

RULES AND REGULATIONS

Title 7—AGRICULTURE

MILK MARKETING BOARD

[7 PA. CODE CH. 143]

Transactions Between Dealers and Producers

The Milk Marketing Board (Board) amends Chapter 143 (relating to transactions between dealers and producers) by adding § 143.29 (relating to weighing and sampling of direct load milk) and amending § 143.46 (relating to producer receipt for farm bulk milk) under the authority of section 307 of the Milk Marketing Law (31 P. S. § 700j-307).

Notice of proposed rulemaking was published at 40 Pa.B. 3127 (June 12, 2010) with a 30-day public comment period. The Board did not receive comments during the public comment period. The Senate Committee on Agriculture and Rural Affairs and the House Agriculture and Rural Affairs Committee (House and Senate Committees) did not offer comments, suggestions or objections to the proposed rulemaking. The Independent Regulatory Review Commission (IRRC) did not offer recommendations, comments or objections to the proposed rulemaking. No changes have been made from the proposed rulemaking to this final-form rulemaking.

The Board considered this final-form rulemaking and its purpose under the directives of Executive Order 1996-1, "Regulatory Review and Promulgation."

Purpose

The purpose of the final-form rulemaking is to establish regulations to govern the weighing and sampling of milk when it is loaded directly from the milking parlor or milkhouse on a dairy farm into a movable bulk milk tanker for transportation. Most milk produced on dairy farms in this Commonwealth is pumped into bulk tanks on the farm for cooling and storage and picked up every day or every other day and loaded onto bulk milk tankers for transport to the processor. Current Board regulations establish procedures to ensure accurate weighing and sampling of this milk for purposes of payment to producers and require a receipt for the milk to be left with the producer at the time of pickup. While the number of dairy herds in this Commonwealth is decreasing, the average size of dairy herds is increasing. Many dairy herds in this Commonwealth now produce enough milk to fill a semi-trailer bulk milk tanker in 24 hours or less. In these cases it is more efficient and cost effective to rapidly cool the milk and pump it directly onto a bulk milk tanker rather than storing the milk in a bulk tank for later pickup and transport. The existing regulations rely upon bulk tank calibration charts to determine the volume of milk and require agitation by means of the bulk tank agitator prior to sampling of milk in a stationary on-farm bulk tank and therefore will not work for milk loaded directly into mobile bulk tankers. Currently, there are several farms in this Commonwealth direct-loading their milk, using a variety of methods for weighing and sampling that milk. The final-form rulemaking establishes uniform procedures to ensure the accurate weighing and sampling of this milk and also amends the requirements for the producer's receipt for direct load milk.

Comments

The Board did not receive comments during the public comment period. IRRC and the House and Senate Committees did not offer comments, suggestions or objections to the proposed rulemaking.

Paperwork Estimates

The final-form rulemaking requires additional information pertaining to the method of weighing and sampling to be included on the producer's receipt for milk picked up from farms, but relaxes the requirement that the receipt be left at the farm at the time of pick-up.

Fiscal Impact

The final-form rulemaking will not have fiscal impact on the majority of dairy producers who still store milk in bulk tanks, nor on the buyers or haulers of that milk. The final-form rulemaking should not have a negative fiscal impact on those few producers, haulers, weigher/samplers or dealers who will be affected by the regulations. These affected persons may see a positive fiscal impact in the form of time savings and increased efficiency by being able to eliminate the step of pumping milk from bulk tanks into tankers for transport.

Effective Date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Sunset Date

There is not a sunset date.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 27, 2010, the Board submitted a copy of the notice of proposed rulemaking, published at 40 Pa.B. 3127, to IRRC and the Chairpersons of the House and Senate Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on September 14, 2010, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5(g) of the Regulatory Review Act, this final-form rulemaking was deemed approved by IRRC, effective September 15, 2010.

Contact Person

The official responsible for information on this final-form rulemaking is Keith Bierly, Secretary, Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4194.

Findings

The Board finds that:

(1) Public notice of the intention to adopt the final-form rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law.

(3) The final-form rulemaking is necessary and appropriate for the administration of the act.

Order

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 7 Pa. Code Chapter 143, are amended by adding § 143.29 and by amending § 143.46 to read as set forth at 40 Pa.B. 3127.

(b) The Board will submit this order and 40 Pa.B. 3127 to the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Board shall certify this order and 40 Pa.B. 3127 and deposit them with the Legislative Reference Bureau as required by law.

(d) The order shall take effect upon final-form publication in the *Pennsylvania Bulletin*.

RICHARD KRIEBEL,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 5655 (October 9, 2010).)

Fiscal Note: Fiscal Note 47-14 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 10-2308. Filed for public inspection December 3, 2010, 9:00 a.m.]

Title 31—INSURANCE

INSURANCE DEPARTMENT

[31 PA. CODE CH. 160]

[Correction]

Standards to Define Insurers Deemed to be in Hazardous Financial Condition

An error occurred in the final-form rulemaking which appeared at 40 Pa.B. 6661, 6662 (November 20, 2010). The final-form rulemaking should have shown the signature as Robert L. Pratter, Acting Insurance Commissioner.

[Pa.B. Doc. No. 10-2192. Filed for public inspection November 19, 2010, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE REAL ESTATE COMMISSION

[49 PA. CODE CH. 35]

Seller Property Disclosure Statement

The State Real Estate Commission (Commission) adopts §§ 35.284a and 35.335a (relating to disclosures

required by the Real Estate Seller Disclosure Law; and seller property disclosure statement) to read as set forth in Annex A.

Statutory Authority

This final-form rulemaking is authorized under 68 Pa.C.S. § 7304(a) (relating to disclosure form) and sections 404 and 604(a)(15.1) of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. §§ 455.404 and 455.604(a)(15.1)).

Summary

Section 35.284a tracks the duties imposed on licensees who represent sellers and buyers as well as transaction licensees under 63 Pa.C.S. Chapter 73 (relating to Real Estate Seller Disclosure Law) (act). Section 35.335a sets forth the minimum property disclosure statement required under section 7304(b) of the act.

Response to Comments

Notice of proposed rulemaking was published at 40 Pa.B. 2281 (May 1, 2010). Publication was followed by a 30-day public comment period during which the Commission received a public comment from the Pennsylvania Association of Realtors (PAR) and comments from seven individual licensees: Frank Bartalotta, Diane M. LePera, Linda McKissick, Donna Olson, Anthony Rocchino, Terry Sutton and Robin Zellers. Following the close of the public comment period, the Commission received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment.

§ 35.284a(a)—*Seller's agents*

§ 35.284a(b)—*Buyer's agents*

IRRC questioned whether “seller’s agents” and “buyer’s agents” adequately cover all of the agency relationships wherein a real estate licensee is required to provide a seller/buyer with the disclosure statement. PAR recommended that the Commission consider “licensee working with the seller” and “licensee working with the buyer.” The Commission concurs with IRRC and PAR that “seller’s agents” and “buyer’s agents” are not inclusive enough, as these titles do not include transaction licensees who have entered into agreements with sellers and buyers for document preparation and do not include subagents who work on behalf of sellers. However, because “licensees working with the seller/buyer” is too broad, in this final-form rulemaking the Commission amended these titles to read “a licensee who represents sellers or a transaction licensee who has entered into an agreement with sellers” in subsection (a) and “a licensee who represents buyers or a transaction licensee who has entered into an agreement with buyers” in subsection (b). As part of this amendment, the Commission addressed the HPLC’s question as to whether the references to “seller’s agents” and “buyer’s agents” were grammatically correct by making the subject singular.

§ 35.284a(a)(1)—*Seller's agent shall advise sellers of duty to disclose known material defects by completing a property disclosure statement*

Terry Sutton and Robin Zellers questioned whether sellers of commercial, industrial or multifamily residential properties shall also complete the seller disclosure statements. Section 7302 of the act (relating to application of chapter) delineates that only residential properties are included in the seller disclosure requirement. “Resi-

dential real estate transfer” is defined in 68 Pa.C.S. § 7103(a) (relating to application of part) as consisting of “not less than one nor more than four residential dwelling units. . . .”

Anthony Rocchino and Donna Olsen questioned whether disclosure is required for new construction, estates or bank foreclosures. Eight exceptions to the requirement that the seller disclosure statement be provided for residential properties are listed in 68 Pa.C.S. § 7103(b) and two are listed in section 7302(a) of the act. Under those sections, transfers of estates, foreclosures and new residential construction are exempt.

Anthony Rocchino also questioned whether disclosures are required when the seller has not lived in the home or investment property or managed the property actively. These scenarios do not fall within the exceptions in 68 Pa.C.S. § 7103(b) and section 7302(a) of the act and a disclosure is required. However, under section 7306 of the act (relating to information unavailable to seller), if an item of information required to be disclosed is unknown or not available to the seller, the seller may make a disclosure based on the best information available to the seller.

§ 35.284a(a)(3)—*Seller shall deliver a completed disclosure statement or one marked “refused” to buyer/buyer’s agent*

PAR remarked that the act imposes the duty on the seller and not the licensee representing or working with the seller to deliver the disclosure statement. However, PAR acknowledged that in most cases licensees involved in the transaction assume this responsibility. The Commission concurs with PAR and therefore, under this paragraph, requires licensees who represent sellers or transaction licensees who have entered into agreements with sellers to deliver either the completed disclosure statement or one marked refused.

Linda McKissick commented that sellers should not be permitted to refuse to complete the seller disclosure statement. Further, PAR commented that requiring the delivery of refused-marked statements could potentially increase the number of sellers who refuse to complete seller disclosure statements and increase liability. IRRC requested that the Commission address the impact of requiring delivery of disclosure statements marked “refused.”

Section 7311 of the act (relating to failure to comply) permits sellers to refuse to provide the disclosure statement by stating that the transaction will not be invalidated because the seller fails to provide the disclosure statement. Thus, the ability to refuse is not new. Requiring sellers to mark the disclosure statements refused provides applicable licensees with documentary evidence that they satisfied their duties. Further, there is no empirical evidence to suggest that the number of refusals will increase simply because licensees shall deliver the refused-marked statement. To the contrary, it is not financially advantageous for sellers to refuse. First, section 7311 of the act subjects sellers who fail to complete disclosure statements to damages for failure to comply with the disclosure requirement. Second, because as PAR points out, it is commonplace for completed disclosure statements to be transmitted to the multiple listing service (MLS) and made available online. For marketing purposes, it would be highly noticeable for a seller not to include a completed disclosure statement with the listing.

The Commission is also not persuaded by the concern that liability for licensees will increase because they will

have more to disclose under the act, in that section 7310 of the act (relating to nonliability of agent) places an affirmative obligation of disclosure on agents for sellers and buyers who have actual knowledge of a material defect that was not disclosed to the buyer or of a misrepresentation regarding a material defect. Because this comment is premised on increased refusals and because the obligation on licensees to report known material defects is also not new, it is also only speculative that there will be an increase in liability. In this final-form rulemaking, the Commission did not amend this provision.

Both IRRC and PAR question what delivery method would be satisfactory under this provision. PAR recommended that the Commission add the clause “publishing the Seller’s Property Disclosure Statement at a location where selling agents have access.” While the Commission concurs with PAR that placement on the MLS is commonly used and would in fact favor this method, section 7305 of the act (relating to delivery of disclosure form) restricts the method of delivery to “personal delivery; first class mail; certified mail, return receipt requested; or facsimile transmission.” Until the act is amended, the Commission cannot permit online delivery to satisfy the statutory requirement. Accordingly, it has not incorporated the language recommended by PAR.

§ 35.284a(b)(1)—*Buyer’s agent shall advise buyers of seller’s duty*

In the event that the buyer is not represented, PAR recommended that the Commission should require that the licensee who has entered into a business relationship with the seller bear the responsibilities in § 35.284a(b)(1). While the Commission has chosen not to implement this affirmative duty, it believes that this conversation will occur when, under subsection (a)(3), licensees who represent sellers or transaction licensees who have entered into agreements with sellers deliver either the completed disclosure statement or one marked refused to the buyer when the buyer does not have representation.

§ 35.284a(b)(2)—*Buyer’s agent shall deliver a completed disclosure statement or one marked “refused” to buyer*

PAR commented that delivery of the completed/refused-marked disclosure statement by the buyer’s agent would be redundant if delivery had already been made under subsection (a). IRRC requested the Commission to clarify this issue. The Commission concurs with this comment and changed the requirement from delivery to assurance that delivery has been made.

§ 35.284a(c) and (d)—*Seller’s agents and buyers agents are required to disclose known defects but are not required to make independent inspection*

IRRC requested that the Commission address whether these subsections should apply to anyone involved in the transaction. Like its comment to subsections (a) and (b), PAR recommended that they do. The Commission concurs with PAR and revised these subsections consistent with the changes made to subsections (a) and (b).

Diane M. LePera questioned what are “known material defects.” Section 7102 of 68 Pa.C.S. (relating to definitions) defines “material defect” as “a problem with a residential real property or any portion of it that would have a significant adverse impact on the value of the property or that involves an unreasonable risk to people on the property. The fact that a structural element, system or subsystem is near, at or beyond the end of the normal useful life of such a structural element, system or

subsystem is not by itself a material defect.” When sellers, licensees representing sellers/buyers or transaction licensees who have entered into agreements with them know of these conditions it is a “known material defect.”

Linda McKissick questioned whether this section requires licensees to verify the information provided by seller on the disclosure statement. Under section 7310 of the act, licensees representing sellers/buyers or transaction licensees who have entered into agreements with them are not liable for a violation of the act unless the aforementioned licensee had actual knowledge of a material defect that was not disclosed to the buyer or of a misrepresentation regarding a material defect. In fact, while sellers are required to provide accurate information about known material defects under sections 7303 and 7308 of the act (relating to disclosure of material defects; and affirmative duty of seller), they are not required to conduct a specific investigation or inquiry in an effort to complete the property disclosure statement.

§ 35.335a—Seller disclosure statement

PAR commented that Question (12) on the disclosure statement should require a listing of items that are included in the sale and not just those in need of repair. In that 68 Pa.C.S. § 7103 only requires sellers to disclose material defects, the Commission believes that it is overly burdensome to require a listing of appliances that are included in the sale rather than simply those that are in need of repair.

The HPLC recommended that the Commission delete the address and telephone number in Question (13) so that the regulations would not have to be amended in the event that the Mine Subsidence Insurance Fund changes its address or telephone number. The Commission agrees with the HPLC and deleted this information.

The HPLC questioned whether it would be useful to list another reason for easements other than utility service in Question (13)(vi). The Commission appreciates that in addition to utility service easements may be granted for flag-lots, walking trails and shared driveways. Nonetheless, because the act only lists utility service and the Commission chose not to amend the former disclosure statement in another area aside from removing an address and a telephone number at the HPLC’s urging, the Commission has not amended this question.

Frank Bartakotta recommended that the Commission include specific questions about lead-based paint and mold on the disclosure statement. These conditions are currently included within Question (14) on the disclosure form. A further amendment is not required.

The HPLC questioned why there was an asterisk in Question (15) following “condominium.” The Commission removed this typographical error in this final-form rule-making.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will not have adverse fiscal impact or paperwork requirements on the Commission, licensees, the Commonwealth, its political subdivisions or the public sector.

Sunset Date

The Commission continually monitors the effectiveness of its regulations through communication with the regulated population; accordingly, a sunset date has not been set.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 21, 2010, the Commission submitted a copy of the notice of proposed rulemaking, published at 40 Pa.B. 2281, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Commission has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on September 28, 2010, the final-form rulemaking was approved by the HPLC. On October 20, 2010, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 21, 2010, and approved the final-form rulemaking.

Contact Person

Further information may be obtained by contacting Patricia Ridley, Administrator, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-3658.

Findings

The Commission finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The amendments to the final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 40 Pa.B. 2281.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing acts in Part B of this preamble.

Order

The Commission, acting under its authorizing statutes, orders that:

(a) The regulations of the Commission, 49 Pa. Code Chapter 35, are amended by adding §§ 35.284a and 35.335a to read as set forth in Annex A.

(b) The Commission shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

(c) The Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on publication in the *Pennsylvania Bulletin*.

JOSEPH TARANTINO, Jr.,
Chairperson

(Editor’s Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 6487 (November 6, 2010).)

Fiscal Note: Fiscal Note 16A-5618 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 35. STATE REAL ESTATE COMMISSION

Subchapter E. STANDARDS OF CONDUCT AND PRACTICE

GENERAL ETHICAL RESPONSIBILITIES

§ 35.284a. Disclosures required by the Real Estate Seller Disclosure Law.

(a) A licensee who represents sellers or a transaction licensee who has entered into an agreement with sellers shall:

(1) Advise sellers of their duty to disclose any known material defects with the property by completing a property disclosure statement that satisfies the requirements in 68 Pa.C.S. § 7304 (relating to disclosure form).

(2) Provide sellers with a property disclosure statement that meets or exceeds the disclosures set forth in § 35.335a (relating to seller property disclosure statement).

(3) Deliver the completed property disclosure statement or the property disclosure statement marked "refused" to the buyer, the licensee who represents the buyer or the transaction licensee who has entered into an agreement with the buyer prior to the execution of an agreement of sale.

(b) A licensee who represents buyers or a transaction licensee who has entered into an agreement with buyers shall:

(1) Advise buyers that sellers have a duty to provide a completed property disclosure statement.

(2) Assure that the completed property disclosure statement or the property disclosure statement marked "refused" was delivered to the buyer prior to the execution of an agreement of sale.

(c) Licensees described in subsections (a) and (b) are required to disclose, to the buyer in writing, all material defects that are not otherwise disclosed and of which the licensee has actual knowledge.

(d) Licensees described in subsections (a) and (b) are not required to conduct an independent investigation to confirm seller's disclosures on the property disclosure statement.

REAL ESTATE DOCUMENTS

§ 35.335a. Seller property disclosure statement.

The seller's property disclosure statement must, at a minimum, contain the following disclosures:

Seller's Property Disclosure Statement

Property address: _____

Seller: _____

A seller must disclose to a buyer all known material defects about property being sold that are not readily observable. This disclosure statement is designed to assist the seller in complying with disclosure requirements and to assist the buyer in evaluating the property being considered.

This statement discloses the seller's knowledge of the condition of the property as of the date signed by the seller and is not a substitute for any inspections or warranties that the buyer may wish to obtain. This statement is not a warranty of any kind by the seller or a warranty or representation by any listing real estate broker, any selling real estate broker or their agents. The buyer is encouraged to address concerns about the condition of the property that may not be included in this statement. This statement does not relieve the seller of the obligation to disclose a material defect that may not be addressed on this form.

A material defect is a problem with the property or any portion of it that would have a significant adverse impact on the value of the residential real property or that involves an unreasonable risk to people on the land. The fact that a structural element, system or subsystem is near, at or beyond the end of its normal useful life is not by itself a material defect.

(1) Seller's expertise. The seller does not possess expertise in contracting, engineering, architecture or other areas related to the construction and condition of the property and its improvements, except as follows: _____

(2) Occupancy. Do you, the seller, currently occupy this property? ___ yes ___ no

If "no," when did you last occupy the property? _____

(3) Roof.

(i) Date roof was installed: _____ . Documented? ___ yes ___ no ___ unknown

(ii) Has the roof been replaced or repaired during your ownership? ___ yes ___ no

If "yes," were the existing shingles removed? ___ yes ___ no ___ unknown

(iii) Has the roof ever leaked during your ownership? ___ yes ___ no

(iv) Do you know of any problems with the roof, gutters or downspouts? ___ yes ___ no

Explain any "yes" answers that you give in this section:

(4) Basements and crawl spaces (Complete only if applicable).

(i) Does the property have a sump pump? ___ yes ___ no ___ unknown

(ii) Are you aware of any water leakage, accumulation or dampness within the basement or crawl space? ___ yes ___ no

If "yes," describe in detail: _____

(iii) Do you know of any repairs or other attempts to control any water or dampness problem in the basement or crawl space? ___ yes ___ no

If "yes," describe the location, extent, date and name of the person who did the repair or control effort: _____

(5) Termites/wood destroying insects, dry rot, pests.

(i) Are you aware of any termites/wood destroying insects, dry rot or pests affecting the property? ___ yes ___ no

(ii) Are you aware of any damage to the property caused by termites/wood destroying insects, dry rot or pests? ___ yes ___ no

(iii) Is your property currently under contract by a licensed pest control company? ___ yes ___ no

(iv) Are you aware of any termite/pest control reports or treatments for the property in the last five years? ___ yes ___ no

Explain any "yes" answers that you give in this section:

(6) *Structural items.*

(i) Are you aware of any past or present water leakage in the house or other structures? ___ yes ___ no

(ii) Are you aware of any past or present movement, shifting, deterioration or other problems with walls, foundations or other structural components? ___ yes ___ no

(iii) Are you aware of any past or present problems with driveways, walkways, patios or retaining walls on the property? ___ yes ___ no

Explain any "yes" answers that you give in this section:

When explaining efforts to control or repair, please describe the location and extent of the problem and the date and person by whom the work was done, if known:

(7) *Additions/remodeling.* Have you made any additions, structural changes or other alterations to the property? ___ yes ___ no

If "yes," please describe: _____

(8) *Water and sewage.*

(i) What is the source of your drinking water? ___ public ___ community system ___ well on property ___ other

If "other," please explain: _____

(ii) If your drinking water source is not public: _____

When was your water last tested? _____

What was the result of the test? _____

Is the pumping system in working order? ___ yes ___ no

If "no," please explain: _____

(iii) Do you have a softener, filter or other purification system? ___ yes ___ no

If "yes," is the system: ___ leased ___ owned

(iv) What is the type of sewage system? ___ public sewer ___ private sewer ___ septic tank ___ cesspool ___ other

If "other," please explain: _____

(v) Is there a sewage pump? ___ yes ___ no

If "yes," is it in working order? ___ yes ___ no

(vi) If applicable, when was the septic system or cesspool last serviced? _____

(vii) Is either the water or sewage system shared? ___ yes ___ no

If "yes," please explain: _____

(viii) Are you aware of any leaks, backups or other problems relating to any of the plumbing, water and sewage-related items? ___ yes ___ no

If "yes," please explain: _____

(9) *Plumbing system.*

(i) Type of plumbing: ___ copper ___ galvanized ___ lead ___ PVC ___ unknown ___ other

If "other," please explain: _____

(ii) Are you aware of any problems with any of your plumbing fixtures (including, but not limited to: kitchen, laundry or bathroom fixtures, wet bars, hot water heater, etc.)? ___ yes ___ no

If "yes," please explain: _____

(10) *Heating and air conditioning.*

(i) Type of air conditioning: ___ central electric ___ central gas ___ wall ___ none

(ii) List any areas of the house that are not air conditioned: _____

(iii) Type of heating: ___ electric ___ fuel oil ___ natural gas ___ other

If "other," please explain: _____

(iv) List any areas of the house that are not heated: _____

(v) Type of water heating: ___ electric ___ gas ___ solar ___ other

If "other," please explain: _____

(vi) Are you aware of any underground fuel tanks on the property? ___ yes ___ no

If "yes," please describe: _____

Are you aware of any problems with any item in this section? ___ yes ___ no

If "yes," please explain: _____

(11) *Electrical system.* Are you aware of any problems or repairs needed in the electrical system? ___ yes ___ no

If "yes," please explain: _____

(12) *Equipment and appliances.*

The following items included in the sale are in need of repair or replacement: _____

(13) *Land (soils, drainage and boundaries).*

(i) Are you aware of any fill or expansive soil on the property? ___ yes ___ no

(ii) Are you aware of any sliding, settling, earth movement, upheaval, subsidence or earth stability problems that have occurred on or that affect the property? ___ yes ___ no

NOTE TO BUYER: Some properties may be subject to mine subsidence damage. Maps of the counties and mines where mine subsidence damage may occur and mine subsidence insurance are available through the Department of Environmental Protection, Mine Subsidence Insurance Fund.

(iii) Are you aware of any existing or proposed mining, strip mining or any other excavations that might affect this property? ___ yes ___ no

(iv) To your knowledge, is this property or part of it located in a flood zone or wetlands area? ___ yes ___ no

(v) Do you know of any past or present drainage or flooding problems affecting the property? ___ yes ___ no

(vi) Do you know of any encroachments, boundary line disputes or easements? ___ yes ___ no

NOTE TO BUYER: Most properties have easements running across them for utility services and other reasons. In many cases, the easements do not restrict the ordinary use of the property, and the seller may not be readily aware of them. Buyers may wish to determine the existence of easements and restrictions by examining the property and ordering an abstract of title or searching the records in the Office of the Recorder of Deeds for the county before entering into an agreement of sale.

(vii) Are you aware of any shared or common areas (for example, driveways, bridges, docks, walls, etc.) or maintenance agreements? ___ yes ___ no

Explain any "yes" answers that you give in this section:

(14) Hazardous substances.

(i) Are you aware of any underground tanks or hazardous substances present on the property (structure or soil), including, but not limited to, asbestos, polychlorinated byphenyls (PCBs), radon, lead paint, urea-formaldehyde foam insulation (UFFI), etc? ___ yes ___ no

(ii) To your knowledge, has the property been tested for any hazardous substances? ___ yes ___ no

(iii) Do you know of any other environmental concerns that might impact upon the property? ___ yes ___ no

Explain any "yes" answers that you give in this section:

(15) Condominiums and other homeowners associations (complete only if applicable).

Type: ___ condominium* ___ cooperative ___ homeowners association ___ other

If "other," please explain: _____

NOTICE REGARDING CONDOMINIUMS AND COOPERATIVES:

According to section 3407 of the Uniform Condominium Act (68 Pa.C.S. § 3407) (relating to resales of units) and 68 Pa.C.S. § 4409 (relating to resales of cooperative interests), a buyer of a resale unit in a condominium or cooperative must receive a certificate of resale issued by the association in the condominium or cooperative. The buyer will have the option of canceling the agreement with return of all deposit moneys until the certificate has been provided to the buyer and for 5 days thereafter or until conveyance, whichever occurs first.

(16) Miscellaneous.

(i) Are you aware of any existing or threatened legal action affecting the property? ___ yes ___ no

(ii) Do you know of any violations of Federal, State or local laws or regulations relating to this property? ___ yes ___ no

(iii) Are you aware of any public improvement, condominium or homeowner association assessments against the property that remain unpaid or of any violations of zoning, housing, building safety or fire ordinances that remain uncorrected? ___ yes ___ no

(iv) Are you aware of any judgment, encumbrance, lien (for example, comaker or equity loan) or other debt against this property that cannot be satisfied by the proceeds of this sale? ___ yes ___ no

(v) Are you aware of any reason, including a defect in title, that would prevent you from giving a warranty deed or conveying title to the property? ___ yes ___ no

(vi) Are you aware of any material defects to the property, dwelling or fixtures which are not disclosed elsewhere on this form? ___ yes ___ no

A material defect is a problem with the property or any portion of it that would have a significant adverse impact on the value of the residential real property or that involves an unreasonable risk to people on the land.

Explain any "yes" answers that you give in this section:

The undersigned seller represents that the information set forth in this disclosure statement is accurate and complete to the best of the seller's knowledge. The seller hereby authorizes any agent for the seller to provide this information to prospective buyers of the property and to other real estate agents. The seller alone is responsible for the accuracy of the information contained in this statement. The seller shall cause the buyer to be notified in writing of any information supplied on this form that is rendered inaccurate by a change in the condition of the property following the completion of this form.

SELLER _____ DATE _____
SELLER _____ DATE _____
SELLER _____ DATE _____

EXECUTOR, ADMINISTRATOR, TRUSTEE

The undersigned has never occupied the property and lacks the personal knowledge necessary to complete this disclosure statement.

DATE _____

RECEIPT AND ACKNOWLEDGMENT BY BUYER

The undersigned buyer acknowledges receipt of this disclosure statement. The buyer acknowledges that this statement is not a warranty and that, unless stated otherwise in the sales contract, the buyer is purchasing this property in its present condition. It is the buyer's responsibility to satisfy himself or herself as to the condition of the property. The buyer may request that the property be inspected, at the buyer's expense and by qualified professionals, to determine the condition of the structure or its components.

BUYER _____ DATE _____
BUYER _____ DATE _____
BUYER _____ DATE _____

[Pa.B. Doc. No. 10-2309. Filed for public inspection December 3, 2010, 9:00 a.m.]

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 523, 541, 543, 549 AND 565]

Table Game Equipment, Minibaccarat, Midibaccarat, Blackjack and Three Card Poker Amendments; Temporary Regulations

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (P.L. 1, No. 1) (Act 1) and the specific authority in 4 Pa.C.S. § 1302A(1) and (2) (relating to regulatory authority), amends temporary regulations in Chapters 523, 541, 543, 549 and 565 to read as set forth in Annex A. The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

Purpose of the Temporary Rulemaking

This temporary rulemaking amends Chapter 523 (relating to table game equipment) to clarify a previous amendment and amends the rules of Minibaccarat, Midibaccarat and Three Card Poker in response to requests received from certificate holders.

Explanation of Chapters 523, 541, 543, 549 and 565

The Board has received numerous requests for optional side wagers on games that are currently approved for play.

In the temporary rulemaking published at 40 Pa.B. 6095 (October 23, 2010) (Fiscal Note 125-133), the Board amended § 523.10(l) (relating to exchange and redemption of gaming chips and plaques) regarding the acceptance of value chips as personal gratuities to allow for the acceptance of value chips in exchange for food and beverage served on the gaming floor. In § 523.10(l), language was added to clarify that only cocktail servers who are serving on the gaming floor from nonfixed locations may accept value chips in exchange for food or beverage served to patrons on the gaming floor. Nonfixed locations would be the gaming floor but would not include the bars, restaurants or grab-and-go locations.

In Chapters 541 and 543 (relating to Minibaccarat; and Midibaccarat), the Dragon Bonus Wager was added as an optional side wager. The requirements for table layouts were added in §§ 541.2(c)(6) and 543.2(c)(6) (relating to Minibaccarat table physical characteristics; and Midibaccarat table physical characteristics). The rules of the side wager were added in §§ 541.8(a)(4) and 543.8(a)(4) (relating to wagers) with the payout odds added in §§ 541.13(d) and 543.13(d) (relating to payout odds; vigorous).

Also in Chapter 543, § 543.9 (relating to hands of player and banker; procedure for dealing initial two cards to each hand) has been amended to eliminate a dealing inconsistency between Minibaccarat and Midibaccarat. This temporary rulemaking clarifies players in Midibaccarat do touch the cards, which is unlike Minibaccarat where players are not permitted to touch cards. The language regarding dealing procedures when players are not allowed to touch the cards was therefore removed.

In the temporary rulemaking published at 40 Pa.B. 6520 (November 13, 2010) (Fiscal Note 125-134), the Board amended § 549.20 (relating to Royal Match 21 Wager), regarding Blackjack. In § 549.20(g), a pay table was added to accommodate the Royal Match 21 Wager on

electronic Blackjack which pays out on the Crown Treasure Bonus at odds of 1,000 for 1.

In Chapter 565 (relating to Three Card Poker), the Six Card Bonus Wager was added to Three Card Poker. The requirements for table layouts were added in § 565.2 (relating to Three Card Poker table physical characteristics), the card rankings for the wager were added in § 565.6(d) (relating to Three Card Poker rankings) and the procedures for the completion of play when a player places a Six Card Bonus Wager were added in § 565.11 (relating to Procedures for completion of each round of play). Section 565.11b (relating to Six Card Bonus Wager) is added to provide the dealing procedure for the wager. The payout odds were added to § 565.12 (relating to payout odds; Envy Bonus; rate of progression; payout limitation).

Affected Parties

This temporary rulemaking will allow certificate holders additional options on how to conduct table games at their licensed facilities.

Fiscal Impact

Commonwealth

The Board does not expect that the amendments in this temporary rulemaking will have fiscal impact on the Board or other Commonwealth agencies. Internal control procedures submitted by certificate holders regarding table games rules submissions will be reviewed by existing Board staff.

Political subdivisions

This temporary rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth. Eventually, host municipalities and counties will benefit from the local share funding that is mandated by Act 1.

Private sector

This temporary rulemaking will give certificate holders some additional flexibility as to how they conduct table games. The addition of an optional side wager may increase the wagers in Minibaccarat, Midibaccarat, Blackjack and Three Card Poker.

General public

This temporary rulemaking will not have direct fiscal impact on the general public.

Paperwork Requirements

If a certificate holder elects to offer additional side wagers, it will have to submit updated rules submissions for approval and update gaming guides offered to the public to reflect the additional wagers available.

Effective Date

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Public Comments

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how these temporary regulations might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Susan A. Yocum, Assistant Chief Counsel, Pennsylvania Gaming Control Board, P.O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-136.

Contact Person

The contact person for questions about this temporary rulemaking is Susan A. Yocum, Assistant Chief Counsel, at (717) 265-8356.

Regulatory Review

Under 4 Pa.C.S. § 1303A, the Board is authorized to adopt temporary regulations which are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), the Regulatory Review Act (71 P. S. §§ 745.1—745.12) and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P. S. §§ 732-204(b) and 732-301(10)). These temporary regulations expire 2 years after publication in the Pennsylvania Bulletin.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1303A, the temporary regulations are exempt from the requirements of the Regulatory Review Act, sections 201—205 of the CDL and sections 204(b) and 301(10) of the Commonwealth Attorneys Act.

(2) The adoption of the temporary regulations is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(1) The regulations of the Board, 58 Pa. Code Chapters 523, 541, 543, 549 and 565, are amended by adding § 565.11b and by amending §§ 523.10, 541.2, 541.8, 541.13, 543.2, 543.8—543.10, 543.13, 543.14, 549.20, 565.1, 565.2, 565.6, 565.7, 565.11 and 565.12 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(2) The temporary regulations are effective December 4, 2010.

(3) The temporary regulations will be posted on the Board's web site and published in the Pennsylvania Bulletin.

(4) The temporary regulations are subject to amendment as deemed necessary by the Board.

(5) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

GREGORY C. FAJT, Chairperson

Fiscal Note: 125-136. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart K. TABLE GAMES

CHAPTER 523. TABLE GAME EQUIPMENT

§ 523.10. Exchange and redemption of gaming chips and plaques.

* * * * *

(1) Employees of a certificate holder may be authorized to receive value chips as personal gratuities. Additionally, cocktail servers and other employees who are serving food and beverage on the gaming floor from nonfixed locations may be authorized to receive value chips in exchange for

food and beverage purchased and served to patrons on the gaming floor. Employees of a certificate holder who are authorized to receive value chips as personal gratuities may redeem the value chips at the cashiers' cage or at another secure location, as approved by the Board, prior to leaving the licensed facility. Value chips redeemed at a noncage employee redemption site shall be exchanged on a daily basis with the cashiers' cage in accordance with procedures approved by the Board. Each certificate holder shall submit to the Board for approval internal controls to ensure the proper exchange and accounting of the value chips received as personal gratuities and for the purchase of food and beverage on the gaming floor.

* * * * *

CHAPTER 541. MINIBACCARAT

§ 541.2. Minibaccarat table physical characteristics.

* * * * *

(c) The layout for a Minibaccarat table shall be approved by the Bureau of Gaming Operations and contain, at a minimum:

* * * * *

(6) If a certificate holder offers the Dragon Bonus Wager:

(i) A separate area designated for the placement of the Dragon Bonus Wager.

(ii) Inscriptions that advise patrons of the payout odds for the Dragon Bonus Wager. If the payout odds are not inscribed on the layout, a sign identifying the payout odds for the Dragon Bonus Wager shall be posted at each Minibaccarat table.

* * * * *

§ 541.8. Wagers.

(a) The following wagers shall be permitted to be made by a player at the game of Minibaccarat:

(1) A wager on the Banker's Hand which shall:

(i) Win if the Banker's Hand has a Point Count higher than that of the Player's Hand.

(ii) Lose if the Banker's Hand has a Point Count lower than that of the Player's Hand.

(iii) Be void if the Banker's Hand and the Player's Hand have the same Point Count and either:

(A) Be returned to the player.

(B) If the licensee charges vigorish in accordance with § 541.13(g) (relating to payout odds; vigorish), be charged a vigorish equal to 25% of the wager.

(2) A wager on the Player's Hand which shall:

(i) Win if the Player's Hand has a Point Count higher than that of the Banker's Hand.

(ii) Lose if the Player's Hand has a Point Count lower than that of the Banker's Hand.

(iii) Be void and be returned to the player if the Point Counts of the Banker's Hand and the Player's Hand are equal.

(3) A Tie Bet which shall:

(i) Win if the Point Counts of the Banker's Hand and the Player's Hand are equal.

(ii) Lose if Point Counts of the Banker's Hand and the Player's Hand are not equal.

(4) If offered by a certificate holder, a Dragon Bonus Wager on the Player's Hand or Banker's Hand, or both, which shall:

- (i) Win if the selected hand is:
 - (A) A Natural and the other hand is not a Natural.
 - (B) A Natural 9 and the other hand is a Natural 8.
 - (C) Not a Natural and has a Point Count that exceeds the Point Count of the other hand by four or more points.
- (ii) Lose if the selected hand is:
 - (A) A Natural 8 and the other hand is a Natural 9.
 - (B) Not a Natural and has a Point Count less than or equal to the Point Count of the other hand.
 - (C) Not a Natural and has a Point Count that exceeds the Point Count of the other hand by less than four points.
- (iii) Tie if the selected hand is a Natural and the other hand is a Natural of equal Point Count and either:
 - (A) Be returned to the player.
 - (B) If the licensee charges a vigorish in accordance with § 541.13(g), be charged a vigorish equal to 25% of the wager.

(b) Wagers at Minibaccarat shall be made by placing gaming chips or plaques on the appropriate areas of the Minibaccarat layout. A verbal wager, accompanied by cash may be accepted provided the verbal wager is confirmed by the dealer calling the game and the cash is expeditiously converted into gaming chips or plaques.

(c) No wager at Minibaccarat may be made, increased or withdrawn after the dealer has announced "no more bets."

§ 541.13. Payout odds; vigorish.

- (a) A winning wager made on the Player's Hand shall be paid off by a certificate holder at odds of 1 to 1.
- (b) A winning Tie Bet shall be paid off by a certificate holder at odds of at least 8 to 1.
- (c) Except as otherwise provided in subsection (g), a winning wager made on the Banker's Hand shall be paid off by a certificate holder at odds of 1 to 1, except that the certificate holder shall extract a vigorish from the winning players in an amount equal to the amount specified in the Rules Submission under § 521.2 (relating to table games Rules Submissions) of either 4% or 5% of the amount won.
- (d) If a certificate holder offers the Dragon Bonus Wager, a vigorish may not be extracted on a winning Dragon Bonus Wager. Winning Dragon Bonus Wagers shall be paid out at the odds in one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 521.2:

<i>Hand</i>	<i>Payout A</i>	<i>Payout B</i>	<i>Payout C</i>
Win by 9 Points	30 to 1	20 to 1	30 to 1
Win by 8 Points	10 to 1	8 to 1	10 to 1
Win by 7 Points	6 to 1	7 to 1	4 to 1
Win by 6 Points	4 to 1	4 to 1	4 to 1
Win by 5 Points	2 to 1	3 to 1	2 to 1
Win by 4 Points	1 to 1	1 to 1	2 to 1
Natural winner	1 to 1	1 to 1	1 to 1

(e) When collecting the vigorish, the certificate holder may round off the vigorish to 5 cents or the next highest multiple of 5 cents.

(f) A dealer, in accordance with the option selected in the certificate holders Rules Submission under § 521.2, may collect the vigorish from a player at the time the winning payout is made or may defer it to a later time; provided, however, that outstanding vigorish shall be collected prior to reshuffling the cards in a dealing shoe or when the player leaves the gaming table, whichever occurs first. The amount of any vigorish not collected at the time of the winning payouts shall be tracked by placing a coin or marker button containing the amount of the vigorish owed in a rectangular space in front of the dealer on the layout imprinted with the number of the player owing the vigorish. The coin or marker button may not be removed from the layout until the vigorish owed is collected.

(g) A certificate holder may, in its Rules Submission under § 521.2, elect to charge every player at a Minibaccarat table a vigorish equal to 25% of the player's wager on the Banker's Hand if the Point Counts of the Banker's Hand and the Player's Hand are equal. The vigorish authorized by this subsection shall be collected at the end of the round of play and prior to any cards being dealt for the next round of play. If a certificate holder elects to charge the vigorish authorized by this subsection, the vigorish otherwise required by subsection (c) may not be collected.

(h) The type and percentage of vigorish charged at a Minibaccarat table applies to all players at that table. The same type and percentage of vigorish shall be used for all Minibaccarat tables located within a licensed facility.

CHAPTER 543. MIDIBACCARAT

§ 543.2. Midibaccarat table physical characteristics.

* * * * *

(c) The layout for a Midibaccarat table shall be approved by the Bureau of Gaming Operations and contain, at a minimum:

* * * * *

(6) If a certificate holder offers the Dragon Bonus Wager:

(i) A separate area designated for the placement of the Dragon Bonus Wager.

(ii) Inscriptions that advise patrons of the payout odds for the Dragon Bonus Wager. If the payout odds are not inscribed on the layout, a sign identifying the payout odds for the Dragon Bonus Wager shall be posted at each Midibaccarat table.

* * * * *

§ 543.8. Wagers.

(a) The following wagers shall be permitted to be made by a player at the game of Midibaccarat:

(1) A wager on the Banker's Hand which shall:

(i) Win if the Banker's Hand has a Point Count higher than that of the Player's Hand.

(ii) Lose if the Banker's Hand has a Point Count lower than that of the Player's Hand.

(iii) Be void if the Banker's Hand and the Player's Hand have the same Point Count and either:

(A) Be returned to the player.

(B) If the licensee charges vigorish in accordance with the provisions of § 543.13(g) (relating to payout odds; vigorish), be charged a vigorish equal to 25% of the wager.

(2) A wager on the Player's Hand which shall:

(i) Win if the Player's Hand has a Point Count higher than that of the Banker's Hand.

(ii) Lose if the Player's Hand has a Point Count lower than that of the Banker's Hand.

(iii) Be void and be returned to the player if the Point Counts of the Banker's Hand and the Player's Hand are equal.

(3) A Tie Bet which shall:

(i) Win if the Point Counts of the Banker's Hand and the Player's Hand are equal.

(ii) Lose if Point Counts of the Banker's Hand and the Player's Hand are not equal.

(4) If offered by a certificate holder, a Dragon Bonus Wager on the Player's Hand or Banker's Hand, or both, which shall:

(i) Win if the selected hand is:

(A) A Natural and the other hand is not a Natural.

(B) A Natural 9 and the other hand is a Natural 8.

(C) Not a Natural and has a Point Count that exceeds the Point Count of the other hand by four or more points.

(ii) Lose if the selected hand is:

(A) A Natural 8 and the other hand is a Natural 9.

(B) Not a Natural and has a Point Count less than or equal to the Point Count of the other hand.

(C) Not a Natural and has a Point Count that exceeds the Point Count of the other hand by less than four points.

(iii) Tie if the selected hand is a Natural and the other hand is a Natural of equal Point Count and either:

(A) Be returned to the player.

(B) If the licensee charges a vigorish in accordance with § 541.13(g), be charged a vigorish equal to 25% of the wager.

(b) Wagers at Midibaccarat shall be made by placing gaming chips or plaques on the appropriate areas of the Midibaccarat layout. A verbal wager, accompanied by cash may be accepted provided the verbal wager is confirmed by the dealer calling the game and the cash is expeditiously converted into gaming chips or plaques.

(c) No wager at Midibaccarat may be made, increased or withdrawn after the dealer has announced "no more bets."

§ 543.9. Hands of player and banker; procedure for dealing initial two cards to each hand.

(a) There shall be two hands dealt in the game of Midibaccarat, one of which shall be designated the Player's Hand and the other designated the Banker's Hand.

(b) Prior to dealing any cards, the dealer calling the game shall announce "no more bets."

(c) The dealer shall then deal an initial four cards from the dealing shoe. The first and third cards dealt shall be placed face down on the area designated for the Player's Hand and the second and fourth cards dealt shall be placed face down on the area designated for the Banker's

Hand. After all four cards have been dealt, the dealer shall place the Banker's Hand underneath the right corner of the dealing shoe until the procedure in paragraph (1) is completed.

(1) The dealer shall then hand the two cards of the Player's Hand, face down, to the player with the highest wager on the Player's Hand. After viewing the Player's Hand, the player shall return the two cards, face up, to the dealer, who shall place the cards face up on the area designated for the Player's Hand and announce the point count of the Player's Hand.

(2) The dealer shall then hand the two cards of the Banker's Hand, face down, to the player with the highest wager on the Banker's Hand. After viewing the Banker's Hand, the player shall return the two cards, face up, to the dealer, who shall place the cards face up on the area designated for the Banker's Hand and announce the point count of the Banker's Hand.

(3) Any third card required to be dealt to the Player's Hand shall be placed face down on the area designated for the Player's Hand. The dealer shall then hand the card, face down, to the player who was handed and returned the Player's Hand. After viewing the card, the player shall return the card, face up, to the dealer, who shall place the card face up on the area designated for the Player's Hand.

(4) Any third card required to be dealt to the Banker's Hand shall be placed face down on the area designated for the Banker's Hand. The dealer shall then hand the card, face down, to the player who was handed and returned the Banker's Hand. After viewing the card, the player shall return the card, face up, to the dealer, who shall place the card face up on the area designated for the Banker's Hand.

(5) If two or more players wager an equally high amount on the Player's Hand, the player making the wager who is closest to the dealer moving counterclockwise around the table shall be handed the Player's Hand and any third card required to be dealt. If two or more players wager an equally high amount on the Banker's Hand, the player making the wager who is closest to the dealer moving counterclockwise around the table shall be handed the Banker's Hand and any third card required to be dealt.

§ 543.10. Procedure for dealing a third card.

(a) After the dealer positions the cards in accordance with § 541.9(c) (relating to hands of player and banker; procedure for dealing initial two cards to each hand), the point counts of the Player's Hand and Banker's Hand shall be announced as provided therein.

(b) Following the announcement of the Point Counts of each hand, the dealer shall determine whether to deal a third card to each hand in conformity with the requirements of § 543.11 (relating to rules for determining whether a third card shall be dealt). Any third cards required to be dealt shall be dealt as provided in § 541.9(c).

(c) In no event may more than one additional card be dealt to either hand.

(d) Whenever the cover card appears as the first card in the dealing shoe at the beginning of a round of play or appears during play, the cover card shall be removed and placed to the side and the hand will be completed. Upon completion of that hand, the dealer calling the game shall announce "last hand." At the completion of one more hand, the cards shall be replaced with new decks of cards.

§ 543.13. Payout odds; vigorish.

(a) A winning wager made on the Player's Hand shall be paid off by a certificate holder at odds of 1 to 1.

(b) A winning Tie Bet shall be paid off by a certificate holder at odds of at least 8 to 1.

(c) Except as otherwise provided in subsection (g), a winning wager made on the Banker's Hand shall be paid off by a certificate holder at odds of 1 to 1, except that the certificate holder shall extract a vigorish from the winning players in an amount equal to the amount specified in the Rules Submission under § 521.2 (relating to table games Rules Submissions) of either 4% or 5% of the amount won.

(d) If a certificate holder offers the Dragon Bonus Wager, a vigorish may not be extracted on a winning Dragon Bonus Wager. Winning Dragon Bonus Wagers shall be paid out at the odds in one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 521.2:

Hand	Payout A	Payout B	Payout C
Win by 9 Points	30 to 1	20 to 1	30 to 1
Win by 8 Points	10 to 1	8 to 1	10 to 1
Win by 7 Points	6 to 1	7 to 1	4 to 1
Win by 6 Points	4 to 1	4 to 1	4 to 1
Win by 5 Points	2 to 1	3 to 1	2 to 1
Win by 4 Points	1 to 1	1 to 1	2 to 1
Natural winner	1 to 1	1 to 1	1 to 1

(e) When collecting the vigorish, the certificate holder may round off the vigorish to 5 cents or the next highest multiple of 5 cents.

(f) A dealer, in accordance with the option selected in the certificate holders Rules Submission under § 521.2, may collect the vigorish from a player at the time the winning payout is made or may defer it to a later time; provided, however, that outstanding vigorish shall be collected prior to beginning play with a new dealing shoe of cards or when the player leaves the gaming table, whichever occurs first. The amount of any vigorish not collected at the time of the winning payouts shall be tracked by placing a coin or marker button containing the amount of the vigorish owed in a rectangular space in front of the dealer on the layout imprinted with the number of the player owing the vigorish. The coin or marker button shall not be removed from the layout until the vigorish owed is collected.

(g) A certificate holder may, in its Rules Submission under § 521.2, elect to charge every player at a Midibaccarat table a vigorish equal to 25% of the player's wager on the Banker's Hand if the Point Counts of the Banker's Hand and the Player's Hand are equal. The vigorish authorized by this subsection shall be collected at the end of the round of play and prior to any cards being dealt for the next round of play. If a certificate holder elects to charge the vigorish authorized by this subsection, the vigorish otherwise required by subsection (c) may not be collected.

(h) The type and percentage of vigorish charged at a Midibaccarat table shall apply to all players at that table. The same type and percentage of vigorish shall be used for all Midibaccarat tables located within a licensed facility.

§ 543.14. Irregularities.

* * * * *

(f) The dealer or floorperson assigned to the table may require any player to relinquish the right to turn over the cards pursuant to § 543.9(c) (relating to hands of player and banker; procedure for dealing initial two cards to each hand), if the player unreasonably delays the game or violates either the act or this part. Whenever the voluntary or compulsory relinquishment of that right occurs, the dealer shall offer it to the player immediately to the right of the previous player, and, if he does not accept it or there is no player in that position, the dealer shall offer it to each of the other players in turn counterclockwise around the table for the remainder of that round of play. If no player accepts the cards, the dealer shall turn the cards over and place them on the designated areas of the layout.

CHAPTER 549. BLACKJACK

§ 549.20. Royal Match 21 Wager.

(a) A certificate holder may, if specified in its Rules Submission under § 521.2 (relating to table games Rules Submissions), offer a player the option of placing a Royal Match 21 Wager with an optional Crown Treasure Bonus. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Crown Treasure Bonus—Additional payout when both the player and dealer have a Royal Match.

Royal Match—King and queen of the same suit.

Suited Match—Two cards of the same suit that are not a king and queen.

(b) Prior to the first card being dealt for each round of play, a player who has placed a basic wager required under § 549.4 (relating to wagers) may make an additional Royal Match 21 Wager, which shall have no bearing on any other wagers made by the player. The Royal Match 21 Wager of a player shall be in an amount not less than \$1 and may not exceed the lesser of:

(1) The amount of the wager made by the player under § 549.4(a).

(2) A maximum amount established by the certificate holder in the certificate holder's Rules Submission under § 521.2.

(c) A Royal Match 21 Wager shall be made by placing value chips on the appropriate area of the Blackjack layout.

(d) The Royal Match 21 Wager of a player shall win if the first two cards of the player are a Suited Match or a Royal Match. If a certificate holder offers the Crown Treasure Bonus, a player shall win a bonus payout if both the player and the dealer have a Royal Match.

(e) Except as provided in subsection (f), for certificate holders that offer the Crown Treasure Bonus, immediately after the second card is dealt to each player and the dealer, but prior to any additional cards being dealt or before any card reader device is utilized, the dealer shall, starting with the player to his far right and moving counterclockwise around the table, settle all Royal Match 21 Wagers by collecting the losing wagers and paying the winning wagers in accordance with subsection (g).

(f) If a certificate holder offers the Crown Treasure Bonus and:

(1) The dealer's up card is not a king or a queen, the dealer shall settle all Royal Match 21 Wagers in accordance with subsection (e).

(2) The dealer's up card is a king or a queen and:

(i) A player does not have Royal Match, the dealer shall settle the Royal Match 21 Wager in accordance with subsection (e).

(ii) A player has a Royal Match, that player's Royal Match 21 Wager shall be settled after the dealer's hole card is exposed but prior to settling the player's basic wager required under § 549.4. If after exposing the hole card the dealer also has a Royal Match, the player shall be paid a Crown Treasure Bonus, in accordance with subsection (g), in addition to the payout for his Royal Match.

(g) The certificate holder shall pay out winning Royal Match 21 Wagers at the odds contained in one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 521.2:

(1) If a single deck of cards is being used:

Hand	Payout A	Payout B
Royal Match	10 to 1	5 to 1
Suited Match	3 to 1	3 to 1
Crown Treasure	\$1,000	\$1,000

(2) If multiple decks of cards are being used:

Hand	Payout C	Payout D	Payout E
Royal Match	30 to 1	25 to 1	25 to 1
Suited Match	2.5 to 1	2.5 to 1	3 to 1
Crown Treasure	\$1,000	\$1,000	\$1,000

(3) If an electronic gaming table is being used:

Hand	Payout F	Payout G
Royal Match	5 to 1	25 to 1
Suited Match	3 to 1	2.5 to 1
Crown Treasure	1,000 for 1	1,000 for 1

CHAPTER 565. THREE CARD POKER

§ 565.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Envy Bonus—An additional fixed sum payout made to a player who placed a Progressive Payout Wager when another player at the Three Card Poker table is the holder of an Envy Bonus qualifying hand.

Envy Bonus qualifying hand—A Three Card Poker hand with a rank of ace, king and queen of the same suit.

Hand—The Three Card Poker hand that is held by each player and the dealer after the cards are dealt.

Pair Plus Wager—The wager that a player is required to make prior to any cards being dealt in order to compete against a posted scale of payouts, regardless of the outcome of the player's hand against the dealer's hand.

Play Wager—An additional wager that a player must make if the player opts to remain in competition against the dealer after the player reviews his hand.

Progressive payout hand—An ace, king and queen of the same suit; a straight flush; three-of-a-kind; or, if included in the payable selected by the certificate holder in the certificate holder's Rules Submission under § 521.2 (relating to table games Rules Submissions), a straight, as defined in § 565.6 (relating to Three Card Poker rankings).

Round of play—One complete cycle of play during which all wagers have been placed, all cards have been dealt and all remaining wagers have been paid off or collected in accordance with the rules of this chapter.

Six Card Bonus Wager—An optional wager that a player will be able to form a winning five-card Poker hand from the three cards dealt to the dealer and the three cards dealt to the player.

§ 565.2. Three Card Poker table physical characteristics.

(a) Three Card Poker shall be played at a table having betting positions for no more than seven players on one side of the table and a place for the dealer on the opposite side.

(b) The layout for a Three Card Poker table shall be approved by the Bureau of Gaming Operations and contain, at a minimum:

(1) The name or logo of the certificate holder offering the game.

(2) A separate designated betting area at each betting position for the placement of an Ante Wager.

(3) A separate designated betting area located immediately in front of each Ante Wager betting area for the placement of a Play Wager.

(4) A separate designated betting area located immediately behind each Ante Wager betting area for the placement of a Pair Plus Wager.

(5) If the certificate holder offers a Progressive Payout Wager, a separate area for each player, located immediately behind the Pair Plus Wager betting area, designated for the placement of the Progressive Payout Wager.

(6) If the certificate holder offers the Six Card Bonus Wager, a separate area for each player, located immediately behind the Pair Plus Wager betting area, designated for the placement of the Six Card Bonus Wager.

(7) Inscriptions that advise patrons of the payout odds or amounts for Ante and Play Wagers, Pair Plus Wagers and Ante bonuses, the Progressive Payout Wager, the Six Card Bonus Wager and the Envy Bonus and the phrase "Dealer Plays with Queen High or Better."

(c) If payout odds are not inscribed on the layout as required by subsection (b)(7), a sign identifying the payout odds or amounts for all authorized wagers shall be posted at each Three Card Poker table.

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§ 565.6. Three Card Poker rankings.

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(d) If a certificate holder offers the optional Six Card Bonus Wager under § 565.11b (relating to Six Card Bonus Wager), the rank of a winning five-card Poker hand, in order of highest to lowest rank, shall be:

(1) A royal flush, which is a hand consisting of an ace, king, queen, jack and 10 of the same suit.

(2) A straight flush, which is a hand consisting of five cards of the same suit in consecutive ranking.

(3) A four-of-a-kind, which is a hand consisting of four cards of the same rank, regardless of suit.

(4) A full house, which is a hand consisting of three-of-a-kind.

(5) A flush, which is a hand consisting of five cards of the same suit.

(6) A straight, which is a hand consisting of five cards of consecutive rank, regardless of suit.

(7) A three-of-a-kind, which is a hand consisting of three cards of the same rank, regardless of suit.

§ 565.7. Wagers.

(a) The following wagers may be placed in the game of Three Card Poker:

* * * * *

(5) If the certificate holder offers the Six Card Bonus Wager, after placing a Pair Plus Wager, a player may also place a Six Card Bonus Wager on whether the player will be dealt a hand type as set forth in § 565.12(k) (relating to payout odds; Envy Bonus; rate of progression; payout limitation).

* * * * *

(d) Ante Wagers, Pair Plus Wagers, Progressive Payout Wagers and Six Card Bonus Wagers shall be placed prior to the dealer announcing “no more bets” in accordance with § 565.8, § 565.9 or § 565.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe). Except for Play Wagers, a wager may not be made, increased, or withdrawn after the dealer has announced “no more bets.” Play Wagers shall be placed in accordance with § 565.11(b) (relating to procedures for completion of each round of play).

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§ 565.11. Procedures for completion of each round of play.

(a) After the dealing procedures required under § 565.8, § 565.9 or § 565.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe) have been completed, each player shall examine his cards. Each player who wagers at Three Card Poker shall be responsible for his own hand and no person other than the dealer and the player to whom the cards were dealt may touch the cards of that player.

(b) After examination of his cards, each player who has placed an Ante Wager shall have the option to either make a Play Wager in an amount equal to the player’s Ante Wager or forfeit the Ante Wager and end his participation in the round of play. The dealer shall offer this option to each player, starting with the player farthest to the left of the dealer and moving clockwise around the table in order.

(1) If a player has placed an Ante Wager and a Pair Plus Wager as required under § 565.7(f) (relating to wagers) but does not make a Play Wager, the player shall forfeit both the Ante Wager and the Pair Plus Wager.

(2) If a player has placed an Ante Wager and a Progressive Payout Wager but does not make a Play Wager, the player shall forfeit both the Ante Wager and the Progressive Payout Wager but does not forfeit the eligibility to receive an Envy Bonus under § 565.12(h) (relating to payout odds; Envy Bonus; rate of progression; payout limitation).

(3) If a player has placed an Ante Wager, a Pair Plus Wager and a Six Card Bonus Wager, but does not make a Play Wager, the player shall forfeit both the Ante Wager and the Pair Plus Wager but may not forfeit the Six Card Bonus Wager.

(c) After each player has either placed a Play Wager on the designated area of the layout or forfeited his Ante

Wager and hand, the dealer shall collect all forfeited wagers and associated cards, except for the cards of those players who placed a Six Card Bonus Wager in accordance with § 565.11b (relating to Six Card Bonus Wager), and place the cards in the discard rack. The dealer shall then reveal the dealer’s cards and place the cards so as to form the highest possible ranking hand. If an automated dealing shoe is used to deal the cards, the cover card shall be removed from the dealer’s hand and placed on the table layout immediately next to the automated dealing shoe.

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§ 565.11b. Six Card Bonus Wager.

(a) A certificate holder may, if specified in its Rules Submission under § 521.2 (relating to table games Rules Submissions), offer a player the option of placing a Six Card Bonus Wager on whether the player’s three cards and the dealer’s three cards will form a winning five-card Poker hand as set forth in § 565.12(k) (relating to payout odds; Envy Bonus; rate of progression; payout limitation).

(b) If a Six Card Bonus Wager has been made by one or more players, the dealer shall observe the procedures in § 565.11 (relating to procedures for completion of each round of play) with the following modifications:

(1) The dealer shall, starting from the dealer’s right and moving counterclockwise around the table, settle all Ante Wagers, Pair Plus Wagers, Play Wagers and Progressive Payout Wagers of each player, provided that the cards of a player who has placed a Six Card Bonus Wager shall remain on the layout regardless of the outcome of the player’s other wagers.

(2) After settling all other wagers of a player who has placed a Six Card Bonus Wager, the dealer shall arrange the dealer’s three cards and the player’s three cards to form the best possible five-card Poker hand. If a player:

(i) Does not have a three-of-a-kind or better, as described in § 565.6(d) (relating to Three Card Poker rankings), the dealer shall collect the Six Card Bonus Wager and place the cards of the player in the discard rack.

(ii) Has a three-of-a-kind or better, as described in § 565.6(d), the dealer shall pay the winning Six Card Bonus Wager in accordance with § 565.12(k).

§ 565.12. Payout odds; Envy Bonus; rate of progression; payout limitation.

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(k) If a certificate holder offers the Six Card Bonus Wager, the certificate holder shall pay out winning Six Card Bonus Wagers at the amounts in one of the following pay tables selected by the certificate holder in the certificate holder’s Rules Submission filed in accordance with § 521.2:

<i>Hand</i>	<i>Payout A</i>	<i>Payout</i>	<i>Payout C</i>
Royal Flush	1,000 to 1	1,000 to 1	1,000 to 1
Straight Flush	200 to 1	200 to 1	200 to 1
Four-of-a-Kind	50 to 1	100 to 1	100 to 1
Full House	25 to 1	20 to 1	20 to 1
Flush	20 to 1	15 to 1	15 to 1
Straight	10 to 1	10 to 1	10 to 1
Three-of-a-kind	5 to 1	8 to 1	7 to 1

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