC estimates that the submission of such letters will take the necessary laboratory employees .5 hours to accomplish once. The NIGC estimates a total of 10 submissions per year, including both new and existing suitability determinations.

25 CFR § 547.17

The technical standards of part 547 are designed to be uniform standards with nationwide applicability. As stated in the response to item #1, the possibility of an alternate standard is designed precisely for unique, and therefore uncommon or unusual, circumstances. More than this, the NIGC has a similar alternate standard process for its minimum internal control standards under 25 CFR part 542, which contains another set of uniform standards. The NIGC's experience with those standards, together with some general degree of uniformity in the construction of gaming equipment, points to infrequent submissions.

Since the technical standards were initially implemented in 2008, the NIGC has not received any requests to use an alternate standard. Although there are approximately 237 gaming tribes, the NIGC anticipates no more than one alternate standard per year at 6 hours per response.

At prevailing charges by testing laboratories, the annual cost of compliance to tribes for making alternate standard requests is $1,200 for simple alternate standard requests.

SUMMARY OF INFORMATION COLLECTION						
CFR CITE	TYPE	TOTAL RESPONSES	AVERAGE HOURS PER RESPONSE	TOTAL HOURS	AVERAGE HOURLY RATE	TOTAL COSTS
	Grandfathered	10	18.5	185		$8,162.20
	New Games	5	18.1	90.5		$3,992.86
	Modifications	300	9.1	2730		$120,447.60
547.5(a)-(c)	TOTAL	315	9.54	3005.5	$44.12	$132,602.66
547.5(f)	Suitability	10	6.5	65	$44.12	$2,867.80
547.17	Alt. Standard	1	6	6	$200.00	$1,200.00

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component [annualized over its expected useful life]; and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and**

disclosing or providing the information. Include description of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

Not applicable. See response to item #12.

- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the alternate standard. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates agencies may consult with a sample of respondents (fewer than 10). Utilize the 60-day pre-OMB submission public comment process and use existing economics or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**

  Not applicable. See response to item #12.

- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 11, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

  See response to item #12.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

25 CFR § 547.5

Section 547.5 requires only one submission to the NIGC, *i.e.*, a description of grandfathered Class II gaming systems. Although the NIGC maintains those records for reference and tracking, the cost to the agency is negligible.

25 CFR § 547.17

As stated in response to item #1, under § 547.17, alternate standard requests are not mandatory. In the event that a TGRA does make the anticipated one request per year, the direct

costs to the federal government comprise only the time it will take NIGC staff to review the request and make a recommendation to the NIGC Chair, and the time it will take the Chair to review the request and make a determination. The staff's time is estimated to be 2 hours, at a cost of approximately $50 per hour, for a total of $100. The Chair's time is estimated to be 1 hour.

15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of OMB Form 83-1.

The number of submissions has decreased since the last OMB approval because most of the systems that qualify for grandfather status have already been submitted and certified as required by part 547. Going forward, the NIGC expects the number of grandfathered systems submitted for certification to decrease substantially, and thus, only a limited number of grandfathered systems to be submitted under the new certification time period. In addition, the NIGC expects that the submission of new systems, as well as modifications to existing systems, will maintain a brisk pace. Since the 2008 regulations went into effect and most recently, the NIGC contacted several stakeholders and revisited its initial time estimates and calculations set forth in its previous submission materials and determined that those burden numbers should be adjusted to more accurately reflect the information collection burden. Lastly, the agency inadvertently double-counted the burden hours and cost in its previous submission, and thus the reason for the decline in cost of $130,857.00.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

This is an ongoing information collection with no ending date. The NIGC has no plans to publish the information collection.

17. If seeking approval to not display the expiration date for OMB approval of information collection, explain the reasons that display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-1.

Not applicable. The NIGC certifies compliance with 5 CFR § 1320.9.

B. Collection of Information Employing Statistical Methods.

Not applicable. Statistical methods are not employed.