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U.S. ELECTION ASSISTANCE COMMISSION

PUBLIC MEETING

1225 NEW YORK AVENUE, N.W.

WASHINGTON, D.C.

Taken on the date of:

TUESDAY, DECEMBER 13, 2005

21 Start time: 10:00 o'clock, a.m.

22 Taken before: Jackie Smith, a court reporter

- 2 Gracia Hillman, Chairman
- 3 Paul DeGregorio, Vice-Chair
- 4 Ray Martinez III, Commissioner
- 5 Donetta Davidson, Commissioner
- 6 Thomas Wilkey, Executive Director
- 7 Juliet Thompson, General Counsel

8 SPEAKERS:

- 9 Margaret Sims, Research Specialist, EAC
- 10 Carol Paquette, Senior Manager, EAC
- 11 Brian Hancock, Election Research Specialist
- 12 Adam Ambrogi, Special Assistant
- 13 John Wack, NIST
- 14 Merle King, Kennesaw State University

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1 P-R-O-C-E-E-D-I-N-G-S

2 CHAIR HILLMAN: Good morning. This
3 meeting of the United States Election Assistance
4 Commission will begin. If you will all join me

5 in, "The Pledge of Allegiance."

6 (The Pledge of Allegiance.)

7 (Roll call was taken by Brian Hancock.)

8 CHAIR HILLMAN: Good. We have before
9 us the agenda. It is appropriate if there's any
10 changes or adjustments to the agenda, to do so
11 now. Otherwise, adoption of the agenda will be
12 appropriate.

13 COMMISSIONER MARTINEZ: Move for the
14 adoption of the agenda.

15 COMMISSIONER DAVIDSON: I second.

16 CHAIR HILLMAN:: All in favor. Good.

17 The agenda has been adopted. Just a quick
18 comment on the agenda. This is the end of the
19 calendar year for the Election Assistance
20 Commission. We have had a very busy year. We
21 have worked very hard, and we managed to
22 accomplish many things.

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1 It is the end of my year as Chair of the
2 Election Assistance Commission because today we
3 will elect a new Chair and Vice-Chair, as
4 required under HAVA.

5 We will also learn today that most of the
6 requirements payments have been sent out to the
7 states, the bulk of which went out this year.

8 And I am really excited, and, I think, relieved

9 that we'll be able to receive a final report,
10 with recommendations on the Voluntary Voting
11 System Guidelines.

12 And I believe that we're ready to adopt the
13 first set of guidelines at today's meeting, and
14 we will discuss that more later.

15 So without further ado, we will go to the
16 agenda, and we have the minutes for the October
17 25th public meeting. Are there any adjustments
18 to the minutes? If not, it would be appropriate
19 to move.

20 COMMISSIONER DAVIDSON: I so move
21 approval of the minutes.

22 MR. WILKEY: Second.
5

1 CHAIR HILLMAN: Okay. Any objection?
2 All in favor? Thank you. The minutes have been
3 approved for October 25th.

4 The first report that we will receive this
5 morning is on Title II requirements payments, an
6 update from Margaret Sims, our election research
7 specialist.

8 MS. SIMS: Thank you, Madam Chair.
9 Well, I have another short and sweet report for
10 you today. EAC has processed over \$25,000,000
11 to two-and-a-half states. These payments were

12 to Delaware, and a partial payment to Michigan
13 from funds appropriated in fiscal year 2004.
14 The latest disbursement brings the total
15 requirements payments to over 2.3 billion
16 dollars of the amounts appropriated in both
17 fiscal years 2003 and 2004 for these payments.

18 All 55 of the jurisdictions eligible to
19 receive such funds, in that, I include the 50
20 states, District of Columbia, and four eligible
21 territories, have received their share of
22 requirements payments appropriated in fiscal

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1 year 2003, and these payments total
2 \$830,000,000.

3 Fifty-four of the jurisdictions also have
4 received their full share of the requirements
5 payments prorated in fiscal year 2004. One
6 additional state, Michigan, has received two
7 partial payments on its fiscal year 2004
8 allocation. The payments from the fiscal year
9 2004 appropriations total over 1.47 billion
10 dollars at this point.

11 We have approximately 18.3 million dollars
12 left to be disbursed. All of that money is
13 allocated to Michigan. These funds will be
14 disbursed promptly after Michigan's amended
15 state plan has been published in the Federal

16 Register for 30 days, and the state is certified
17 in accordance with HAVA Section 253 that it
18 meets the requirements for the payments.

19 The amended state plan is Thursday,
20 December 15th. The state has notified EAC that
21 a statement of certification for the remaining
22 funds will follow immediately thereafter.

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1 Are there any questions?

2 CHAIR HILLMAN: Commissioners, any
3 questions on this report?

4 VICE-CHAIR DEGREGORIO: Let me just
5 say, Peggy, the assumption is that by the end of
6 this week, you may see a tally vote for the
7 appropriation to Michigan.

8 MS. SIMS: Well, because they can't
9 actually sign off until their certification,
10 until Friday, we probably will physically have
11 the document on Monday. That's what we expect.

12 VICE-CHAIR DEGREGORIO: So certainly
13 by the end of the year.

14 MS. SIMS: Yes, that we'll be able to
15 bring the issue to the sub committee on Monday
16 and proceed from there with a tally vote.

17 VICE-CHAIR DEGREGORIO: Well, I know
18 that you will be relieved.

19 MS. SIMS: Very relieved. It will be
20 a nice Christmas present.

21 VICE-CHAIR DEGREGORIO: I know that
22 you have worked very hard on this with
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1 Commissioners and staff. It is quite an
2 achievement for the EAC, and I know, quite an
3 achievement for you too to watch over this.

4 We appreciate the work you have done
5 similar.

6 MS. SIMS: Thank you.

7 CHAIR HILLMAN: I do have one
8 question before you leave. It's just a question
9 that has come up a couple times in recent weeks
10 from different groups, and I'm not sure of the
11 source of the information, but there seems to be
12 some misinformation that there are some
13 unexpended or unallocated Title II requirements
14 payments that might be up for grabs for the
15 states. I take it that is not an accurate
16 understanding?

17 MS. SIMS: Not of funds that have
18 been appropriated so far. Perhaps they are
19 referring to the amounts that were authorized
20 but not yet appropriated.

21 CHAIR HILLMAN: They were looking at
22 the balance that we carry for Title IV, and they

1 are thinking that that's money that is left over
2 somehow.

3 MS. SIMS: No.

4 CHAIR HILLMAN: It is all spoken for?

5 MS. SIMS: It is all spoken for.

6 CHAIR HILLMAN: Okay.

7 Any other questions.

8 VICE-CHAIR DEGREGORIO: I do have one
9 question, Madam Chair, for the executive
10 director, a question I have been getting in the
11 last few weeks.

12 While we have distributed all this money,
13 we're aware of our responsibilities to account
14 for it. And if you could just give us just a
15 brief update on the California audit, and what
16 when we might expect that to be finalized.

17 MR. WILKEY: As a matter of fact,
18 Mr. Vice-Chair, I expect discussion of that very
19 topic prepared for you by Thursday of this week.
20 We've done a significant amount of work in this
21 area through our contract with the Department of
22 Interior to give us an update on where we are.

1 And I think it is his desire to have this
2 prepared and ready by the end of the year.

3 CHAIR HILLMAN: Okay. We will move
4 on to an update on our FY 2006 appropriation.
5 Mr. Wilkey, our director.

6 MR. WILKEY: Madam Chair and
7 Commissioners, I am pleased to report after a
8 period of time on continuing resolution and some
9 discussions in the House and Senate, we have
10 been given an appropriation of \$14,200,000,000
11 for FY '06, with 2.8 million going to National
12 Institute of Science & Technology for their work
13 with the TGDC.

14 This leaves, as an operating budget,
15 \$11,400,000, which reflects about a \$333,000
16 increase going to '06 over our '05 budget. I am
17 currently working with staff now to develop
18 individual requests for projects and money that
19 they will need to operate during '06.

20 We're looking at that document prepared for
21 your review within the next week to ten days.
22 It is a rather significant document, and we also

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1 have to have administrative offices closed down
2 on what we have continuing resolution versus
3 what we're getting for our full appropriation.

4 So, again, I hope to have that available to
5 you. I do want to, however, take the

6 opportunity to thank particularly the very good
7 support that we received from the Office of
8 Management & Budget, and certainly the House and
9 Senate staff on the Appropriations Committee in
10 both of those houses, as well as the staff of
11 our authorizing committee, Senate Rules & House
12 Administration, are working with us in helping
13 to keep our budget, at least to the level that
14 we were last year.

15 As you know, we had a significant amount of
16 money last year for research programs that we
17 were able to do approximately 11 of those
18 projects that are underway and will be cared
19 over for completion during FY '06. That money,
20 some of that money will be used as we begin to
21 develop that audit program, and that should get
22 underway shortly after the first of the year.

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1 CHAIR HILLMAN: Okay. Any questions
2 for the executive director on this?

3 I do have a couple questions, and forgive
4 me if you said this in your report, but I missed
5 it. What is the effective date that we move
6 from CR? When was our budget signed, do you
7 know?

8 MR. WILKEY: I don't have the date in
9 front of me.

10 CHAIR HILLMAN: But it was signed?

11 MR. WILKEY: It was signed, and I
12 believe it was the third week in November that
13 it was signed.

14 CHAIR HILLMAN: Okay. And is there
15 anything about a rescission? Was there a
16 rescission on our appropriation?

17 MR. WILKEY: No, no.

18 CHAIR HILLMAN: Okay. If there are
19 no further questions on our report on our
20 appropriation, we can move to our administrative
21 business.

22 This is an exciting time. As HAVA requires
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1 a commissioner serves as chair and vice-chair
2 for one year. And as I indicated earlier, my
3 year is coming to a close, and it is time for us
4 to elect new officers and new chair and
5 vice-chair.

6 And I just want to say that as I enjoyed
7 with my predecessor, Dr. Soaries, I look forward
8 to a smooth transition to the incoming chair.
9 And it would be appropriate at this time for us
10 to receive a nomination.

11 MS. DAVIDSON: Madam Chair, if I
12 might, first, I would like to say I have

13 thoroughly enjoyed my time that I have spent
14 with you as chair at the EAC. And I am the new
15 individual on the EAC, but I have learned and
16 enjoyed it, and I want to thank you for your
17 leadership.

18 CHAIR HILLMAN: Thank you.

19 MS. DAVIDSON: I'd like to offer the
20 officers today. I think we have a real unique
21 situation because we have two people that have
22 been here, obviously, as yourself, for the first

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1 term that the EAC has been in place. They bring
2 a unique combination to this board and to the
3 Commission.

4 I'd like to nominate Paul DeGregorio as the
5 chair. He has experience of a local
6 administrator that gives us a great insight to
7 the local needs and I think that really does
8 help. And then also I'd like to nominate Ray
9 Martinez as vice-chair. He brings quality,
10 himself as an attorney that has worked with
11 many, many counties, and has expertise in
12 election law. And those two things in
13 combination makes a great team for us to be able
14 to move into the 2006 election that they have
15 already proven.

16 They have worked side by side, and roll up

17 their sleeves and get the job done. So I think
18 that they will make a great team, and I so wish
19 to put their names in place.

20 CHAIR HILLMAN: Okay. And I think
21 it's okay for me so second that nomination. I
22 would like to be able to do that, and glad that

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1 general counsel agrees.

2 I concur with you, Donetta, that it has
3 been an interesting two years. The
4 Commissioners have bonded in ways that I don't
5 think many other federal commissioners have had
6 the opportunity to do. And while there have
7 been many a days where we have said, why, dear
8 Lord, why, for the most part, I think we have
9 appreciated the unique opportunities and
10 challenges that have been presented to us.

11 So you have to help me, General Counsel,
12 with the process. I guess I should
13 appropriately ask if there are any other
14 nominations. Hearing none, then I guess it
15 would be appropriate for us to vote on the
16 nomination of Paul DeGregorio as Chair, and Ray
17 Martinez, III, as Vice-Chair.

18 All in favor, I. Any opposed? Well, I
19 guess we have a unanimous vote. Thank you, very

20 much, and congratulations. And if the
21 candidates would like, I almost hate to do this,
22 but if you'd like a minute to say something, if
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1 you would like a minute to say something, we can
2 squeeze a minute into this part of our agenda.

3 VICE-CHAIR DEGREGORIO: First of all,
4 thank you, to my colleagues, for this honor that
5 you are bestowing on me for 2006. It's going to
6 be, indeed, a pleasure for me to work with all
7 of you, and work with Ray Martinez, in
8 particular. Ray and I have become great
9 colleagues, but also good friends, over the last
10 two years. And we have worked together in many
11 different important projects for this agency,
12 and it's going to be a pleasure to work with him
13 on a daily basis as a leadership team for the
14 EAC.

15 Donetta Davidson, I know you just joined us
16 but you have been helpful to this agency too,
17 and it is an honor to work with you, and serve
18 with you, and I appreciate your confidence in me
19 too.

20 But our Chair, Gracia Hillman, deserves
21 some special attention because it was two years
22 ago today that Gracia, Ray, and officially

1 became Commissioners of the EAC. The President
2 signed our appointment papers exactly two years
3 ago today.

4 CHAIR HILLMAN: That's right. Happy
5 anniversary.

6 VICE-CHAIR DEGREGORIO: And a lot has
7 happened in the last two years. I think some
8 folks in the room who attended many of our
9 meetings know what we have done, and it's been
10 quite an accomplishment in the last two year to
11 get where we are.

12 Today's a really important day for all of
13 us, and I know we're going to get into the thick
14 of it of the VVSG shortly, but Gracia Hillman
15 has been a real leader, and not just a chair, in
16 the last year, but since she started on this
17 Commission and since we had our first coffee at
18 Starbucks just up the street a little over two
19 years ago.

20 She's shown great leadership at our
21 meetings in making sure that people who need to
22 be heard are heard. People in the disability

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1 community, minority groups, and others who need
2 to be heard are heard. And she also does that
3 privately. And she's a great leader in bringing

4 people together and fostering a spirit of
5 cooperation. And she was the fill-in Chair
6 Soaries left last year, and now I have heels to
7 fill. Having a wife and four daughters at home
8 with plenty of heels, I know what it means.
9 Women can fill heels, not in the physical sense,
10 but in the sense of leadership. Gracia Hillman
11 has shown leadership to get us where we are
12 today, and to do the things that we had to do to
13 push and prod every state.
14 District of Columbia now has money. We
15 have given guidance and assistance this past
16 year. There are just many accomplishments, and
17 we have had many hearings. We have had 5,600
18 Americans give us their opinions on the VVSG.
19 And so, Gracia, I'm going to do my best and
20 follow in your leadership, and to work with Ray
21 every day to make this an agency that people can
22 be proud of.

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1 There was an article in the paper that Ray
2 brought to my attention on Sunday, by David
3 Broader, about members of Congress coming
4 together in a bipartisan spirit. We've done
5 that in the last two years. Gracia has helped
6 us continue to do that this past year. This

7 past year, all of our votes have been unanimous.

8 This is an accomplishment for this town, and for

9 this nation, and I hope to provide that

10 continued spirit of bipartisanship.

11 So thank you for your confidence in me.

12 COMMISSIONER MARTINEZ: Thank you,

13 Madam Chair. I will simply say that I am

14 humbled. Thank you, Commissioner Davidson, for

15 your very kind words and the nomination that you

16 put forth. Of course, to our out going Chair

17 and my friend, Gracia Hillman, who I agree with

18 Paul has provided not just leadership but just a

19 steady hand for an agency that is brand new,

20 still trying to find its footing in the world of

21 election administration, I think we have been

22 very fortunate to have the leadership that we

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1 have had in Buster Soaries, taking the helm

2 first year, followed by, again, the very steady

3 and, I think, outstanding leadership that Gracia

4 has provided. So I am really very honored under

5 your leadership, and I agree that we will take

6 so many lessons that you have offered during

7 your years as Chair, and quite frankly, your

8 year as Vice-Chair, that we will, hopefully, put

9 forward and continue the progress that you have

10 made. So thank you for all that you have done.

11 Of course, to my friend and colleague,
12 Paul, I am honored to be able to serve with
13 Paul. I think Paul is, himself, an outstanding
14 leader, and somebody who I know will provide the
15 type of leadership that I think will be
16 important in a very challenging year for the EAC
17 where we will need the type of leadership that
18 has credibility with all stakeholders. And that
19 will do it, as Paul says, in a bipartisan
20 fashion.

21 I have that absolute confidence that is the
22 type of chair we have elected. I look forward
21

1 to serving under your chairmanship, and doing
2 what I can to make that successful.

3 And the final thought is to the
4 stakeholders themselves. I have tried to build
5 relationships over the past two years with the
6 voter community, vendors, with everybody that
7 has a direct stake in HAVA, and I hope to
8 continue to deepen those friendships, continue
9 to build those relationships, and hopefully,
10 continue to offer whatever leadership I can to
11 move us forward.

12 So thank you to my colleagues and
13 Commissioners.

14 CHAIR HILLMAN: We thank you. We
15 started a tradition last year, but we do an
16 installation of officers. It is nothing that is
17 required, but it does give us an opportunity to
18 celebrate the new leadership, and we will do
19 that again.

20 And so Commissioners DeGregorio and
21 Martinez will officially take over their
22 responsibilities on the 4th of January, and

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1 we'll have an installation, small, humble,
2 moderate installation ceremony, so reflective of
3 this small, humble, body of an agency, right
4 here in our offices. And we all look forward to
5 that. Thank you. Good.

6 Well, we're now on for the big one. And
7 this has been -- this has been quite a task.
8 The Voluntary Voting System Guidelines is
9 something that is very clearly spelled out under
10 the Help America Vote Act. The work that was to
11 be done, the groups of people who were to be
12 assembled to participate in this, and the very
13 open and transparent process that was to be
14 undertaken.

15 And so before we receive the report from
16 the guidelines, there are many, many people who
17 need to be acknowledged, and organizations. And

18 I know that our executive director is going to
19 introduce the topic and the panel, but before
20 doing that, I just want to acknowledge, first
21 and foremost, the Technical Guidelines
22 Development Committee, and that committee is
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1 currently chaired by Dr. William Jeffrey, who is
2 the director of the National Institute of
3 Standards & Technology. And on the guidelines
4 committee at this time, we have Secretary of
5 State John Gale, from Nebraska, and Alice
6 Miller, Director of Elections for District of
7 Columbia, who is with us. Oh, here she comes
8 in. Alice, thank you, very much. And those two
9 individuals are representing the EAC Standards
10 Board on the guidelines development committee.
11 Representing the EAC Board of Advisers, we
12 have Sharon Turner Bowie, Director of Elections
13 for Kansas City, Missouri, and Karen Hersel,
14 Phoenix, Arizona.
15 There are people representing other people
16 James Elodus, from New Jersey, and Dr. J. R.
17 Harding, representing the Architecture & Barrier
18 Compliance Board, representing ANSI. And I
19 can't pretend to tell you what ANSI stands for.
20 David. The American National Standards

21 Institute. Someone wrote it for me.

22 Representing IEEE, the Institute of Electrical &
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1 Electronics Engineers, Steven Berger.
2 Representing the National Association of State
3 Election Directors, Dr. Britt Williams, a
4 retired professor from Kennesaw State in
5 Georgia. Paul Craft, from Tallahassee, Georgia,
6 and other members, including Patrick Gannon,
7 from Massachusetts. Dr. Ronald Revis,
8 professor, MIT, and Dr. Daniel Shutzer
9 vice-president and director of External
10 Standards & Advanced Technology.

11 And we have former members, and, of course,
12 our own Donetta Davidson, who was serving on the
13 TGDC before she joined the Commissioners. I
14 take the time to acknowledge those individuals
15 because they put in countless days and hours,
16 and reviewed volumes and volumes of material,
17 and they were all working as volunteers on this
18 project, and were truly committed to work with
19 us to meet the nine-month time frame that HAVA
20 spelled out for the TGDC to do its work and
21 deliver the product to the Election Assistance
22 Commission.

1 And, of course, to the NIST team, whose
2 names will be read when we receive the report,
3 to the EAC Board of Advisors, and I believe we
4 have three members of the Board of Advisors
5 here; West Kleiner, who, in fact, did head up
6 the committee that put together comments on the
7 guidelines, and Jim Dixon, who is here. I
8 believe Jim is here. He just stepped out, okay.
9 Jim, you missed your 15 seconds of fame. And
10 the director of elections for the State of
11 Maryland, we appreciate the all the work they
12 did.

13 The EAC Standards Board, I'm not sure if we
14 have anybody here from the standards board.
15 Certainly, the more than 4,000 people who took
16 the time to provide comments on the recommended
17 guidelines during the public comment period, the
18 Center For Election Systems at Kennesaw State
19 University, which among other duties, structured
20 and maintained the database that allowed us to
21 track each comment that we received. Most
22 especially, the EAC staff which performed the

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1 ultimate public service, to help us accomplish
2 this task. Last but not least, in any
3 circumstance, my fellow Commissioners who
4 repeatedly re-arranged their schedules, and

5 spent numerous days pouring through volumes and
6 volumes of material, and listening to many
7 discussions about the comments.

8 And I thank our colleague, Revenue Buster
9 Soaries, would be proud to know that we pulled
10 the train in on time, and no small task.

11 With that, Mr. Wilkey, if you would open
12 the discussion.

13 MR. WILKEY: Thank you, Madam Chair
14 and Commissioners.

15 CHAIR HILLMAN: I'm sorry. Can I
16 interrupt and just say that before Mr. Wilkey
17 joined us as executive director, he served on
18 our Board of Advisors, and was instrumental in
19 helping the board sort of wrap their arms around
20 the task of commenting on the guidelines. So we
21 appreciate your prior input.

22 MR. WILKEY: Thank you, Madam Chair.

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1 As you and your fellow Commissioners know, I
2 don't normally refer to written notes when I
3 give a presentation. It is something that I
4 have developed over the past few years, but
5 since the staff was worried that in my declining
6 years, I may forget some of the important things
7 that need to be said, we have developed a few

8 things that I think need to be said. For the
9 first time, I will review them from my notes.

10 First of all, I think that we need to
11 understand that during that comment period, that
12 ninety-day comment period, we received 5,670
13 comments. We need to acknowledge and
14 appreciate, Madam Chair, that list of people
15 that were intimately involved, and we appreciate
16 the effort of the general public. Many election
17 officials, academia, test labs, and vendors, who
18 did the review of the voter system guidelines,
19 and for providing their comments.

20 And you need to know and the audience needs
21 to know that we have read and considered every
22 single comment that we received. We were unable

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1 to deal with many of the more complex comments
2 which deal with ongoing TGDC and NIST
3 activities, and that process has already begun.
4 These comments will be carried over into that
5 longer term effort. And I think you will be
6 hearing a little of that in the discussion.

7 Many comments deal with procedural and
8 management concerns. These will be forwarded
9 for consideration by the EAC. And the
10 guidelines working group which will be
11 developing for us a comprehensive management

12 guidelines document, something that, as some of
13 you know, I have been talking about since 1990.
14 EAC, as part of the comment process, EAC
15 established three comment review groups comprised
16 of EAC and NIST staff: Core requirements, human
17 factors, and securities. NIST personnel and
18 subject matter experts were consulted, as
19 needed, on specific comments.

20 Comment review gripes have prepared issue
21 papers and recommendations for consideration and
22 policy guidance from the Commissioners. They

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1 have been extensive. There have been extensive
2 in-depth Commissioner discussions of the VVSG.
3 And I know that we have locked you in over the
4 past several weeks, whether you liked it or not,
5 to review this entire document. And we began
6 this process in early November and continued
7 right up through last Friday.

8 For the past few weeks, nearly half of the
9 Commission has been engaged in this effort.
10 There have been a great deal of efforts on the
11 part of many dedicated people to reach this
12 milestone. Beginning in July, 2004 with NATVC,
13 they have continued their work for the next
14 iteration of the voting system guidelines. And

15 we envision that will be an ongoing process to
16 keep up with evolving technology and public
17 expectations.

18 On a public note, as some of you all know,
19 I have been involved in all three of the
20 iterations of the Voting System Guidelines,
21 starting in the mid 1980s through the 1990s, the
22 standard developed for the FDC for 2002 standard

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1 revisions, and now the great work that has been
2 done by the TGDC, by NIST, and by our staff in
3 presenting to you this today's 2005 version.

4 I am pleased to introduce some very
5 outstanding people from our staff, and from
6 NIST, and from Kennesaw. And without the help
7 that we received from Kennesaw, I don't think we
8 would be sitting here today. I think we would
9 still be having these discussions, months down
10 the road.

11 And let me introduce to you Mr. Merle King,
12 who is the president of Kennesaw State
13 University Center For Elections, working with us
14 through this whole comment period. Certainly,
15 we want to acknowledge John Wack, who is here
16 from the National Institute of Standards &
17 Technology. We're sorry that your colleague,
18 Mark Skall, could not be with us today, but I

19 think he is back in my native, New York, getting
20 ready for the holiday season. And we have John
21 Cugini, and other members of the staff who were
22 so helpful in helping us go through the final

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1 comment period.

2 Our own Brian Hancock, not and Carol
3 Paquette, and Adam Ambrogi, who worked to help
4 review the comments to get them ready for
5 Commissioners' discussion, I want to personally
6 say to them today, having been through a process
7 like this for such a long time, that I know the
8 hard work that you put into this, and I know
9 that the Commissioners do also, and I give my
10 personal thanks for your efforts. And I think
11 that as the years go by, you will see the fruits
12 of your labor come to fruition in many, many
13 ways.

14 So I'm going to start with Merle for the
15 presentation. Welcome.

16 CHAIR HILLMAN: Excuse me.
17 Mr. Wilkey, before you do that, let me check in
18 with my colleagues. We're going to be receiving
19 a lot of information, five individual
20 presentations. So I think we should decide if
21 we want to ask questions of each presenter after

22 they have done it, or do we want to wait until

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1 we have received the complete presentation. Any

2 thoughts as to whether we wait?

3 Yes, I think that's what we will do because

4 I am afraid by the time you get through the

5 fifth presentation, everything will be sort of

6 blurred together.

7 Sorry. Mr. King.

8 MR. KING: Thank you, Madam Chair. I

9 am Merle King from Kennesaw State University.

10 I'd like to introduce two people: Leslie Cook,

11 who is chief editor on this project, and Connor

12 Howard, who is our project manager of the

13 projects database. Tom, without them, we

14 wouldn't be here today, so I appreciate their

15 efforts.

16 For the past six months, Kennesaw State has

17 been engaged in supporting the EAC in the

18 management of the public comments received on

19 VVSG documents. In addition to supporting the

20 editing of the revisions, we have also worked to

21 make comments on format and edit suggestions to

22 improve the overall organization and

33

1 readability.

2 After the VVSG was posted for public review
3 and comment in July of this year, the public was
4 invited to review the document to provide
5 comments. These comments were submitted in a
6 variety of ways, some directly to a website with
7 an interface, others were e-mailed to the EAC.
8 Some were mailed by conventional methods, and
9 other input was received at the various public
10 hearings that were conducted throughout the
11 summer.

12 Each comment, regardless of how it was
13 received, was reviewed and assigned a tracking
14 number. I say that to underscore that we have
15 accounted for every comment that was submitted
16 in regards to the VVSG. We have a hard copy of
17 each comment, and we do a twice daily backup of
18 the database system.

19 At the September 27th meeting, I presented
20 a total comment count of 432 comments received
21 at that time, optimistic that we would see more
22 perhaps. I reviewed my testimony, I said I

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1 thought we might double that. I was a bit short
2 on that estimate. And between September 23rd
3 and the 30th, an additional 5,000 comments were
4 received.

5 And all of these comments have been

6 reviewed by the EAC staff and reviewed by us,
7 although we're still classifying and cataloging
8 in part because comments could be submitted by
9 the author into any format. And some of these
10 formats were misaligned in that commenters would
11 put in comments that they tagged as general that
12 were, in fact, related to a specific session or
13 a glossary.

14 So there's been some reclassification that
15 has occurred. In the final two days of the
16 comment period, approximately 3,300 nearly
17 identically worded e-mails were sent to the EAC
18 in response to an organized campaign and request
19 that the Commission make voter verifiable paper
20 audit trail mandatory for voting systems. EAC
21 staff had to individually review these messages,
22 and then forward them to us for manual entry

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1 into the database.

2 To keep the database entry from delaying
3 consideration of the other comments, EAC asked
4 us to develop a temporary database for regarding
5 these comments, and we expect to have that
6 database completed by the end of this week, and
7 merge it with the primary database, which is
8 viewable from the comment websites. And

9 organizations that wish to comment on the draft
10 were given 90 days after the posting to do so.
11 And electronic versions of the VVSG, I think,
12 were made available on the EAC's website, and
13 hard copies were provided to requesters who did
14 not have website access.

15 In addition, hearings were conducted. And
16 in addition to the testimony, we also reviewed
17 oral transcripts that were presented at those
18 hearings. All of the testimony for the
19 hearings, including those transcripts, were
20 reviewed as part of the public comment process,
21 and entered into our website tracking system.

22 The EAC also discussed the VVSG the EAC's

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1 Standards Board, and Board of Advisors, and
2 formal comments entered into the website
3 tracking system.

4 About two-thirds of the total comments
5 received were sent in by e-mail, received by EAC
6 staff, and forwarded to us for entry. About a
7 third of the comments were entered directly into
8 the comment website by the authors. Comments
9 can be viewed still at a web link that is
10 available from the EAC's website.

11 The comments, we're beginning an analysis
12 of the comments. We have noted that comments

13 could have been submitted by either individuals
14 or the authors representing organizations. Our
15 preliminary assessment of the comments indicates
16 40 percent were submitted by individuals not
17 claiming affiliation with an organization, with
18 60 percent coming from organizations that
19 included advocacy groups, as well as voting
20 system vendors. There were also institutions of
21 higher education, and a variety of organizations
22 represented.

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1 The majority of general and glossary
2 comments came from individuals, while section
3 comments came primarily from organizations.
4 Section comments outnumbered general comments
5 two to one.

6 A quick analysis of the content of the
7 comments, the vast majority, almost 65 percent,
8 relate to the content of the VVSG, with the next
9 highest number at 13 percent related to testing
10 criteria and development of criteria to be used
11 to measure systems against the VVSG standard.
12 The remaining categories, included security, and
13 threat analysis, format, grammar, test
14 laboratory supervision, concerns about vendors,
15 etc., the majority of comments received relate

16 to Volume I, Section 2, which was human factors
17 and accessibility and security, which was
18 Section 6 in Volume I.

19 Once a comment was entered into the website
20 by either its author or entered by us,
21 afterwards, it was classified as either
22 extensive or non-extensive. Non-extensive were

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1 comments that addressed spelling, format errors.
2 Extensive comments were those that required
3 additional editing and perhaps review by the EAC
4 because they address policy or law.

5 In addition to this classification, we
6 reviewed general section or glossary. Comments
7 related to a specific section were assigned to
8 their appropriate section and subsection number.
9 Since both volumes of the VVSG contained
10 references to Section 1, 2, 3, etc., there were
11 some clarifications that needed to be made to
12 comments received, and that has been done so
13 that all comments are now in their proper
14 classification and section designation.

15 After the initial comments were posted, KSU
16 would review the comments and suggest a possible
17 resolution for the comment. Those possible
18 resolutions were then reviewed by either EAC's
19 staff or the working groups that Mr. Wilkey

20 referred to, so that on each comment, there were
21 at least two proposed, recommended resolutions,
22 in many cases, three. Those comments would be
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1 rejected. Those were comments that the author
2 had made observations, perhaps about the
3 election process, but made no specific
4 suggestions or recommendations regarding the
5 VVSG. The comments could be rejected as
6 redundant. This could be a valid
7 recommendation, but it had simply been made by
8 another author, and already incorporated into
9 the edit. The comment could be accepted as
10 written, those were comments in which the author
11 had specifically analyzed the specificity in the
12 VVSG, and correctly suggested language as it was
13 suggested. Those were often comments dealing
14 with spelling errors, typographical errors,
15 formatting errors.

16 A comment could be accepted modified. That
17 is a good analysis. A couple of a good
18 suggestions that needed to be reworded into the
19 document. Comments could be varied over. These
20 were observations about needed components in the
21 VVSG that were appropriate for the next
22 iteration.

1 Some comments were the EAC's "shoulds" and
2 "shalls," that dealt with policy. And, finally,
3 a category called other, and many of the
4 comments that were classified as others related
5 to election management guidelines. And those
6 comments will be forwarded to the work group
7 that is developing the election management
8 guidelines.

9 Once KSU reviewed it, it was reviewed by
10 the EAC's staff, one of three comment review
11 working group comprised of EAC and NIST
12 personnel. In many cases, both. All comments
13 received at least two levels of review, and no
14 final recommendation of resolution without
15 comment from EAC's staff.

16 So on the draft of the document, it is
17 possible to go back through and map every change
18 in the draft of the VVSG that was posted in July
19 to comments or decisions that were made by the
20 EAC.

21 KSU also has assisted in formating, edit,
22 and providing research support for the EAC's

1 staff in developing the current draft. Our
2 support was limited to editing decisions,

3 re-post drafts on a secure website for review by
4 EAC's staff.

5 Work that remains on the project including
6 implementing any final edits that come out of
7 today's meeting or are directed by the EAC, and
8 eventually closing down the website tracking
9 system, which will include a detailed report of
10 all comments received back to the EAC.

11 Madam Chair, that's my report.

12 CHAIR HILLMAN: Okay. Thank you,
13 very much. Your comment about the number or at
14 least your analysis of the number of comments we
15 have received, I guess, indicates be careful
16 what you ask for and when you ask for it.

17 I do remember, at that meeting, we were
18 encouraging the public to review the guidelines
19 and make comments. C-Span was here, and people
20 responded. It's a good thing. I certainly hope
21 that the media will use the creation of these
22 guidelines to inform and educate itself.

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1 I know there is an awful lot of information,
2 whether it is about electronic machines, and
3 some factual, and some not so factual, but thank
4 you for your presentation.

5 Commissioners, questions for Mr. King?

6 COMMISSIONER MARTINEZ: I have a

7 quick comment, Madam Chair.

8 CHAIR HILLMAN: Sure.

9 COMMISSIONER MARTINEZ: When the task
10 was so evidently in front of us, when we took on
11 this task of the Commissioners at the EAC,
12 seeing how important this project was to be
13 done, being an attorney, of course, I had a law
14 practice prior to becoming a Commissioner. And
15 my law practice was administrative law, and I
16 was familiar with law related to federal
17 agencies. And I was quite intimidated by the
18 having this humble, little agency, capped at 22
19 employees, take on the task of review and
20 consideration, which is our obligation as a
21 federal agency, before we can go to a final
22 decision.

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1 I remember as an attorney in private
2 practice following something called HIPA,
3 something like 20,000 comments. That is an
4 agency of 50,000 employees that's been around
5 for a while, and we're here, an agency that has
6 not been around very long, and certainly don't
7 have the people power of an agency like HHS.

8 My comment, Madam Chair, is simply to give
9 my public thanks to Kennesaw State, to your

10 team, for the tremendous job that you have done
11 to help us to put this important obligation
12 together. It may seem perfunctory to some that
13 you put them in different categories, but our
14 obligation, as an agency, is to review and
15 consider before we can move to final decisions.
16 And because of your help and, quite frankly, we
17 will get to this in a minute, the help as well
18 of the good folks from NIST who came together
19 under the leadership of our staff in working
20 groups and in partnership with our staff, quite
21 frankly, this was an enormous project.

22 Processing over 5,000 comments is, indeed,
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1 an ambitious task for a small agency like ours,
2 and I can say with full confidence, before we go
3 to a vote this morning, we have, in fact,
4 fulfilled our obligation of reviewing and
5 considering all of these comments. And I am
6 proud to be able to say that, and thank you for
7 your help.

8 CHAIR HILLMAN: Commissioner
9 Martinez, you're absolutely right, but sometimes
10 ignorance is bliss. Having never done this
11 before, we did not know, we just plodded ahead
12 to did what we were supposed to do. Little did
13 we know.

14 COMMISSIONER DAVIDSON: I do too want
15 to say thank you for the tremendous amount of
16 time, and as you said, having NIST joint with us
17 in our review. Its been a great process, and a
18 learning one for all of us. We couldn't have
19 done it without Kennesaw. We really, really
20 couldn't do it.

21 I have a slight question for you. You
22 know, some of the comments was quite lengthy.

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1 And dividing those up into the different arenas,
2 we might say of where they really go, and the
3 comments, did they keep the same number. You
4 know, if it was a long comment, did it keep the
5 same number where they could track through and
6 you know that's the same number, or were they
7 given different, unique numbers?

8 MR. KING: Both, meaning that what
9 was received in its pristine form was cataloged.
10 We then had to decompose it into subordinate
11 comments, but those were mapped back to the
12 original, and then uniquely identified. But
13 that was a challenge, as you point out.

14 COMMISSIONER DAVIDSON: I'm sure it
15 was. It would be a real big challenge to get
16 that job done. Again, thank you. And I have no

17 other comments.

18 CHAIR HILLMAN: Mr. Vice-Chairman.

19 VICE-CHAIR DEGREGORIO: I just want

20 to ditto the comments of our colleagues,

21 particularly what Mr. Martinez said about the

22 work that you did to go into this, because it

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1 was helpful, and we knew, accepted, rejected,

2 carry over, people are going to see that in a

3 few minutes, it was very helpful the way that

4 you analyzed that to have us understand where

5 these comments were coming from and how they

6 were being analyzed.

7 I have one quick question about the

8 comments that were rejected that did not pertain

9 to the VVSG but were general comments that you

10 list here. Any idea how many there were? I

11 assume we're going to get those comments that

12 relate to the voting process in general, not

13 necessary to VVSG.

14 MR. KING: I think that's in a later

15 presentation. I'd hate to cite a number and it

16 not be precise.

17 MR. HANCOCK: That will be touched

18 on.

19 CHAIR HILLMAN: Do I understand

20 correctly from your question that we're going to

21 get an indication of how many of the comments

22 fell into the rejected, redundant categories?

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1 MR. KING: In our final report, that
2 certainly will be a part of it. I think there
3 is some preliminary data today that's in a later
4 presentation.

5 CHAIR HILLMAN: Okay. I have a
6 question for you, just in terms of under your
7 content of comments, when you talked about
8 comments dealing with the content of the VVSG,
9 and some are clear by their title. With respect
10 to testing laboratory supervision and concerns
11 about vendors, can you just elaborate a little
12 about the kind of comments that would have
13 fallen under each of those.

14 MR. KING: Yes, ma'am. The
15 commenters expressed concern that the VVSG,
16 which identifies criteria of performance for
17 systems, may not contain operational data for
18 supervising the testing labs that are, as you
19 know, a follow-on operation certifying testing
20 labs to actually perform tests of voting
21 systems.

22 What the authors were expressing concerning

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1 about was the VVSG itself did not describe how
2 those labs would be supervised in the process.
3 And then your second question about --

4 CHAIR HILLMAN: Concerns about
5 vendors.

6 MR. KING: Vendors -- was that the
7 VVSG did not contain language that regulated the
8 behavior of vendors.

9 CHAIR HILLMAN: Okay. Thank you. I
10 think it's it on my questions.

11 Any other questions for him? Okay. We can
12 proceed. Mr. Wilkey.

13 MR. WILKEY: Mr. Wack, from the
14 National Institute of Standards & Technology.

15 MR. WACK: Thank you. I do have a
16 couple of slides. I'm wondering if you could
17 click on. Thank you, very much.

18 Madam Chair, thank you, very much. It is
19 my pleasure to be here and to represent this.

20 If you'll allow me just for a minute or two just
21 to thank some of the people.

22 For those who I neglect to mention, I

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1 apologize. It is always dangerous when you have
2 a list of people to thank because you always
3 leave someone off, but I'd like to say, first

4 off, that it's been a pleasure to work with you,
5 to all the Commissioners, and all the members of
6 the staff. In particular, I have worked pretty
7 much with Carol Paquette. It's been a really
8 good experience. It was very nice to work with
9 Donetta Davidson because I got to know you
10 during your stint on the TGDC.

11 I'd also like to take this opportunity to
12 thank the members of the TGDC. We got to know
13 many of them fairly well. Too, members, I'd
14 like to thank because I worked more with them
15 are Whitney Quizenberry. At NIST, we have
16 Sharon Laskowski, Nelson Hastings, Alan Goldfein
17 in the back. And I'd like to say thanks for the
18 support we have received from our director,
19 Dr. William Jeffrey, our acting former acting
20 director, Dr. Rick Submercian, those in
21 management, Mark Skall, Lynn Rosenberg, Barbara
22 Gutman, members of the team.

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1 The other thing I'd like to do is thank
2 some other people and other groups outside. I
3 notice Ms. Linda Lamone, who helped us out a
4 great deal. I'd like to thank you, very much.
5 We worked with the board of advisors, the
6 standards boards, NASED, various members of
7 academia, a number of people in the vendor

8 community who were very helpful, very
9 insightful, with their technical knowledge. I
10 don't want to neglect to mention Mr. Craig
11 Burkhart. Oh, the other guy here is Merle King.
12 Let's see if I can start here. Our role
13 here was a little different. Initially, we
14 started out taking direction from the Technical
15 Guidelines Development Committee, and we would
16 prepare our work, and that was submitted to the
17 EAC. A lot of comments started rolling in in
18 April. The EAC's asked us if we would provide
19 technical assistance in analyzing comments. And
20 we were very willing and very grateful for the
21 opportunity.

22 And so we were more on the role here of
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1 just providing technical assistance and
2 analysis, and happy to let the EAC make the
3 final determination, very happy.

4 We formed actually four different teams
5 here. We had a human factors team dealing with
6 usability privacy and those issues, usability
7 and accessibility. Well, there was privacy as
8 well. Security team, primarily dealing with the
9 new material, set up valid condition software
10 distribution, wireless, VVPAT. And we had

11 independent dual verification. We had a core
12 requirements team that I would say primarily
13 handled questions. A lot of comments were
14 received on parts of the VVSG that were not, in
15 fact, updated by NIST and the TGDC, but required
16 from the prior VSS. So we had a fair number of
17 comments there.

18 And Lynn Rosenthal was a team of her own,
19 working on the glossary, and very difficult to
20 get right. Everybody has a different opinion on
21 how words ought to be but, ultimately, we have
22 to agree on them. We assisted in identifying a

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1 number of policy issues, policy issues being
2 those sorts of things that may affect many
3 requirements that may have ramifications on
4 existing technology that really weren't issues
5 appropriate for us to make decisions on.

6 So some of those that you can see right up
7 here set up validation, privacy of papers,
8 records, and VVPAT. Various requirements
9 strengthening dexterity issues for me. We
10 learned a lot. We were very gratified that we
11 received some comments. It was clear that a
12 number of the comments helped in a big way to
13 improve the VVSG, so it was a very worthwhile
14 process. It had to happen, but it was good that

15 it did happen.

16 We received a number of comments -- I

17 should say the EAC received a number of comments

18 that we deemed carryover, for a number of

19 reasons. In some areas, we just needed to do

20 more research. We just didn't have that

21 research available yet, particularly in only

22 areas of security, usability and accessibility.

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1 We had time constraints over the whole

2 process, and some things were just technically

3 infeasible at this point. We'll be producing

4 new modules, new versions, of the standard

5 throughout 2006 and 2007. And we expect that we

6 will address fully the carryover comments in

7 these new sections, just a couple examples of

8 some of the new sections that we'll be working

9 on in 2006.

10 With that, I would like to conclude my

11 remarks. Again, thank you, very much, for the

12 opportunity.

13 CHAIR HILLMAN: Thank you, very much,

14 Mr. Wack.

15 Commissioners, do you have questions for

16 Mr. Wack?

17 COMMISSIONER MARTINEZ: Madam Chair.

18 CHAIR HILLMAN: Yes, sir.

19 COMMISSIONER MARTINEZ: The work that
20 continues, Mr. Wack, in terms of the modules
21 that will be coming up in the next year or two,
22 a quick word. We're going to do some additional

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1 work on VVPAT, I believe, and obviously further
2 development of other independent verification
3 systems as well, if I am not mistaken.

4 MR. WACK: That's right. In VVPAT,
5 we're going to basically broaden the definition
6 a bit, as well as some of the results of
7 usability performance benchmark where we will be
8 incorporated into the VVPAT.

9 We have got new sections coming up on
10 DIDD-related technologies, a number of basic
11 security chapters, a better focused
12 telecommunication section that incorporates
13 wireless into overall telecommunications, coding
14 standards, a number of things having to do with
15 basic systems software development.

16 COMMISSIONER MARTINEZ: While we may
17 cover this in another section, while we have
18 broadened the resource of the National Software
19 Reference Library, there is additional work to
20 be done as well in regard to making that a fully
21 effective tool.

22 MR. WACK: Right, better integrating
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1 that with the ability of election officials to
2 verify software they are running is, indeed, the
3 software that's been placed in escrow with the
4 software reference library.

5 COMMISSIONER MARTINEZ: My final --
6 not a question but a quick comment, as I did
7 with Kennesaw, I think it is very important,
8 from a Commission level, to acknowledge the
9 partnership we have had with a very good team at
10 the National Institute of Standards &
11 Technology.

12 We have been extremely well served, Madam
13 Chair, Commissioners, from the diligent and very
14 engaged staff that perhaps before HAVA was
15 passed didn't think that they were going to get
16 into the election business, but now, hopefully,
17 they are happy that they did so. If not, we're
18 certainly happy that they are in it because of
19 their technical expertise.

20 Obviously, Dr. Bement, and Dr. Spurgeon,
21 and you, and this director, Dr. Jeffrey, have
22 all been instrumental in helping us to get here.

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1 So, John, have you, and your great team, Sharon,

2 and John, and others, and, of course, Mark Skall

3 for his leadership, Barbara Gutman and others.

4 We looked forward to continued partnership with

5 you.

6 MR. WACK: Thank you, very much.

7 CHAIR HILLMAN: Commissioner

8 Davidson.

9 COMMISSIONER DAVIDSON: I also join

10 you in saying thank you. I also got to know the

11 team, I think, at NIST pretty well by serving on

12 the TGDC. And I thoroughly enjoyed that time, I

13 really did. It was a learning experience for.

14 Me I am glad that I got to know you because it

15 gives you a better working ship, and I think,

16 continued building of that team.

17 Mr. Wack, I have one kind of a question.

18 Do you feel that being involved, when we ask you

19 to be involved with this last portion of it,

20 going over all the different comments, and

21 considering and reviewing them, and coming up

22 with a resolution, do you think that will be

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1 helpful with the next iteration in moving

2 forward?

3 MR. WACK: I think definitely so.

4 Certainly, it takes time and it eats into the

5 schedule. However, we tend to be people working
6 primarily in the standards area. And it was
7 extremely educational just to get a number of
8 different comments. It helps not only in making
9 requirements more specific and understanding
10 that there are ambiguities but, frankly, a
11 number of people just came up with better ways
12 to do things in their comments. So it was a
13 very good opportunity, and we welcome the
14 opportunity to do it again.

15 MS. DAVIDSON: Thank you.

16 The only other comment I have is elections
17 can get in your blood, so watch out.

18 CHAIR HILLMAN: Mr. Vice-chairman.

19 VICE-CHAIR DEGREGORIO: Thank you,
20 Madam Chair, and thank you, John, for your
21 testimony, and for all the hard work. I
22 remember when we met with NIST shortly after we

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1 took over, started in January of '03 -- '04, and
2 to work out an agenda to get these guidelines
3 developed, but I remember at that very first
4 meeting, how NIST was so well prepared. In
5 fact, I don't remember you already had the first
6 draft of the human factors report that was
7 required under HAVA for us to deliver, and we
8 delivered that on time in the spring of 2004,

9 because of the work that you had done, before we
10 were even confirmed and took office.

11 So that, I know, did a lot, that set the
12 course for us to continue that work, and to get
13 to the TGDC put together. And there is a woman
14 in the room though retired from NIST in the
15 summer of 2004, but I know I worked very closely
16 with her. I was the federal officer to help put
17 together the TGDC. Dr. Susan Safett is in the
18 back, because I remember the great conversations
19 we had about the four technical persons that you
20 had recommended to go on the TGDC, and you
21 advocated very strongly for those people because
22 you felt they were good people to contribute to
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1 this process.

2 We thank you for what you did in those
3 early days to help us get started and put
4 together the TGDC to work closely with NIST to
5 get this done, because it's a very important
6 achievement for all of us, but particularly for
7 NIST.

8 John, can you tell us when the next meeting
9 of the TGDC can be expected, a time line? I
10 know there are public meetings, and people like
11 to attend those.

12 MR. WACK: You put me on the spot. I

13 believe it is March 28th, March 29th.

14 VICE-CHAIR DEGREGORIO: vote.nist.

15 gov?

16 MR. WACK: Right.

17 CHAIR HILLMAN: I know the work NIST

18 did on the voluntary system voting guidelines is

19 a small fraction of all the activities that go

20 on at NIST, but I must say that it was

21 encouraging to see how engaged each of the NIST

22 directors were with this responsibility.

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1 I think, in part, perhaps because it was a new

2 venture for all of us, but also because of the

3 importance of the work.

4 A lot of the guidelines talks about

5 technical specifications and things that the

6 public may not be able to immediately gravitate

7 to, but in the end, it is our responsibility to

8 insure that the voting systems used in elections

9 conducted in the United States are the most

10 accurate, reliable, and secure, that are

11 possibly available, and that is for the benefit

12 of the voter. It is a benefit for election

13 officials as well, but primarily for the benefit

14 of the voter.

15 So in whatever ways we can, we're trying to

16 translate into layperson's language, if you
17 will, what the guidelines are all about and the
18 services that they provide. And I know, in
19 particular, for the disabled community that this
20 is a major landmark to find guidelines that are
21 really opening the doors and making certain that
22 voting systems are accessible to all voters.

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1 For those of us who have been engaged over
2 the years in the emotional battles to access
3 around the voting booth, we really feel honored
4 to be at this table working on this particular
5 issue at this time in partnership, not only with
6 the disabled community, but with all the
7 advocacy groups and election officials who
8 support that access. So we thank NIST for
9 understanding how critical this work was, for
10 being so engaged, particularly, as I said once I
11 had an opportunity to tour NIST and see the many
12 things going on, realizing we were but just a
13 small fraction of all the activity, but we sure
14 felt very important every time our issue came
15 up, and we appreciate that.

16 Any other questions for Mr. Wack before we
17 move on? Okay.

18 MR. WILKEY: Our next speaker is a

19 member of our staff, Brian Hancock, election
20 research staff, was transferred to the FEC,
21 where he was there for a number of years. And
22 Brian will be heading our voting systems

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1 certification program which we should be
2 endeavoring very shortly.

3 MR. HANCOCK: Thank you, Tom, Madam
4 Chair, Vice-chair, Commissioners.

5 I have been tasked, I think, with the
6 business of a dubious distinction this morning
7 of giving you a very broad scope of information,
8 and I think, principally, because as Tom said,
9 I've been around a while.

10 What I will do is give you a very brief
11 history of standards in the voting arena, talk
12 about the relationship of VVSG with other parts
13 of the EAC's programs, and the election process.
14 And, finally, describe to you what went on in
15 the core requirements sections of this document.

16 I would be remiss though if I, first, did
17 not also thank Kennesaw State and Merle, from
18 the staff level. And I think I speak for both
19 Carol and Adam when I say that in the 2002
20 standards, I remember sitting, entering probably
21 one tenth of the comments that we got this time
22 in Excel spread sheets, and I never want to do

1 that again.

2 So thank you, Merle, very much. As many of
3 you know, the first voting system standards at
4 the federal level were issued in January, 1990
5 by the Federal Election Commission. This
6 document provided the first performance
7 standards and testing procedures for punch cards
8 and electronic voting systems. Because FEC was
9 not delegated by Congress with the
10 responsibility of developing the voting system
11 testing and qualification program for which to
12 use these standards, the national testing effort
13 was initiated by the National Association of
14 State Election Directors, NASED, in 1994. After
15 some experience testing to these standards, in
16 1997, NASED briefed the Election Commission on
17 the importance of keeping standard, up to date
18 specific advancements in information technology,
19 in personal computing technologies.

20 Following a requirements analysis completed
21 in 1999, the FEC initiated an effort to revise
22 the 1990 standards to reflect these changes and

1 the evolving needs of the election community.

2 This resulted in the 2002 voting system

3 standards. In response to very broad-based,
4 national concern for the need to develop some
5 accessibility provisions, the FEC requested
6 assistance from the U.S. Access Board, which is
7 the federal agency in the forefront of
8 promulgating accessibility provisions. The
9 access board submitted suggested technical
10 standards to meet a broad range of disability,
11 and the FEC did adopt the entirety of the access
12 board's recommendations and incorporated them
13 into the 2002 voting system standards.

14 And while at that point it was a benchmark,
15 we have come a long way, and you will hear very
16 shortly there just how far we have come, in
17 fact.

18 As the FEC was proceeding with the final
19 adoption of these revised standards, Congress
20 passed the Help America Vote Act of 2002, which
21 established the United States Election
22 Assistance Commission. EAC was mandated by HAVA

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1 to develop and adopt new voting system
2 guidelines, provide superior testing,
3 certification, decertification of voting
4 systems.

5 HAVA also charged Technical Guidelines

6 Development Committee with the duty of assisting
7 EAC in developing new guidelines. As we just
8 heard the director of National Institute of
9 Standards chairs TGDC in this, and NIST was
10 tasked by HAVA to provide technical support for
11 this work. The TGDC delivered their initial set
12 of recommendations to EAC in May of 2005.

13 Since that time, EAC has processed all
14 public comments, as required by HAVA. In
15 addition to database maintenance, EAC has held
16 public hearing in Boston, Pasadena, and Denver,
17 and during the same time period, the EAC Board
18 of Advisors and Standards Board undertook their
19 extensive review of the document, and provided
20 valuable feedback to both EAC and the one
21 program concerned with maintaining security and
22 reliability of the overall election process.

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1 With the passage of HAVA, the
2 responsibility of test labs went to the EAC with
3 support from the national voluntary laboratory
4 accreditation program at NIST. This program,
5 again, is operated by NIST, and applies
6 standards and procedures in this handbook, 15222
7 Voting System Testing. The VVSG and test lab
8 accreditation process are the foundation of the
9 EAC's national certification program for voting

10 systems. Under this program, national
11 certification is just the first step in the life
12 cycle process of maintaining reliability and
13 security of voting systems used in our nation's
14 elections.

15 EAC's program will include monitoring the
16 voting system performance through incidence
17 recording by election officials and others. In
18 addition, the program will also maintain
19 information on the quality assurance practices
20 associated with the development and
21 manufacturing of voting systems.

22 When a system has successfully completed

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1 the certification process, EAC will require a
2 certified copy of the system software to be
3 provided to the National Software Reference
4 Library at NIST. This will certainly be able to
5 enable election officials to validate the
6 software received by their jurisdiction is the
7 same as the certified version of that software.

8 Before I go on, I'm going to use the slide.
9 Basically, this slide will support some of the
10 things I have said and am about to say about how
11 the VVSG incorporates into the rest of the
12 programs here at EAC, and the assistance, in

13 general, to provide for greater integrity of the
14 process.

15 The VVSG notes the need for appropriate
16 procedures to compliment and supplement
17 technical requirements of voting system
18 performance. It is and has within well known
19 that deficiencies in election management and
20 administration procedures can have as much or
21 more impact on the enfranchisement of voting as
22 voting machine performance.

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1 The overall integrity of the election
2 process depends on technical procedures and
3 management procedures working together. To this
4 end, professional organizations representing
5 election officials have been, for over a decade,
6 advocating development of management standards.
7 And I have to acknowledge the executive
8 director, Tom Wilkey, who has for at least a
9 decade been telling his colleagues at NASED and
10 around the country that this was a necessity.
11 To address this pressing need, he, along with as
12 NASED, have recently instituted a multi-year
13 effort so the development of a comprehensive set
14 of election guidelines that will compliment our
15 VVSG, technical voting system guidelines, and
16 cover important elements of the election

17 process.

18 Let me now move to a summary of the core
19 requirements of the section of the VVSG
20 document. For Sections 1, 2, 4, 5, 6, 8, 9, and
21 the appendixes of Volume I, essentially, the
22 entire document that is not part of the security

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1 or human factors and usability sections that
2 you will be hearing about shortly, the EAC
3 received approximately 1,350 comments.

4 The core requirements working group
5 reviewed the comments and found the vast
6 majority of the comments were items that
7 required significantly more research to develop
8 effective standards than can be done in the
9 current time frame, and should, therefore, be
10 carried over for the next iteration of the VVSG.
11 Many of these comments related to very specific
12 concerns which will be addressed by NIST during
13 the major rewrite of the sections for the next
14 iteration. Comments carried over will be
15 forwarded to the appropriate NIST staff already
16 working to implement resolutions adopted by the
17 TGDC in 2005, to evaluate and develop new
18 software coding standards, quality management
19 standards, wireless standards, and standards for

20 various types of voter verification systems.

21 Comments rejected by the working with group were

22 disposed of because comments judged general in

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1 nature and provided no useful language as the

2 basis for managing the change in the VVSG or the

3 comments, in fact, raised no issue relevant to

4 the section that was referenced.

5 Other comments initially reviewed by the

6 core requirements working group raised issues

7 better suited to either human factors working

8 group or security working group, and these

9 comments were referred to these groups for

10 disposition.

11 For Volume 1, Section 4, hardware

12 requirements underwent a number of changes to

13 the subsections specifically related to

14 environmental requirements. These changes

15 reflected comments that incorporated updated

16 languages and references to conform with the

17 latest standards of the international technical

18 organization or IEC, changes related to format

19 issues, editorial corrections, and removal of

20 deprecated terms from the document.

21 By deprecated terms, would replace the term

22 qualification which was used in the 2002

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1 standard, and replacing that with certification,
2 which is the appropriate language. The glossary
3 has been extensively augmented through ongoing
4 collaborative effort between NIST and the EAC.
5 Glossary has been updated and continues to be
6 updated to reflect comments received during the
7 comment period, as well as to reflect direct
8 input by NIST, EAC, the IEEE, Voting Systems
9 Standard Working Group, National Association of
10 Secretaries of State, and a number of other
11 groups.

12 Commissioners, as you know, at this point,
13 there are no policy decisions to be made in the
14 core requirements areas that I have just spoke
15 of. Hearing what John has just told us and some
16 of the things that you have said, I think we can
17 be assured that for the next iteration of the
18 VVSG, there will be some fairly significant
19 issues that will be raised. For that Volume II
20 comments and summary, the EAC received
21 approximately 120 comments. Volume II is a
22 companion document to Volume I. Almost all of

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1 the changes in Volume II related to format
2 issues, editorial corrections, or the
3 aforementioned removal of deprecated terms.

4 Volume II will also undergo some very re
5 extensive revision over the next several years
6 as NIST works, 2005 principally aimed at
7 development of precise methods and protocols for
8 the testing of voting systems.

9 The voluntary voting systems guidelines
10 incorporates an effective date for national
11 certification testing 24 months after their
12 adoption by the EAC. At that time, all new
13 systems submitted for national certification
14 will be tested to performance with these
15 guidelines. All previous versions of national
16 voting system standards that will become
17 obsolete, and will not be tested for.

18 As you know, these guidelines are
19 voluntary, and each side can decide whether to
20 require these voting systems be met to obtain
21 national certification. States may decide to
22 adopt the guidelines in whole or part,

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1 irrespective of this effective date.

2 In addition, states may specify additional
3 requirements that voting systems must meet in
4 their jurisdictions. The national certification
5 program does not preempt the ability of the
6 states to have their own system certification

7 process.

8 Finally, EAC staff would recommend further
9 research into how best to develop a phased
10 implementation plan for this document to meet
11 the needs of the entire election community.

12 Thank you. And I will take questions, if you
13 have them.

14 CHAIR HILLMAN: Okay. Commissioners,
15 questions for Mr. Hancock.

16 VICE-CHAIR DEGREGORIO: Thank you,
17 Madam Chair, and Brian, thank you for your
18 presentation, because I think it helped put
19 together the whole picture of what this is all
20 about, and perhaps clarify for some folks what
21 exactly these guidelines are all about, and how
22 they relate to the other picture of testing

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1 certification and other components of this
2 process. And I think you explained it in pretty
3 good detail.

4 Let me just ask a question. At the very
5 end here, you talked about these guidelines
6 being voluntary. And, indeed, they are. In
7 fact, Congress wrote that into HAVA, they are
8 voluntary voting systems guidelines. We have
9 the VVSG.

10 If you could give us just some numbers on

11 the number of states right now that you know of
12 that have adopted the 2002 FEC standards as
13 their own.

14 I know some changes have been made in some
15 states because it is EAC, not the FEC. If you
16 could enlighten us, give us some idea of the
17 impacts the guidelines has.

18 MR. HANCOCK: The EAC has done a
19 fairly recent look into this very question.
20 After review of the 52 jurisdictions, indicates
21 the following breakdown: We found that 13
22 states specifically referred to EAC standards.

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1 Two referred to more generally to Federal
2 Government standards. Nine refer to the old FEC
3 standards, and eight refer specifically to the
4 FEC 2002 standards. Twenty others have a state
5 process that can or cannot run in conjunction
6 with this process.

7 As you see, there are several states that
8 will need to take this 24-month effective date
9 period in which to update their legislation, if
10 they so choose to reflect the VVSG.

11 VICE-CHAIR DEGREGORIO: Thank you.

12 CHAIR HILLMAN: Any other questions?

13 COMMISSIONER DAVIDSON: Brian, you

14 have been involved with this process for many,
15 many years. So can you tell me what you think
16 is the most significant change in the new VVSG?

17 MR. HANCOCK: I don't want to steal
18 anyone's thunder, but personally, I think simply
19 having such extensive and improved usability
20 factors is a great benefit, as well as some of
21 the security stuff that is being worked on.

22 Let me also say that we're not there yet.

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1 I think in the next iteration, you will see an
2 even more significantly improved document than
3 we have now.

4 COMMISSIONER DAVIDSON: Thank you.

5 I know how hard the staff has been
6 working, and I just want to say thank you. I
7 know that you have been putting in many weekends
8 and 11-hour days. So thank you, very much.

9 CHAIR HILLMAN: Commissioner
10 Martinez.

11 COMMISSIONER MARTINEZ: Brian, I do
12 have a question for you. In your presentation,
13 you talked about the comments that would be
14 carried over because more research work had to
15 be done. And I think you alluded to the
16 technology perhaps not being able to accommodate
17 some of the comments as good as they may need.

18 Is it fair to say that the public's desire
19 for election systems or what it would like to
20 see voting systems do is ahead of where the
21 technology is today, in terms of what's
22 available in the market for election officials

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1 to be able to purchase, have certified, and be
2 readily available?

3 MR. HANCOCK: Well, Madam Chair, I
4 think the public rightly expects that voting
5 systems should work as close to 100 percent of
6 the time as possible, and to count all votes
7 fairly and accurately. We're getting there, to
8 a very large extent.

9 I think a number of things need to occur.
10 And as we talked about and as the Commission
11 knows, the management guidelines project that
12 the Commission has undertaken is going to be a
13 very important program to work in conjunction
14 with the VVSG.

15 Numerous reports in the newspaper come out
16 right after Election Day on problems that have
17 occurred, ostensibly, with the voting system.
18 Many of those, if you go back and actually look
19 at what the final resolution of the problem was,
20 actually come down to some sort of human error

21 in either set-up of the programming or something

22 like that.

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1 And so I think with the management
2 guidelines, the improved VVSG, we're getting
3 towards the public's expected level of
4 confidence.

5 CHAIR HILLMAN: Okay. So where we're
6 going, there were two sets of issues. One set
7 of issues is the voting systems as is, as they
8 currently exist, if installed and administered
9 and used properly by either election officials,
10 poll workers, or voters, that they would
11 function with accuracy and reliability, and they
12 provide security.

13 The other issue, there might be features on
14 these voting systems that perhaps the systems
15 aren't able right now to provide certain
16 technical features to do certain things that
17 voters would like done.

18 MR. HANCOCK: I would say that's
19 fair. Even though we have come light years in
20 the accessibility area, there are still some
21 degrees of disability that just simply cannot
22 yet be accommodated. I think the Commission is

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1 committed to getting there. To a large part,
2 the vendor community sees this need and is
3 trying to address the issues.

4 CHAIR HILLMAN: I don't want to jump
5 ahead, but since your diagram talked about the
6 certification process, and I believe I heard the
7 recommendation includes a 24-month effective
8 date, but by when do we expect that the testing
9 labs will be accredited and ready to begin
10 testing against these guidelines? Are we going
11 to have to wait 24 months, or is it going to be
12 sooner than that?

13 MR. HANCOCK: No, absolutely not. We
14 have talked to the test lab, and heard from them
15 that they will be ready to test probably within
16 about a three-month period, maybe slightly
17 longer, and after the adoption of the final
18 VVSG.

19 CHAIR HILLMAN: Okay. Are there
20 things that the EAC is going to have to do to
21 help the labs be ready?

22 MR. HANCOCK: Yes. The EAC will
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1 bring those labs in, and absent right now the
2 completed lab program, the EAC will give them
3 some interim accreditation to make sure they can
4 perform to the scope of the testing required

5 under VVSG.

6 CHAIR HILLMAN: If you feel like I'm
7 unfairly picking on you, and you tell want me to
8 deflect my question to somebody else, I will do
9 so.

10 MR. HANCOCK: That's okay.

11 CHAIR HILLMAN: Is there anything
12 that precludes a vendor from submitting a system
13 or component of a system for testing against the
14 guidelines before the effective date?

15 MR. HANCOCK: Not at all. As soon as
16 test labs are ready, vendors will be able to
17 submit for certification.

18 CHAIR HILLMAN: And states could also
19 adopt those, if they choose to do so?

20 MR. HANCOCK: Absolutely.

21 CHAIR HILLMAN: And they can do it at
22 any time their legislature would be up and

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1 running with it?

2 MR. HANCOCK: Absolutely.

3 CHAIR HILLMAN: Thank you.

4 MR. WILKEY: Our next speaker is
5 Carol Paquette, who is senior manager for tore
6 special projects at EAC. I have to take a
7 second to acknowledge Carol's efforts in this

8 whole process. As you know, Carol spent a stint
9 as interim executive director, and was
10 invaluable to me as I got settled in this
11 position. I appreciate all her efforts, and
12 particularly taking on the whole of being our
13 staff person in charge of working with NIST
14 through this process, and working through this
15 comment period with Kennesaw State University.
16 I know the tremendous hours this woman has put
17 into this process. I know she has your thanks
18 as well as mine, and deep appreciation.

19 I know when my blackberry goes off at
20 midnight or 2:00, it is either hotels.com or
21 Carol Paquette. I know the kind of effort and
22 the long hours that she's put into this. Carol,
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1 thank you, very much.

2 MS. PAQUETTE: Madam Chair,
3 Vice-Chair, and Mr. Wilkey, I am very delighted
4 to be here today and that we have reached this
5 point. We have all agonized for a while if we
6 would be actually be able to get this job done
7 by this time frame.

8 Again, I have to extent all my thanks to
9 the people at this table, folks at NIST,
10 Kennesaw, other members of the EAC staff, and
11 also yourselves. You have put many days and

12 hours, I know, into discussions with staff on
13 these points, as well as the time you took to
14 prepare for those discussions, and to do some of
15 your own research and bring your perspectives to
16 the table. I think this has been a terrific
17 activity and, I think, very illustrative of the
18 great things this Commission can do when we
19 great down and work together. I thank you all
20 for your support in working on this.

21 I'm going to focus today on the security
22 section. There were pretty substantial changes
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1 in this section. I'm going to focus on some of
2 the highlights. Many of the changes had to do
3 with reorganizing and restructuring so they
4 weren't substantive in nature.

5 You have before you a chart that indicates
6 for the comments that we classified as
7 extensive, that means they are comments other
8 than grammatical and spelling and so on, that we
9 received from the public on security. And down
10 the right side, I guess, just indicates the sub
11 subsections in the security portion of the
12 document, the subject matter, so you get a sense
13 of where the most concerns were.

14 And the three areas which are not at all

15 surprising are software, wireless, and voter
16 verifiable paper audit trails. And we have a
17 total of about 550 comments that were, as I
18 said, very substantive in nature on the subject
19 matter.

20 This is to exclude the 3,300 comments that
21 we mentioned that we received that were not
22 technical comments that were simply exhorting
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1 the Commission to make VVPAT mandatory. If we
2 can continue through to the next page, I'm going
3 to focus on these areas where we received the
4 most comments, and we will start with software.

5 The 2005 VVSG added significant new
6 requirements to improve the integrity of voting
7 system software, especially in relation to the
8 three areas noted. The manner in which software
9 is distributed to purchasing jurisdictions, the
10 generation of reference information that enables
11 election officials to validate that software,
12 and that is through the use of the National
13 Software Reference Library, and NIST, and the
14 ability to validate software when it is on the
15 voting specific to software.

16 You can see the numbers up here. As you
17 have heard earlier, we had quite a large number
18 of comments designated as carryover because they

19 were fairly complex in nature. The subject
20 matter of software security is a fairly complex
21 topic.

22 NIST has been engaged for sometime and
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1 continuing to work with TGDC to do some work in
2 the area, so we'll be referring those comments
3 on to that effort to be considered. We received
4 very many good, thoughtful comments from, you
5 know, members of the public, test labs, vendors,
6 academia.

7 Again, I have to say it was very
8 impressive, the degree of attention that people
9 put to this document. In general, what we did
10 in the software section was to do some
11 clarification of language, to reorganize some of
12 the comments, I'm sorry, requirements in a
13 little more logical fashion. And as I said,
14 most of the material was carried over to the
15 future to feed into the software work that NIST
16 is currently undertaking.

17 Wireless was another area that we have had
18 a lot of attention. As you can see, we received
19 a fairly substantial number of comments, again,
20 a substantial number for carryover. Wireless
21 was another area where substantial work was done

22 in the 2005 VVSG, so it was a new area. We

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1 accepted four of the comments, meaning that we
2 basically needed clarification based on
3 recommendations to make some of the definitions
4 a little more clear, and to restate some of the
5 requirements.

6 We also consulted with NIST on all of these
7 sections, but in wireless in particular, we had
8 some consultation and pulled on some of the
9 material that NIST has been developing for the
10 next iteration to provide better definitions and
11 clarification of the description of the use of
12 wire in the wireless section. What we have
13 used, our shorthand term in the whole process, I
14 think starting with the TGDC, their list of
15 shoulds, meaning requirements that using the
16 should language are certainly recommended, but
17 they are not mandatory, and using the shall word
18 makes it a mandatory requirement.

19 So in the wireless area, we changed two
20 shoulds to shall, and I have given the revised
21 wording for the specific requirements where this
22 has taken place. The numbering system that is

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1 used there refers to the numbers in the document

2 that was published for public comment. When the
3 new document is published, there will be
4 significantly different numbering because of the
5 reorganization that's happened in the document,
6 but just to allow some traceability, we will
7 present these old numbers so people can go take
8 a look at the change.

9 Finally, in voter verifiable public audit
10 trails, we received a very large number of
11 comments here. Many of the comments were
12 designated as redundant, but I wish to emphasize
13 that doesn't mean that they weren't valuable or
14 useful comments, but it is other commenters made
15 similar observations about the capability.

16 We did a lot of clarification of discussion
17 in the requirements, working with NIST staff and
18 the review group, in making some modifications
19 to this section. One overall modification I
20 would note, we have changed the terminology in
21 the comment version, VVPAT stood for voter
22 verified paper audit trails, and we had quite of
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1 a few comments to say that you really have no
2 means to actually force the voter to verify
3 their validity, so it would be better to call it
4 voter verifiable paper audit trail, which means
5 this provide the opportunity for the voter to

6 verify their ballot choice, should they choose

7 to.

8 Another terminology change is relative to
9 independent, dual verification systems, which is
10 a category of systems that VVPAT belongs to. At
11 the request of NIST, we have changed that
12 terminology to be independent verification
13 systems, as they are moving ahead in their
14 research in this area and will be using that
15 terminology in the future.

16 Now, for a summary of the more substantive
17 changes. We took some of the materials that
18 were in Appendix D that went into a fair amount
19 of discussion on independent verification
20 systems, and put that into the body of the
21 document. We thought it was important to
22 provide some of the conceptual framework to

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1 provide concept for the VVPAT requirements, as I
2 indicated, an independent verification type of
3 system.

4 In addition, there were VVPAT requirements
5 that were repeated in the human factors section
6 and in the VVPAT section. Again, based on many
7 comments that we received, all of the VVPAT
8 requirements will be consolidated into the VVPAT

9 section, and be moved from human factors. Many
10 readers found it very confusing to have to look
11 at two places in the document to find the
12 requirements, so we put them all in one.

13 Two specific areas under VVPAT that we
14 received fairly significant revision, 584, the
15 paper record, and 587, equipment and security
16 liability. I apologize for a lot of words on
17 the page, but because we did fairly extensive
18 revision to 584, I thought it best to just
19 present the changes as they are being
20 recommended to you.

21 First of all, the title was changed to
22 approve or void paper record. And that's more

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1 than just a wording change. The concept that
2 was originally here, the spoiling, certainly it
3 is possible to spoil paper records, but because
4 this deals with the tracking between the paper
5 records and the electronic records, there is no
6 ability to effectively spoil an electronic
7 record because if the voter is not satisfied
8 with their electronic selections, they can
9 change the ballot choices, and the final
10 selections do not get recorded until the voter
11 is done making their decisions.

12 So I think that really encapsulates the

13 nature of the change that was made to this
14 section, is to indicate that we need other means
15 to capture, particularly, if the paper record
16 and the electronic summary screen on the direct
17 recording ballot machine don't match, that
18 certainly indicates a probability of a
19 malfunction or an error in the software in the
20 voting machine, perhaps in the printer.

21 We would like to recommend, we're
22 recommending that should that happen, that the

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1 voting machine that that occurred on would be
2 taken out of service, and those records retained
3 for future research to identify the source of
4 the problem.

5 Also, we needed to reflect the fact, as I
6 have indicated, voters, well, in all voting
7 systems have the ability, when they have
8 completed their voting selections, to go back
9 and review their selections. And I know I very
10 often change my mind when I get down to that
11 final screen, and to go back and actually change
12 their selections.

13 So, again, because the paper record gets
14 printed at the time that the summary screen, the
15 first summary screen is seen by the voter and

16 before the voter actually casts their vote, that
17 paper record is going to reflect the voter's
18 first set of voices indicated on the summary
19 screen. Should the voter decide to change their
20 electronic selection, we need to have a means to
21 then indicate that the paper record that was
22 first printed, that that particular set of

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1 selections was not cast by the voter, and that
2 they have gone back and made a change, and will
3 then get another summary screen and another
4 paper record to compare with the summary screen.

5 So, again, the requirements have been
6 changed to reflect the possibility that while
7 the records may match between the electronic
8 screen and the voter verifiable paper record,
9 the voter may change their mind, and go back and
10 change something.

11 And further we verified in 584.5, these are
12 new numbers, things we do not totally track to
13 the numbering in the currently published 584, to
14 enable poll workers to reset a voting machine or
15 printer in the event that the voter has used the
16 system incorrectly. This requirement, the
17 addition of this requirement was to indicate
18 that the poll worker would be able to do this
19 with instructions provided by the vendor.

20 Since this is new technology and many
21 voters will be using this technology, I believe
22 TGDC felt it was necessary to provide a
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1 procedure in the event voters get confused or
2 don't use the machine correctly, in order to
3 reset it. And if that should happen, that --
4 again, no impact will be had on either the
5 electronic records from the voting machine or
6 the paper records that will be in the audit
7 trail.

8 And then several requirements were deleted.
9 Specifically referring to spoiled electronic
10 ballots, with the new structure, those are no
11 longer needed. Also, relative to VVPAT and
12 privacy, there is 584 requirements to preserve
13 voter privacy changes that you see before you
14 that refer to the voter potentially handling the
15 paper record that is produced by the VVPAT
16 voting station.

17 We spent a fair amount of time discussing
18 this with the Commissioners because there was a
19 concern, if there is an opportunity for the
20 voter to handle the paper record, this provides
21 a potential opportunity for vote fraud to occur
22 in a number of different instances. For

1 example, if the voter is able to have the paper
2 record in their hand, and they might depart the
3 polling place without depositing it. Certainly,
4 with optical scan and paper voting systems, the
5 voter has the ballot in their hand, but under
6 that instance, they certainly want to deposit
7 that document. Because if they don't, they have
8 not completed their vote. However, since they
9 are casting their vote on an electronic machine,
10 their vote will be cast whether the paper record
11 is retained or not.

12 So concern about that possibility. And
13 since the whole purpose of the paper record is
14 to be able to audit the results from the
15 electronic voting machine, and the paper
16 results, obviously, if some of the records are
17 missing, that audit is going to be unable to be
18 successfully performed.

19 There was also concern regarding vote
20 selling, that a voter could bring a similar
21 looking piece of paper into the polling place
22 with them and deposit that other record or that

1 other piece of paper that they brought with
2 them, so they can take the paper record printed

3 from the voting machine and demonstrate to
4 someone they have voted in whatever manner they
5 were supposed to vote.

6 So for these reasons, we're recommending to
7 the Commission that these requirements be
8 deleted, and that the ability for the voter to
9 physically touch or manipulate the paper record
10 should not be permitted.

11 And, finally, again, in the VVPAT section,
12 again, working closely with NIST, we're making
13 recommendations for making some "should" to
14 "shall" changes relative to the three
15 requirements that are before you. There was
16 some wording changes in 68681 and 68610, but
17 that was really for reference purposes. The
18 significant change here was making a "should"
19 become a "shall."

20 And, finally, relative to equipment
21 security and reliability, several requirements
22 were deleted because they were determined to not

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1 be testable, or a combination of not being
2 testable and also being pertinent to election
3 management procedures.

4 As Brian Hancock indicated, the whole
5 purpose of VVSG is to test voting systems.

6 Having requirements that cannot be tested is not

7 a useful situation, so we removed these. The
8 reason for the distinction, as indicated, many
9 of the comments that were received will be
10 forwarded both to NIST for the technical work
11 and to the election management working group.
12 So we tried to distinguish our disposition of
13 comments so they would be sent on to the proper
14 group for future work.

15 68727 was revised slightly, and, again,
16 mostly for clarification of manage purposes.

17 And 68732 was revised, again, to change a
18 "should" to a "shall."

19 Commissioners, that concludes my
20 presentation, and if you have any questions.

21 CHAIR HILLMAN: Thank you, Carol.

22 Before we proceed to questions,

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1 Commissioners, I just want to know -- I know we
2 don't want to rush this. We're clearly going to
3 run past 12:00. And Commissioner Martinez, I
4 know you have an afternoon schedule. I just
5 want to see how much time past 12 we can go.

6 COMMISSIONER MARTINEZ: I think,
7 about 1:00 is the outer edge of my availability.

8 CHAIR HILLMAN: Hopefully, we won't
9 go that long. Hopefully, we'll be able to wrap

10 up by 12:30, but we certainly want to allow
11 enough time for questions to Carol, and to
12 listen to Adam's presentation, and take the
13 action we're going to take, without feeling
14 rushed. So let's aim for 12:30, and see what we
15 can do.

16 Questions for Carol.

17 MS. DAVIDSON: I don't believe I have
18 any.

19 CHAIR HILLMAN: Mr. DeGregorio.

20 VICE-CHAIR DEGREGORIO: Thank you,
21 Madam Chair.

22 Carol, the VVPAT issue, I know, is one that
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1 the TGDC tackled, and we appreciate that. We
2 appreciate your work. When I checked my
3 blackberry, I had a message from you, but we
4 appreciate the work that you have done over the
5 last year or so, and hope that you get the rest
6 that you need after all you have done to bring
7 us here. We appreciate the work that you have
8 done, proud of it.

9 CHAIR HILLMAN: Commissioner
10 Martinez.

11 COMMISSIONER MARTINEZ: I will be
12 very quick.

13 Carol, in Section 6 of the VVSG, we have

14 requirements pertaining to set-up and validation
15 of the software system. And I think you made
16 reference to the National Software Reference
17 Library. That was not a mandatory requirement
18 in the standards that we adopted or inherited
19 from the FEC with 2002 voting system standards,
20 is that correct?

21 MS. PAQUETTE: Yes. Actually, use of
22 the National Software Reference Library was a
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1 capability that was strongly promoted by the
2 EAC. Commissioner Soaries, last year, strongly
3 encouraged vendors for the first time to deposit
4 software and, of course, work with NIST to get
5 the capability established there to enable that
6 to happen. We have actually had some local
7 jurisdictions and, I believe, also the state of
8 Maryland has used the repository to do the
9 software validation.

10 As Mr. Hancock indicated, this will be a
11 requirement going forward, when systems are
12 tested and certified through the EAC process, it
13 will be required that that certified software
14 for all systems will be deposited with the
15 library so we have this capability for election
16 officials to use.

17 COMMISSIONER MARTINEZ: That's the
18 point I was trying to draw out. Nevertheless,
19 the 2005 voting system guidelines, as you all
20 have proposed them, includes a requirement that
21 vendors submit their software code and other
22 related technical features of their voting
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1 system to the ITA, the Independent Testing
2 Authorities, which would then deposit those
3 particular requirements with the National
4 Software Reference Library.

5 This is not a matter of a volunteer
6 project. This is a requirement to receive
7 national certification once these guidelines go
8 into effect in 24 months, if we adopt that
9 particular effective date.

10 And I think that's a significant jump
11 forward. Again, my appreciation to NIST and, of
12 course, to my former colleague, rev. Soaries,
13 for his leadership. I think this is a very
14 significant tool. I realize we have other
15 challenges to overcome, architecture of the
16 voting systems themselves, to allow full use of
17 the National Software Reference Library the way
18 we all intended it to be used.

19 I know there is at least one vendor in this
20 room that is --the vendor community has been

21 fully cooperative in embracing the concept of
22 using the National Software Reference Library as
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1 a tool.
2 Again, I think we all have some challenges
3 to overcome, particularly with the design of
4 these systems as we move forward, but
5 nevertheless, the vendor community has been at
6 the table, and under the leadership of our
7 previous chair, came to the table on a voluntary
8 basis, and acknowledged the tool that will be
9 done to increase the confidence that we have in
10 the integrity of the systems. I am pleased that
11 is the requirement of the VVSG.

12 One other question. The policy decision
13 that you put in front of us regarding handling
14 of the paper, I simply want to emphasize, and if
15 you want to add to my comments, please feel
16 free, we're not saying that the voters not be
17 able to handle their optical scan ballots. What
18 we're saying, when a voting system, DRE system,
19 has a VVPAT component, and that paper is there
20 for verification purposes and does not represent
21 the ballot of the voter, in fact, the ballot in
22 that circumstance, the electronic ballot that is
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1 going to be reported into the system, the DRE
2 system itself, that the piece of paper that
3 stands for verification purposes only should not
4 be handled by the voter as a matter of policy,
5 or is recommending put forward many of the
6 reasons that you have already stated, some of
7 which deal with the capacity of the voter to be
8 able to walk out, whether intentionally or by
9 mistake, with that piece of paper and so forth.

10 I want to clarify you are no longer
11 recommending this be applicable to optical scan,
12 we're talking about voter verifiable paper audit
13 trails?

14 MS. PAQUETTE: Yes, you are correct.

15 COMMISSIONER MARTINEZ: Thank you.

16 CHAIR HILLMAN: Carol, I have a
17 question.

18 In your overview, if a voting system
19 includes wireless capabilities, can you tell me
20 what that does not include, when you refer to
21 wireless capabilities?

22 MS. PAQUETTE: The requirements in
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1 the VVSG are intended to cover wireless that
2 communicates external to the voting machine. We
3 recognize that some electronic voting machines

4 actually use infrared and some wireless
5 capabilities internal into the machine. That
6 was some clarification to make sure that
7 requirement pertains to external communications,
8 and not internal to the machine where the signal
9 would be shielded by the enclosure that it is
10 operated inside of.

11 CHAIR HILLMAN: So it is very clear,
12 we're not talking about Internet voting when
13 we're talking about wireless capabilities of
14 voting systems, for the purpose of this?

15 MS. PAQUETTE: That's correct.
16 Internet is, in most instances, actually wired
17 communications, although we now have wireless
18 connections to the Internet but, no, there is no
19 discussion in the VVSG regarding Internet
20 voting.

21 CHAIR HILLMAN: And I have one
22 question, and maybe it is for Mr. King, and
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1 maybe it is for Tom Wilkey, but it helps me put
2 all of this in perspective.

3 I feel like that somewhere in recent
4 history, whether it was 2000 or 2001 or 1999,
5 I'm not sure where, there became a disconnect in
6 conversations between the voters' expectations
7 of voting systems, and what the voting systems

8 were really performing. That is, we've seen
9 lots and lots of reports of misunderstandings of
10 what a voting system is, and what it does, and
11 what a voter should expect versus what the
12 systems are really doing.

13 And I'm wondering if that's an accurate
14 thing that is happening out there, and if so,
15 when would this disconnect have started? And I
16 say that from the sense of, you know, I don't
17 recall in the 1990s when I was doing work
18 concerning voting activities in the United
19 States, I don't recall many conversations about
20 the importance of the performance of the voting
21 system, to the accuracy and integrity, and
22 whether or not a voter's vote was counted. And

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1 all of a sudden, that became a very integral
2 part of the conversation.

3 So I am just wondering if either Mr. King
4 on Mr. Wilkey can shed some light, or both.

5 MR. WILKEY: Let me preface my answer
6 to your question with a humorous little story.
7 Commissioner Davidson and I were recently on a
8 little shopping expedition, and we were talking
9 to the clerk at the table, and she wanted to
10 know what we did for a living. And we said we

11 were in elections, and she said, "That's really
12 interesting." And we talked a little longer and
13 see said, "Well, how long have you been in
14 elections?" And Commissioner Davidson, I
15 believe, answered the question by saying, "Well,
16 let's put it this way, if we added up both of
17 our years of service, we would apply for social
18 security." And we left it at that.

19 I say that because when you've been around
20 this business as long as we have, and I know
21 that Commissioner DeGregorio would have joined
22 us in that, in his years of service, and you see

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1 what happened in Election 2000 and what
2 spearheaded this whole interest through the
3 media and through organizations that came about
4 because of that, and you see a lot of the
5 misinformation that's out there, I'm not saying
6 all of this was wrong, but I'm saying there was
7 a lot of missed information that the media
8 reported about the quality of a lot of our
9 voting systems and procedures out there.

10 I would say that because of that,
11 certainly, the interest of the public in the
12 whole process is a lot more a presence than ever
13 was in probably the history of our country. But
14 I think we, as the EAC, certainly have as part

15 of our responsibility to make sure that the
16 public understands that there are systems out
17 there that work accurately, that we have testing
18 measurements in place, such as the ones that
19 we're going to be asking you to adopt, that will
20 go a long way towards rectifying some of these
21 -- a lot of the misinformation that's out there.

22 Certainly, as our clearinghouse activities

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1 become more prominent in the next year or two,
2 and we're able for the first time ever to
3 document for real, and I will say that again,
4 for real, what is really happening out there, in
5 terms of voting system problems, instances of
6 situations, and we're going to label it in the
7 context of how much equipment is in use out
8 there, what kind is not used out there, and how
9 many problems are being reported, can we put it
10 into the context of what's really going on in
11 our country in terms of voting systems.

12 And I think having been here only six
13 months, that I am confident that over the next
14 few or next two years, we're going to be able to
15 do just that.

16 I hope that answers your question.

17 CHAIR HILLMAN: It does.

18 Mr. King, any footnotes?

19 MR. KING: No, ma'am. I think

20 Mr. Wilkey's addressed it.

21 CHAIR HILLMAN: I raised that because

22 I think there are expectations of what these

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1 voting systems guidelines are going to be able

2 to do in very short order. And I would not want

3 anybody to be disappointed that a year from now,

4 things aren't all fixed and where people would

5 want and expect them to be in November, 2006,

6 but I'm not even sure what the extent of the

7 problem is. So that's kind of like trying to

8 fix something and you don't know just how broken

9 it is, but I think we're doing a tremendous

10 service in the direction that we're moving.

11 Thank you.

12 MR. WILKEY: Next up to bat, well,

13 for our final presenter, we have Mr. Ambrogi,

14 Becky's special assistant to our own

15 Commissioner Ray Martinez. Commissioner

16 Martinez was generous in his being able to lend

17 us Adam's expertise, who drafted him in probably

18 one of the more difficult of the three comment

19 groups that we have. It was an area in which

20 there was a great deal of discussion in which

21 there were many decisions to be made.

1 "shalls," Adam took on that responsibility and
2 did a terrific job. We're grateful for his work
3 in this area.

4 MR. AMBROGI: Thank you, Tom, Madam
5 Chair, Commissioners, and Ms. Thompson.

6 I wanted to first give my great thanks to
7 the other members of the human factors and
8 privacy working group, that is Sharon Laskowski
9 and John Cugini of NIST. We have met several
10 times over the last several months discussing
11 issues and details of standard-setting
12 procedures. We have gone over 300 separate
13 comments, and we've evaluated them, and
14 presented them to the Commission.

15 I wanted to present to you the overview of
16 significant changes that we have made in the
17 human factors and privacy section. First of
18 all, I wanted to discuss the human factors and
19 privacy section comments by category.
20 Obviously, accessibility was the largest number
21 of response from the community. Individuals,
22 vendors, election officials, and advocacy

1 organizations, all responded with language, with

2 broad policy suggestions, and with schemes for
3 the future which we could not handle in this
4 particular version of the VVSG, but will be
5 carried over into future events.

6 General usability and privacy sections.

7 This is an outline of, basically, all of the
8 comments that we received on a variety of
9 subjects in the original Section 2.2.7, which
10 was the human factors and privacy section. As
11 you can see, only 34 have been quote, unquote,
12 "accepted," and a large number have been
13 rejected.

14 I would remind the Commission, as Carol
15 Paquette stated, that if someone duplicated a
16 policy issue or duplicated a comment, we would
17 have to reject that for being redundant, but we
18 would have instructive on the issues raised by
19 that particular commenter.

20 We also have 49 issues that are carryover
21 to the next iteration of the VVSG. Overall, we
22 saw a broad set of structure changes to the

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1 human factors section. First of all, and
2 perhaps one of the more important elements, is
3 that it had been contained inside the functional
4 capability section in Volume I. We have decided

5 to remove that from the functional capability
6 section and give it its own section. It will
7 be proposed as Section 3 in Volume I, and it
8 will be entitled, "Human Factors & Privacy."

9 We will restructure the section as written.
10 The document released in May had accessibility
11 first, and then the usability section was listed
12 third. Usability, in the revised Section 3,
13 will go first because it applies to every single
14 voting system. It also implies how each voter
15 will interact and use the voting system.

16 Then we will continue onto accessibility
17 privacy. And we will include the alternative
18 language requirements within the general
19 usability section because this capability must
20 be a part of every voting system that is part of
21 a Section 203 covered jurisdiction under the
22 Voting Rights Act, and that is included in HAVA.

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1 As far as progress goes, we released the
2 document in May, initially, and had an expanded
3 2.2.7. Just by way of illustration, I have
4 about a four-page document that is the total
5 accessibility provisions in the 2002 VVSG. The
6 folks in the room that have been working on this
7 for decades, obviously, pushed hard to even get
8 an accessibility section in the 2002 VVSG. As

9 it states, it includes only 29 requirements,

10 limited discussion sections.

11 In the 20005 human factors and privacy

12 section, there are almost 120 requirements,

13 substantial discussion sections, that will

14 provide guidance to the ITAs, to the vendor

15 communities, to election officials, and perhaps

16 voters, because they are instructive as to how

17 these requirements will be used.

18 I'd like to then hit some of the major

19 changes that we have made. There are a lot of

20 changes made to the human factors and privacy

21 section. These are some of the more major ones

22 that were, in part, policy decisions and, in

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1 part, general decisions that we felt would

2 improve the document.

3 First is the one on personal assistive

4 devices. The underlying changes, just for

5 emphasis for your purposes here today, the new

6 standard reads, The support provided to voters

7 with disabilities shall be intrinsic to the

8 accessible voting stations. It shall not be

9 necessary for the accessible voting station to

10 be connected with any personal assistive device

11 of the voter in order for the voter to operate

12 it correctly. This will allow the machine to be
13 sufficient, and encourage limited inter
14 operability.

15 However, I would note it does not bar
16 individuals from using perhaps their own
17 headphones, or if technology advances to the
18 extent where we can have interactive, personal
19 assistive devices for voters with disability in
20 the future, it does not bar that, but it states
21 that the accessible voting station, it is not
22 necessary that someone has to bring in their own

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1 devices for voters with handicaps.

2 Requirement for usability testing. There
3 are about four to five portions of the human
4 factors section that require usability tests and
5 documentation that they have -- vendors have
6 completed these tests to the ITA. It doesn't
7 require the type of test formats, but it shall
8 they shall report, and report the documentation
9 when they submit machines for certification. It
10 impacts dexterity disabilities, generally,
11 usability testing, language disability, and
12 various other vote testing for voting stations.

13 Accessibility voting systems design was
14 changed in several fundamental ways. These are
15 the "shoulds" to "shalls" that Carol referred

16 to. Buttons and controls shall be distinguished
17 by both shape and color. A sanitized headphone
18 or hand set shall be made available to each
19 voter. We decided to replace it here in this
20 section.

21 Speech quality and speed requirements. In
22 the initial version of the VVSG, it indicated a
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1 preference for actual human speech. After
2 receiving a lot of comments doing independent
3 work, the working group determined that instead
4 of indicating a preference for human speech, the
5 preference should be towards certain types of
6 quality of speech, because some voters with
7 disabilities actually may refer to use
8 synthesized speech. It improves your ability to
9 speed up or slow down the speed that you may
10 need it.

11 So the current language states that this
12 include characteristics such as proper
13 enunciation, normal intonation, appropriate use
14 of speech, and low background noise.

15 We also changed that to audio system shall
16 allow voters to control the rate of speech.
17 Then we said that the range of speeds supported
18 should be at least 75 percent to 200 percent of

19 the nominal rate. So it requires control of the
20 rate of speech, however, provides some
21 guidelines and suggested amounts of the speed of
22 speech.

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1 While the VVPAT human factors section will
2 be removed from the new Section 3 and placed
3 into Section 6 under VVPAT, there was a lot of
4 discussion in the Commission as to whether or
5 not the paper record can be used by voters who
6 are blind or have an unwritten language. In the
7 case of a state using that paper record as the
8 official ballot or, potentially, as a ballot
9 under state statute, it refers to it in a
10 recount.

11 After much discussion and deliberation, the
12 language that we're recommending is if the
13 normal procedures include VVPAT, the accessible
14 voting station should enable voters who are
15 visually impaired or voters with an unwritten
16 language to perform this verification.

17 The statute designates the paper record produced
18 by the VVPAT to be the official ballot or the
19 determinative record on a recount -- shall
20 provide viewers that enable visually impaired
21 voter with an unwritten language to review the
22 paper record.

1 Moving along, we received many requirements
2 in the disability section. Two of the
3 requirements, 3.4 and 3.5 in that section, were
4 indicated in the May version as a "should."
5 Commenters believed that under the spirit of
6 HAVA and under perhaps problems with
7 distinguishing between different types of
8 disabilities, that these items should be a
9 "shall."

10 After much discussion, deliberation, work
11 with the working group, we're recommending that
12 both these items be changed to a "shall." The
13 accessible voting station shall provide a
14 mechanism to enable non-manual input that is
15 equivalent to tactile input.

16 These apply to, generally, the system at
17 large and will be in the first part of the
18 revised section. DRE voting stations shall
19 provide navigation controls that allow the voter
20 to advance to the next race, or go back to the
21 previous race before completing a vote on the
22 race or races currently being presented, whether

1 visually or orally. As a note, this global
2 change to the final document, race or races,

3 will be removed and the term will be contest.
4 However, the broader requirement allows the
5 voter to have the navigation controls to advance
6 forward or to move back within the ballot screen
7 selection.

8 Looking at system controls, another should
9 to shall change, if any aspect of voting station
10 is adjustable by the voter or poller, there
11 shall be a mechanism to reset all aspects to
12 their default values.

13 So if someone using an accessible voting
14 station, uses the headphone ability and turns
15 the volume to the maximum, when that voter
16 leaves, there shall be a reset volume that will
17 return it to its normal level.

18 And, finally, in the usability section, no
19 key or control on a voting station shall have a
20 repetitive effect as a result of its being held
21 in an inactive position, which will basically
22 bar the voter from leaning on a particular

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1 voting key and having it repeat that key several
2 E's, we have all done it, falling asleep on our
3 keyboard. And so that will make clear that
4 standard.

5 Under privacy changes, we clarified one

6 particular piece to make it testable. According
7 to the installation instructions provided by the
8 vendor, the voter station shall prevent others
9 from observing the contents of the voter's
10 ballot. This is a privacy change.

11 I am open to questions. And, again, I
12 would thank Sharon Laskowski and John Cugini.
13 Every voter who interacts with these machines,
14 especially voters with disabilities, with
15 language accessibility problems, should be able
16 to interact as other voters would.

17 Thank you.

18 CHAIR HILLMAN: Thank you, so much.

19 Questions for Mr. Ambrogi. Be kind to him
20 now.

21 COMMISSIONER MARTINEZ: Well, that
22 would be a change. Perhaps I will let him speak

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1 for himself.

2 Adam, just a couple. I know that my
3 colleagues will touch on these as well, but
4 obviously, the key changes that we have
5 discussed, the first would be the change of
6 language for voters, disabled voters, who live
7 in a jurisdiction where there will be a VVPAT.
8 The advantage that we have or that you are
9 suggesting that we embrace in this final

10 adoption changes where we were previously during
11 the comment period.

12 So the language that you have suggested or
13 staff is suggesting states, correct me if I'm
14 wrong, if a state statute designates the VVPAT
15 record in that jurisdiction as the official
16 ballot, or if the state designates that VVPAT
17 record as the official ballot for recount
18 purposes, then in those jurisdictions, that
19 shall require them to find a way to make that
20 VVPAT component fully accessible, including
21 voters who are blind or visually impaired. Is
22 that correct?

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1 MR. AMBROGI: That is correct,
2 Commissioner. Our review indicates that about
3 15 states do not allow the VVPAT paper record to
4 serve as the official ballot, but will have that
5 paper record serve as the ballot, the counted
6 ballot, in the case of a recount. And we
7 believe that that ballot, in the case of the
8 recount, should have the same verification in
9 the case of non-sighted voters, or voters
10 without a written language, as all other voters.

11 CHAIR HILLMAN: How many states
12 designate by statute that it's the official

13 ballot, as far as we know?

14 MR. AMBROGI: As far as we need, no
15 states dictate that it is the official, VVPAT is
16 the official ballot.

17 COMMISSIONER MARTINEZ: And then
18 moving to the reconciliation of the "shoulds"
19 and "shalls" that were in the draft document or
20 proposed VVSG dealing with the equivalent of a
21 voter submitting his or her ballot, in the
22 proposed VVSG, we had for voter who are blind or

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1 visually impaired, it was a "shall," that there
2 must be the capability for the voter to be able
3 to submit that ballot manually. And in the
4 proposed VVSG, under the dexterity section, for
5 voters who have limited upper body dexterity,
6 that was a "should."

7 You are recommending that we reconcile
8 those two and make them both "shalls," so it not
9 treat voters with disability any differently,
10 essentially, is that correct?

11 MR. AMBROGI: That's correct.
12 I -- the working group and I know that the
13 Commission is struggling with a concern of both
14 technology advancement and whether a modified
15 optical scan system might be able to make those
16 changes. We believed, and a lot of comments

17 indicated, that making that distinction was not
18 an option between voters of different types of
19 disability, and that the technology would be
20 able to be improved in the time that this
21 document will become effective.

22 COMMISSIONER MARTINEZ: Which
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1 proposed effective date is 24 months from the
2 date of adoption?

3 MR. AMBROGI: That's correct.

4 CHAIR HILLMAN: In the interest of
5 time, I will turn it back to you, Madam Chair.

6 I know you have worked closely with Sharon
7 and John Cugini. I think Brian Hancock said it
8 earlier in response to a question, among the
9 most important things that we've done and
10 important changes that will be adopted in voting
11 systems guidelines, the human factors changes
12 perhaps counted as the most critical. So I
13 applaud all of you for the work you have done.

14 Thank you, Madam Chair.

15 CHAIR HILLMAN: Okay. Commissioner
16 Davidson.

17 COMMISSIONER DAVIDSON: I just really
18 feel the same way. I think the changes that we
19 have made in the human factors is pushing us

20 forward to where the citizens can have the
21 usability of the equipment and understand the
22 equipment as well as the functionality of the
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1 equipment. So it all plays together, and I
2 think that it's one of the best things that
3 really is in the new standards.

4 The biggest changes I see, and let's see if
5 you agree with me, in what we're doing, is in
6 the differences between the 2002 privacy section
7 really and the 2005. Do you agree or did you
8 disagree with me on that?

9 MR. AMBROGI: From my experiences,
10 the change has been a change in the 29
11 requirements in the 2002 VVSG to almost 120
12 requirements in the 2005 VVSG. A lot of the
13 concepts were there in the initial phase in the
14 2002 VVSG, and the folks who worked on that
15 certainly deserve credit for laying out the
16 framework.

17 What the folks at NIST and the TGDC people
18 have done has been to expand those items and
19 provide a lot more clarity on how these systems
20 interact with voters, and voters with
21 disabilities and language accessibility
22 problems.

1 COMMISSIONER DAVIDSON: The last
2 thing is, I know that we have also had contact
3 with some of the vendor community. And don't
4 you feel that the requirements that we're
5 putting into place, do you feel that they can
6 meet those needs that we have set in place by
7 the deadline in two years?

8 MR. AMBROGI: We believe technology
9 will be placed to that point that it can go
10 through the entire test process, and complete
11 the requirements in the human factors section
12 within the 24-month effective date requirement.

13 MS. DAVIDSON: Thank you.

14 CHAIR HILLMAN: Mr. Vice-Chairman.

15 VICE-CHAIR DEGREGORIO: Thank you,
16 Adam. Let me join my colleagues in
17 complimenting you for a job well done. As your
18 boss said, you have worked closely with Sharon,
19 John, and NIST, to get this accomplished.

20 This is a very tough section. We have had
21 very long hours in debating technical issues.

22 We have had presented it to us in a professional
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1 manner that we could make decisions on this.

2 So I join my colleagues in thanking you for
3 your fine work. We know that on January 1, in

4 just a few weeks, there is going to be some
5 requirements that kick in all over the country,
6 including accessible voting station
7 requirements.

8 What is the relationship between accessible
9 voting station and usability requirements?

10 MR. AMBROGI: First of all,
11 everyone's cognizant January 1, for federal
12 elections deadline. In light of that, several
13 months ago, we produced Section 301 gap analysis
14 that we hoped would give states some guidelines
15 as to how they should go about complying with
16 that deadline.

17 That doesn't change by the release of this
18 document because, as we have stated, the
19 proposed effective date is in 24 months. And in
20 fact, a large number and a large portion of the
21 2002 VSS, if a machine is tested to the 2002
22 VVSG, many elements of that will be met for the

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1 term, accessible voting station under HAVA.
2 However, the requirements under the 2005 VVSG
3 should provide ample reassurance to the
4 community that the test requirements that these
5 machines will be undergoing when it becomes
6 effective will meet and surpass the

7 accessibility requirements for HAVA and,
8 accessible voting station of which there must be
9 one in every polling place in America, should be
10 interactive with every voter that comes in.

11 VICE-CHAIR DEGREGORIO: Thank you.

12 CHAIR HILLMAN: Okay. Any other
13 questions?

14 Adam, I do have one question, and that is,
15 when someone is looking at the table of contents
16 of the Voluntary Voting System Guidelines, where
17 will they be able to go to find the section on
18 accessibility? Will they be able to see it in
19 the table of contents or will they have to flip
20 through?

21 MR. AMBROGI: They will be able to
22 see it. As I mentioned, we're taking 2.2.7
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1 which is human factors and privacy, which
2 includes accessibility, out from the general
3 machine requirements, which is currently all of
4 Section 2. We're removing that from Section 2
5 and making the human factors section as Section
6 3.

7 So anyone who wants to understand how
8 individuals interact with the machine, the
9 generally understood phrase of human factors,
10 they should go to Section 3 of the 2005 VVSG.

11 CHAIR HILLMAN: If I recall
12 correctly, and maybe I am not recalling it
13 correctly, but I believe I recall that there
14 were some comments from the disability community
15 that the guidelines addressing accessibility
16 should be in one section, so that people can go
17 to a section and see what those requirements
18 are, even if they refer to other sections within
19 the document. Is that correct?

20 MR. AMBROGI: My recollection of
21 similar comments suggested that, which we've
22 done, which is instead of lumping all of human
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1 factors in with the general machine
2 requirements, making it its own section. What
3 the title is, whether this is human factors and
4 accessibility was a determination made by the
5 working group, and folks at NIST, and
6 individuals and staffers here at the EAC.

7 To my recollection, there was not a comment
8 on making the accessibility section its own
9 separate section.

10 CHAIR HILLMAN: Maybe not its own
11 separate section. My only concern is, if
12 someone is looking at this and they don't know
13 what human factors is, and are looking for where

14 the accessibility factors are, it is not
15 apparent by table of contents. That may be a
16 simple fix, but I think it be helpful if the
17 table of contents the sub section so people
18 would know which section to go to.

19 MR. AMBROGI: We can certainly, in
20 the editing process over the next week, add to
21 and consider that.

22 CHAIR HILLMAN: Thank you, very much.
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1 Before we go to the question which I
2 believe will be before us on the guidelines, I'd
3 just like to get an indication of next steps.
4 Once the Commission takes action on the
5 recommended guidelines, what happens after this,
6 Mr. Wilkey.

7 MR. WILKEY: We have some editing to
8 do, based upon the conversations that we have
9 heard today. We expect those to be completed in
10 perhaps a week to ten days. And then it will be
11 up on our website, and we'll have hard copies as
12 well as CD's ready for distribution to the
13 public.

14 I think, as we have indicated earlier, the
15 TGDC and NIST and EAC staff has already begun
16 work on the next iteration of this document.
17 And that's where we stand, but we do hope to

18 have it all edited and prettied up, cleaned up,
19 ready for distribution, probably within a week
20 to ten days.

21 MS. THOMPSON: Madam Chair, if I
22 might -- I'm not sure that I am on here. I just
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1 wanted to make sure that we stated for the
2 record, of course, in compliance with HAVA, we
3 would publish this document in the Federal
4 Register.

5 In addition, of course, the version that
6 was delivered to us by the TGDC would also be
7 published at that time. So I just wanted to
8 make sure that was clear.

9 CHAIR HILLMAN: So if I understand,
10 individuals and organizations will have access
11 to it through our website and the Federal
12 Register, as well as other versions that we
13 might have available on CD rom.

14 MS. THOMPSON: That's correct.

15 CHAIR HILLMAN: Any other questions?

16 COMMISSIONER MARTINEZ: I do have one
17 quick question. I think we mentioned earlier,
18 perhaps it was Brian Hancock, about the
19 Commission taking a look at a phase-in period or
20 phase-in time for perhaps systems that have been

21 certified in the 2002 voting system standards.

22 And I wanted to ask our counsel to say a word or

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1 two about that process, and how that will fit

2 into our work that is now in full stage of our

3 certification, of taking over the certification

4 process from NASED. I know there's been some

5 discussion about an effective date that we would

6 embrace and possibly looking at a phase-in

7 period for 2002 certified systems.

8 I have if I could ask our counsel to say a

9 quick word about that.

10 MS. THOMPSON: Sure. I will try not

11 to step on Mr. Hancock's recommendation, but the

12 staff recommendation on this issue is that,

13 first of all, that we develop a comprehensive

14 implementation program for the set of voluntary

15 sitting system guidelines through our

16 certification program.

17 As part of that, we would consider the

18 issue of a staged or phased implementation of

19 this, but in order to fully consider that, we

20 feel and recommend to the Commission that you

21 enter into some fact finding and information

22 gathering on this process, and do so through a

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1 public hearing or public meeting whereby you get
2 some testimony from folks that, frankly, have
3 more expertise than myself on that point.

4 VICE-CHAIR DEGREGORIO: I have one
5 question to follow-up with that. That is to
6 Brian, because he had experience in this matter.
7 I do recall in 1990 and 2002, FEC did also have
8 some kind of phase-in process that it developed
9 after it adopted the guidelines.

10 MR. HANCOCK: That's correct,
11 Mr. Vice-Chair. In fact, NASED, who ran the
12 testing and certification at that point, did
13 come out with procedures for their program. And
14 six months after the FEC's adoption, the
15 Commission itself came out with an
16 implementation plan. So, yes, that was very
17 similar functionality at that point.

18 CHAIR HILLMAN: Two quick question
19 with respect to take action on the
20 recommendation about the certification phase-in,
21 or are we taking that under advisement today?

22 MS. THOMPSON: I think that's just
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1 something for you to take under advisement at
2 this point.

3 CHAIR HILLMAN: Mr. Wilkey, I am not
4 remembering the exact name of the GAO report,

5 but not too long ago, the GAO issued the report
6 to us about security of electronic voting
7 machines. I am wondering if the actions we
8 would take today with respect to adopting the
9 Voluntary Voting System Guidelines address the
10 major issues that were raised in that regard.

11 MR. WILKEY: As a matter of fact, it
12 will. And we're in the process, now that this
13 step is over, of preparing a response, a
14 required, 60-day response to certain committees
15 on Capitol Hill, and to follow-up with the GAO
16 on some of the initiatives we were taking, and
17 certainly this document will be part of that
18 presentation.

19 Looking at, for example, the security
20 issues that we factored into this document, I
21 think, goes a long way to meeting some of the
22 recommendations.

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1 CHAIR HILLMAN: Great, okay. If
2 there aren't any other questions, then I think
3 it is appropriate for us to take action on the
4 recommendations that we have received.

5 COMMISSIONER MARTINEZ: Madam Chair,
6 if I may, I think we've seen some tremendous
7 presentations, some very substantive staff

8 recommendations, over the course of the last
9 couple of hours. I know that all four of us,
10 together with staff, have spent long hours
11 fulfilling our obligations as a federal agency
12 to review and consider all of the thoughtful
13 comments that came in from so many citizens and
14 Americans from around the country. I know we've
15 done a lot of thinking throughout the past two
16 hours.

17 I feel like Sally Field accepting her Oscar
18 back in 1980. Being the youngest member of the
19 Commission, I felt that would have some impact.
20 I chose that examine intentionally but it bears
21 repeating, that there have been so many
22 instrumental entities, people, who helped us to
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1 get to this point, perhaps adopting a
2 resolution. Obviously, NIST, and Kennesaw
3 State, our very fine staff here at EAC, Carol
4 Paquette, but really everybody, because we're
5 such a small agency, has had to contribute to
6 the overall work product.

7 Madam Chair, I am very proud of the team
8 that we have put forward. The one entity I have
9 not singled out is the Technical Guidelines
10 Development Committee, because that is a
11 voluntary committee. They don't get paid for

12 that work. You might get expenses reimbursed,
13 but it's a lot of work, and it has led us to the
14 point that we are now.

15 Having said all that, Madam Chair, I move
16 that the EAC formally adopt the Voluntary Voting
17 System Guidelines, as reviewed by the
18 Commissioners and presented by EAC staff. In
19 addition, EAC should be directed to prepare a
20 final copy of the VVSG, and have that document
21 publish in the Federal Register, and posted to
22 our website as soon as is possible.

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1 CHAIR HILLMAN: Okay. Is there a
2 second to the motion?

3 COMMISSIONER DAVIDSON: So moved.

4 CHAIR HILLMAN: All right. We have a
5 motion before us. All in favor? Anybody
6 opposed?

7 Hallelujah, we have a VVSG.

8 Okay. Do we have to do a motion on the
9 Federal Register notice or not, or was it
10 included in Commissioner Martinez's?

11 MS. THOMPSON: The Federal Register,
12 he did include in his motion, instructions to
13 the staff to have the VVSG published in the
14 Federal Register.

15 There was no discussion with regard to the
16 TGDC version.

17 CHAIR HILLMAN: All right. Do I a
18 motion on that?

19 VICE-CHAIR DEGREGORIO: Yes, Madam
20 Chair. I had the honor to serve as the federal
21 officer for the TGDC. Again, they have been
22 recognized today for their valuable work and
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1 their voluntary work. I think about, "It's a
2 Wonderful Life." What would happen if any of
3 these folks had not been part of this process.
4 Fortunately, they have been, the members of the
5 TGDC, they did great work.

6 Under HAVA, their work must be published.
7 Madam Chair, on behalf of the Commission and on
8 behalf of the Technical Guidelines Development
9 Committee, that we publish in the Federal
10 Register recommendations submitted on May 9,
11 2005, and EAC staff insure, consistent with
12 requirements from NAVA, this publication occurs
13 at the same time as the VVSG published
14 March 2nd.

15 MS. DAVIDSON: Second.

16 CHAIR HILLMAN: Motion before us has
17 been made and seconded. All in favor. Anybody
18 opposed. Well, we've got that done too.

19 In closing out the meeting, I want to say
20 this has been an incredibly busy year but a
21 protective year. We have had our share -- what
22 I call lemony snippet, unfortunate events, but
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1 for the most part, its been a good year, no less
2 signified by our going through the elaborate
3 HAVA process to hire an executive director.
4 Mr. Incoming Chair, you have the dubious
5 distinction of being able to serve at the
6 beginning with an executive director, a first
7 for the Election Assistance Commission.

8 And I just want to say that while my head
9 feels tired right now, my spirit and commitment
10 to push this issue forward remains strong. And
11 I think my brain is actually energized, and I
12 want to thank you, Commissioner Davidson, for
13 your kindred spirit of sisterhood on this
14 Commission now. It was kind of a lonely first
15 year-and-a-half, but I want to say that I'm
16 looking forward to serving under the leadership
17 of Paul DeGregorio and Ray Martinez.

18 And I want to especially thank the staff
19 for an incredible year. Many times, I thought I
20 would never have come to work for this agency,
21 no way, but I think that we have all been

22 incredibly lucky to have the talent and
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1 commitment that we do and the staff.

2 Especially, I want to say that I -- I don't

3 think she's here. Sheila Banks, who's been my

4 cane and crush, my detailed organizer throughout

5 the year, and I want to thank you very much as

6 well.

7 Any other comments before we close,

8 Commissioners? If not, it is appropriate that

9 the meeting be adjourned.

10 COMMISSIONER MARTINEZ: Move to

11 adjourn.

12 CHAIR HILLMAN: So moved.

13 (Whereupon at approximately 1:00

14 o'clock, p.m., the above meeting was

15 adjourned.)

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2 CERTIFICATE OF COURT REPORTER

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4 I, Jackie Smith, court reporter in and for
5 the District of Columbia, before whom the foregoing
6 meeting was taken, do hereby certify that the
7 meeting was taken by me at the time and place
8 mentioned in the caption hereof and thereafter
9 transcribed by me; that said transcript is a true
10 record of the meeting.

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Jackie Smith

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