

PROPOSED RULEMAKINGS

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 555, 563, 639a AND 647a]

Table Game Rules for Caribbean Stud Poker and Texas Hold 'Em Bonus Poker

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 13A02(1)—(4) (relating to regulatory authority), proposes to rescind Chapters 555 and 563 (relating to Caribbean Stud Poker; and Texas Hold 'Em Bonus Poker) and add Chapters 639a and 647a (relating to Caribbean Stud Poker; and Texas Hold 'Em Bonus Poker) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

With this proposed rulemaking, the Board is proposing to replace the temporary regulations in Chapter 555 with the permanent regulations in Chapter 639a and the temporary regulations in Chapter 563 with the permanent regulations in Chapter 647a.

Explanation of Chapter 639a

Chapter 639a contains the rules governing the play of Caribbean Stud Poker. Section 639a.1 (relating to definitions) contains the definitions of terms used throughout the chapter. In § 639a.2 (relating to Caribbean Stud Poker table physical characteristics), the physical characteristics of the table are specified.

The remaining sections address the following: the number of decks of cards used for play of the game; the opening of the Caribbean Stud Poker table for play; the shuffling of cards; the value and rank of the cards; permissible wagers; dealing procedures; the payout odds for all permissible wagers; and how irregularities in play are to be handled.

Explanation of Chapter 647a

Chapter 647a contains the rules governing the play of Texas Hold 'Em Bonus Poker. Section 647a.1 (relating to definitions) contains the definitions of terms used throughout the chapter. In § 647a.2 (relating to Texas Hold 'Em Bonus Poker table physical characteristics), the physical characteristics of the table are specified.

The remaining sections address the following: the number of decks of cards used for play of the game; the opening of the Texas Hold 'Em Bonus Poker table for play; the shuffling of cards; the value and rank of the cards; permissible wagers; dealing procedures; the payout odds for all permissible wagers; and how irregularities in play are to be handled.

Based on public comments received on the temporary rulemaking, the dealing procedure in § 647a.10 (relating to procedure for dealing the cards from an automated dealing shoe) for dealing the cards from an automated dealing shoe has been updated to accommodate the use of an automated dealing shoe that automatically reshuffles the cards.

Affected Parties

Certificate holders that elect to offer the games of Caribbean Stud Poker and Texas Hold 'Em Bonus Poker

will be required to comply with these chapters. The requirements for the games are standard throughout the industry, consistent with 4 Pa.C.S. Part II (relating to gaming) and necessary for the protection of the gaming public and the revenues generated from table games.

The Board has experienced increased regulatory demands resulting from the implementation of table games including the review of Rules Submissions, table layouts, signage and gaming guides.

Fiscal Impact

Commonwealth. The Board will have to review each certificate holder's table games Rules Submissions, table layouts, signage and gaming guides to ensure compliance with the regulatory requirements in this proposed rulemaking. These reviews will be conducted by existing Bureau of Gaming Operations and Bureau of Casino Compliance staff, so the Board does not project that it will incur any significant cost increases as a result of this proposed rulemaking.

Political subdivisions. This proposed rulemaking will not have fiscal impact on political subdivisions of this Commonwealth. Most municipalities and counties will benefit from the local share funding mandated by the act of January 7, 2010 (P. L. 1, No. 1).

Private sector. This proposed rulemaking will result in additional costs for certificate holders that elect to offer Caribbean Stud Poker and Texas Hold 'Em Bonus Poker. Certificate holders will be required to purchase the table games they elect to offer and to hire and train employees to operate the games. The costs for table game equipment do vary depending on the type and number of tables purchased. The costs are expected to be offset by the revenues generated from table game operations.

General public. This proposed rulemaking will not have fiscal impact on the general public.

Paperwork Requirements.

This proposed rulemaking will require certificate holders to do the following: post signs at gaming tables; have complete sets of rules for all the games they offer available for public inspection; produce a gaming guide summarizing the rules of the games they offer; and file Rules Submissions for each table game they elect to offer. The Rules Submissions are standardized checklists for each game, relatively simple to fill out and available on the Board's web site.

Effective Date

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

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed 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 Table Games Rules; Regulation # 125-154.

Contact Person

The contact person for questions about this proposed rulemaking is Susan Yocum, Assistant Chief Counsel, (717) 346-8300.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 7, 2011, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request and is available on the Board's web site at www.pgcb.state.pa.us.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

GREGORY C. FAJT,
Chairperson

(Editor's Note: Proposed Chapters 639a and 647a reference proposed Chapters 601a, 603a and 605a, which will be adopted on or before the date of final adoption of this proposed rulemaking.)

Fiscal Note: 125-154. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 58. RECREATION****PART VII. GAMING CONTROL BOARD****Subpart K. TABLE GAMES****CHAPTER 555. (Reserved)**

(Editor's Note: As part of this proposed rulemaking, the Board is proposing to rescind Chapter 555 which appears in 58 Pa. Code pages 555-1—555-14, serial pages (352381), (352382), (350073), (350074), (348563)—(348570), (351025) and (351026).)

Sec.
555.1—555.14. (Reserved).

CHAPTER 563. (Reserved)

(Editor's Note: As part of this proposed rulemaking, the Board is proposing to rescind Chapter 563 which appears in 58 Pa. Code pages 563-1—563-14, serial pages (356481)—(356484), (350089), (350090), (348621)—(348626), (351033) and (351034).)

Sec.
563.1—563.13. (Reserved).

CHAPTER 639a. CARIBBEAN STUD POKER

Sec.
639a.1. Definitions.
639a.2. Caribbean Stud Poker table physical characteristics.
639a.3. Cards; number of decks.
639a.4. Opening of the table for gaming.
639a.5. Shuffle and cut of the cards.
639a.6. Caribbean Stud Poker rankings.
639a.7. Wagers.
639a.8. Procedure for dealing the cards from a manual dealing shoe.
639a.9. Procedures for dealing the cards from the hand.
639a.10. Procedures for dealing the cards from an automated dealing shoe.
639a.11. Procedure for completion of each round of play.
639a.12. Payout odds; rate of progression.
639a.13. Irregularities.

§ 639a.1. Definitions.

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

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

Fold—The withdrawal of a player from a round of play by not making a Bet Wager.

Hand—The five-card hand that is held by each player and the dealer after the cards are dealt.

Hole card—Any of the four cards dealt face down to the dealer.

Progressive Payout Hand—The term means either of the following:

(i) A player's five-card poker hand with a rank of three-of-a-kind or better.

(ii) If included in the payable selected by the certificate holder, a two pair or better as defined in § 639a.6(b) (relating to Caribbean Stud 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 settled in accordance with the rules of this chapter.

§ 639a.2. Caribbean Stud Poker table physical characteristics.

(a) Caribbean Stud 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 of the table.

(b) The layout for a Caribbean Stud 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.

(2) Two separate betting areas designated for the placement of Ante and Bet Wagers for each player.

(3) If the certificate holder offers the optional Progressive Payout Wager authorized under § 639a.7(d)(2) (relating to wagers), a separate area designated for the placement of the Progressive Payout Wager for each player.

(4) If the certificate holder offers the optional Caribbean Stud Bonus Wager authorized under § 639a.7(d)(3), a separate area designated for the placement of the Caribbean Stud Bonus Wager for each player.

(5) Inscriptions that advise patrons of the payout odds or amounts for all permissible wagers offered by the certificate holder. If the payout odds or amounts are not inscribed on the layout, a sign identifying the payout odds or amounts for all permissible wagers shall be posted at each Caribbean Stud Poker table.

(6) An inscription indicating that the Bet Wager will be returned if the dealer has less than an ace/king. If the information is not inscribed on the layout, a sign which sets forth the required information shall be posted at each Caribbean Stud Poker table.

(c) If a certificate holder offers a Progressive Payout Wager in accordance with § 639a.7(d)(2), the Caribbean Stud Poker table must have a progressive table game system, in accordance with § 605a.7 (relating to progressive table game systems), for the placement of Progressive Payout Wagers. The progressive table game system must include:

(1) A wagering device at each betting position that acknowledges or accepts the placement of the Progressive Payout Wager.

(2) A device that controls or monitors the placement of Progressive Payout Wagers at the gaming table, including a mechanism, such as a lock-out button, that prevents the recognition of any Progressive Payout Wager that a player attempts to place after the dealer has announced "no more bets."

(d) Each Caribbean Stud Poker table must have a drop box and a tip box attached on the same side of the table as, but on opposite sides of, the dealer, as approved by the Bureau of Casino Compliance. The Bureau of Casino Compliance may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

(e) Each Caribbean Stud Poker table must have a discard rack securely attached to the top of the dealer's side of the table.

§ 639a.3. Cards; number of decks.

(a) Except as provided in subsection (b), Caribbean Stud Poker shall be played with one deck of cards that are identical in appearance and one cover card.

(b) If an automated card shuffling device is utilized, Caribbean Stud Poker may be played with two decks of cards in accordance with the following requirements:

(1) The cards in each deck must be of the same design. The backs of the cards in one deck must be of a different color than the cards included in the other deck.

(2) One deck of cards shall be shuffled and stored in the automated card shuffling device while the other deck is being used to play the game.

(3) Both decks are continuously alternated in and out of play, with each deck being used for every other round of play.

(4) The cards from only one deck are placed in the discard rack at any given time.

(c) The decks of cards used in Caribbean Stud Poker shall be changed:

(1) At least every 4 hours if the cards are dealt by hand.

(2) At least every 8 hours if the cards are dealt from a manual or automated dealing shoe.

§ 639a.4. Opening of the table for gaming.

(a) After receiving one or more decks of cards at the table, the dealer shall inspect the cards for any defects. The floorperson assigned to the table shall verify the inspection.

(b) After the cards are inspected, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread in horizontal fan shaped columns by deck according to suit and in sequence.

(c) After the first player arriving at the table has been afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Once the cards have been stacked, the cards shall be shuffled in accordance with § 639a.5 (relating to shuffle and cut of the cards).

(d) If an automated card shuffling device is utilized and two decks of cards are received at the table, each deck of cards shall be spread for inspection, mixed, stacked and shuffled in accordance with subsections (a)—(c).

(e) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 603a.16(u) or (v) (relating to cards; receipt, storage, inspection and removal from use), subsections (a)—(d) do not apply.

§ 639a.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 603a.16(u) or (v) (relating to cards; receipt, storage, inspection and removal from use), after each round of play has been completed or when directed by a floorperson or above, the dealer shall shuffle the cards, either manually or by use of an automated card shuffling device, so that the cards are randomly intermixed. Upon completion of the shuffle, the dealer or automated shuffling device shall place the deck of cards in a single stack provided, however, that the certificate holder may use an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the stack of cards directly into a dealing shoe.

(b) If an automated card shuffling device is being used, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, and the device reveals that an incorrect number of cards are present, the deck shall be removed from the table.

(c) After the cards have been shuffled and stacked, the dealer shall:

(1) If the cards were shuffled using an automated card shuffling device, deal the cards in accordance with § 639a.8, § 639a.9 or § 639a.10 (relating to procedure 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).

(2) If the cards were shuffled manually or were reshuffled, cut the cards in accordance with subsection (d).

(d) If a cut of the cards is required, the dealer shall place the cover card in the stack at least ten cards in from the top of the stack. Once the cover card has been inserted, the dealer shall take all cards above the cover card and the cover card and place them on the bottom of the stack. The stack of cards shall then be inserted into the dealing shoe for commencement of play.

(e) After the cards have been cut and before any cards have been dealt, a floorperson or above may require the cards to be recut if the floorperson determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

(f) If there is no gaming activity at a Caribbean Stud Poker table which is open for gaming, the cards shall be spread out on the table face down unless a player requests that the cards be spread face up on the table. After the first player arriving at the table is afforded an opportunity to visually inspect the cards:

(1) If there is no automated shuffling device in use, the cards shall be mixed thoroughly by a washing of the cards, stacked, then shuffled and cut in accordance with this section.

(2) If an automated shuffling device is in use, the cards shall be stacked and placed into the automated shuffling device to be shuffled. The deck of cards already in the shuffler shall then be removed. Unless a player requests otherwise, the deck of cards removed from the shuffler does not need to be spread for inspection and reshuffled prior to being dealt if:

(i) The automated card shuffling device stores a single deck of shuffled cards inside the shuffler in a secure manner.

(ii) The shuffled cards have been secured, released and prepared for play in accordance with procedures approved by the Bureau of Gaming Laboratory Operations.

(g) In lieu of the dealing and shuffling requirements in this section, a certificate holder may utilize a dealing shoe or other device designed to automatically reshuffle the cards provided that the device and the procedures for dealing and shuffling the cards through use of this device are approved by the Bureau of Gaming Laboratory Operations.

§ 639a.6. Caribbean Stud Poker rankings.

(a) The rank of the cards used in Caribbean Stud Poker, for the determination of winning hands, in order of highest to lowest rank, shall be: ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3 and 2. Notwithstanding the foregoing, an ace may be used to complete a straight flush or straight formed with a 2, 3, 4 and 5, but may not be combined with any other sequence of cards (for example, queen, king, ace, 2 and 3). All suits shall be equal in rank.

(b) The permissible five-card poker hands at the game of Caribbean Stud Poker, 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, other than a royal flush, consisting of five cards of the same suit in consecutive ranking, with king, queen, jack, 10 and 9 being the highest ranking straight flush and a 5, 4, 3, 2 and ace being the lowest ranking straight flush.

(3) A four-of-a-kind, which is a hand consisting of four cards of the same rank, with four aces being the highest ranking four-of-a-kind and four 2s being the lowest ranking four-of-a-kind.

(4) A full house, which is a hand consisting of a three-of-a-kind and a pair, with three aces and two kings being the highest ranking full house and three 2s and two 3s being the lowest ranking full house.

(5) A flush, which is a hand consisting of five cards of the same suit, not in consecutive order, with an ace, king, queen, jack, 9 being the highest ranking flush and a 2, 3, 4, 5 and 7 being the lowest ranking flush.

(6) A straight, which is a hand consisting of five cards of more than one suit and of consecutive rank, with an ace, king, queen, jack and 10 being the highest ranking straight and a 5, 4, 3, 2 and ace being the lowest ranking straight.

(7) A three-of-a-kind, which is a hand consisting of three cards of the same rank, with three aces being the highest ranking three-of-a-kind and three 2s being the lowest ranking three-of-a-kind.

(8) A two pairs, which is a hand containing two pairs, with two aces and two kings being the highest ranking two pair and two 3s and two 2s being the lowest ranking two pair.

(9) A pair, which is a hand containing two cards of the same rank, with two aces being the highest ranking pair and two 2s being the lowest ranking pair.

(c) When comparing two hands that are of identical poker hand rank under subsection (b), or that contain none of the hands listed in subsection (b), the hand that contains the highest ranking card under subsection (a), which is not contained in the other hand, shall be considered the higher ranking hand. If the hands are of identical rank after the application of this subsection, the hands shall be considered a tie.

§ 639a.7. Wagers.

(a) Wagers at Caribbean Stud Poker shall be made by placing value chips or plaques on the appropriate areas of the table layout. Verbal wagers accompanied by cash may not be accepted.

(b) Only players who are seated at the Caribbean Stud Poker table may wager at the game. Once a player has placed a wager and received cards, that player shall remain seated until the completion of the round of play. If a player leaves the table during a round of play, any wagers made by the player may be considered abandoned and may be treated as losing wagers.

(c) All wagers, except the Bet Wager, shall be placed prior to the dealer announcing "no more bets" in accordance with the dealing procedure in § 639a.8, § 639a.9 or § 639a.10 (relating to procedure 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 as provided in § 639a.11(b) (relating to procedure for completion of each round of play), a wager may not be made, increased, or withdrawn after the dealer has announced "no more bets."

(d) The following wagers may be placed in the game of Caribbean Stud Poker:

(1) A player shall compete against the dealer's five-card poker hand by placing an Ante Wager, then a Bet Wager, in accordance with § 639a.11(b).

(2) A certificate holder may, if specified in its Rules Submission under § 601a.2 (relating to table games Rules Submissions), offer to each player at a Caribbean Stud Poker table the option to make an additional Progressive Payout Wager that the player will receive a Progressive Payout Hand. After placing an Ante Wager, a player may make the additional Progressive Payout Wager by placing a value chip onto the progressive wagering device designated for that player. Each player shall be responsible for verifying that the player's respective Progressive Payout Wager has been accepted.

(3) A certificate holder may, if specified in its Rules Submission under § 601a.2, offer to each player at a Caribbean Stud Poker table the option to make an additional Caribbean Stud Bonus Wager that the player's cards will form a five-card poker hand with a rank of a pair of 10s or better. After placing an Ante Wager, a player may make the additional Caribbean Stud Bonus Wager by placing a value chip on the designated betting area prior to the dealer announcing "no more bets."

(e) A player may not wager on more than one player position at a Caribbean Stud Poker table.

§ 639a.8. Procedure for dealing the cards from a manual dealing shoe.

(a) If a manual dealing shoe is used, the dealing shoe must be located on the table in a location approved by the

Bureau of Casino Compliance. Once the procedures required under § 639a.5 (relating to shuffle and cut of the cards) have been completed, the stacked deck of cards shall be placed in the dealing shoe by the dealer or by the automated card shuffling device.

(b) Prior to dealing the cards, the dealer shall announce “no more bets” and, if the Progressive Payout Wager is being offered, use the progressive table game system to prevent the placement of any additional Progressive Payout Wagers. If any Progressive Payout Wagers have been made, the dealer shall collect the wagers and, on the layout in front of the table inventory container, verify that the number of value chips wagered equals the number of Progressive Payout Wagers accepted by the progressive table game system. The dealer shall then place the value chips into the table inventory container.

(c) Each card shall be removed from the dealing shoe with the hand of the dealer that is the closest to the dealing shoe and placed on the appropriate area of the layout with the opposite hand.

(d) The dealer shall, starting with the player farthest to the dealer’s left and continuing around the table in a clockwise manner, deal the cards as follows:

(1) One card face down to each player who placed an Ante Wager in accordance with § 639a.7(d)(1) (relating to wagers).

(2) One card face up to the area designated for the placement of the dealer’s hand.

(3) A second card face down to each player directly on top of that player’s first card.

(4) A second card face down to the area designated for the placement of the dealer’s hand to the right of the dealer’s first card.

(5) A third, fourth and fifth card, in succession, face down to each player and the dealer directly on top of the preceding card.

(e) After five cards have been dealt to each player and the dealer, the dealer shall remove the stub from the manual dealing shoe and, except as provided in subsection (f), place the stub in the discard rack without exposing the cards.

(f) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(g) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(h) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt (a player or the dealer has more or less than 5 cards) but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 639a.9. Procedures for dealing the cards from the hand.

(a) If the cards are dealt from the dealer’s hand, the following requirements shall be observed:

(1) An automated shuffling device shall be used to shuffle the cards.

(2) After the procedures required under § 639a.5 (relating to shuffle and cut of the cards) have been completed, the dealer shall place the stacked deck of cards in either hand. After the dealer has chosen the hand in which he will hold the cards, the dealer shall continue to use that hand whenever holding the cards during that round of play. The cards held by the dealer shall be kept over the table inventory container and in front of the dealer at all times.

(3) Prior to dealing any cards, the dealer shall announce “no more bets” and, if the Progressive Payout Wager is being offered, use the progressive table game system to prevent the placement of any additional Progressive Payout Wagers. If any Progressive Payout Wagers have been made, the dealer shall collect the wagers and, on the layout in front of the table inventory container, verify that the number of value chips wagered equals the number of Progressive Payout Wagers accepted by the progressive table game system. The dealer shall then place the value chips into the table inventory container.

(b) The dealer shall deal each card by holding the deck of cards in the chosen hand and use the other hand to remove the top card of the deck and place it on the appropriate area of the layout. The dealer shall, starting with the player farthest to the dealer’s left and continuing around the table in a clockwise manner, deal the cards as follows:

(1) One card face down to each player who has placed an Ante Wager in accordance with § 639a.7(d)(1) (relating to wagers).

(2) One card face up to an area designated for the placement of the dealer’s hand.

(3) A second card face down to each player directly on top of that player’s first card.

(4) A second card face down to the area designated for the placement of the dealer’s hand to the right of the dealer’s first card.

(5) A third, fourth and fifth card, in succession, face down to each player and the dealer directly on top of the preceding card.

(c) After five cards have been dealt to each player and the dealer, the dealer shall remove the stub from the manual dealing shoe and, except as provided in subsection (d), place the stub in the discard rack without exposing the cards.

(d) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(e) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(f) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt (a player or the dealer has more or less than 5 cards) but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were

not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 639a.10. Procedures for dealing the cards from an automated dealing shoe.

(a) If the cards are dealt from an automated dealing shoe, the following requirements shall be observed:

(1) After the procedures required under § 639a.5 (relating to shuffle and cut of the cards) have been completed, the cards shall be placed in the automated dealing shoe.

(2) Prior to the shoe dispensing any stacks of cards, the dealer shall announce “no more bets” and, if the Progressive Payout Wager is being offered, use the progressive table game system to prevent the placement of any additional Progressive Payout Wagers. If any Progressive Payout Wagers have been made, the dealer shall collect the wagers and, on the layout in front of the table inventory container, verify that the number of value chips wagered equals the number of Progressive Payout Wagers accepted by the progressive table game system. The dealer shall then place the value chips into the table inventory container.

(b) The dealer shall deliver the first stack of cards dispensed by the automated dealing shoe face down to the player farthest to the dealer’s left who has placed an Ante wager in accordance with § 639a.7(d)(1) (relating to wagers). As the remaining stacks are dispensed to the dealer by the automated dealing shoe, the dealer shall, moving clockwise around the table, deliver a stack face down to each of the other players who has placed an Ante Wager in accordance with § 639a.7(d)(1). The dealer shall then deliver a stack of five cards face down to the area designated for the placement of the dealer’s cards and shall spread the cards face down on the layout so the top card of the stack is to the dealer’s right and the bottom card is to the dealer’s left. The dealer shall turn the bottom card of the stack (the card on the dealer’s far left) face up on the area designated for the placement of the dealer’s cards.

(c) After each stack of five cards has been dispensed and delivered in accordance with subsection (b), the dealer shall remove the stub from the automated dealing shoe and, except as provided in subsection (d), place the cards in the discard rack without exposing the cards.

(d) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(e) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(f) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt (a player or dealer has more or less than 5 cards) but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 639a.11. Procedure for completion of each round of play.

(a) After the dealing procedures required under § 639a.8, § 639a.9 or § 639a.10 (relating to procedure 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 subject to the following limitations:

(1) Each player who wagers at Caribbean Stud 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.

(2) Each player shall keep the five cards in full view of the dealer at all times.

(3) After each player has made a decision regarding the Bet Wager as required under subsection (b), the player’s cards shall be placed face down on the appropriate area of the layout and the player may not touch the cards again.

(b) After each player has examined his cards, the dealer shall, beginning with the player farthest to the dealer’s left and moving clockwise around the table, ask each player if he wishes to make a Bet Wager in an amount equal to two times the amount of the player’s Ante Wager or forfeit the Ante Wager and end his participation in the round of play. If a player has placed an Ante Wager and a Caribbean Stud Bonus Wager or Progressive Payout Wager but does not make a Bet Wager, the player shall forfeit all wagers.

(c) After each player who has placed an Ante Wager has either placed a Bet Wager on the designated area of the layout or forfeited his wager and hand, the dealer shall collect all forfeited wagers and associated cards and shall place the cards in the discard rack. The dealer shall then reveal the dealer’s four hole cards and place the cards so as to form the highest possible ranking five-card poker hand. After the dealer’s cards are turned face up, the dealer shall, beginning with the player farthest to the dealer’s right and continuing around the table in a counterclockwise direction, complete the following applicable procedures in succession for each player:

(1) The dealer shall turn the five cards of each player face up on the layout.

(2) The dealer shall examine the cards of the player and form the highest possible ranking five-card poker hand for each player.

(3) If the dealer’s highest ranking five-card poker hand:

(i) Is lower than an ace-king, the dealer shall return each player’s Bet Wager and pay out the player’s Ante Wager made by the player in accordance with the payout odds in § 639a.12(a) and (b) (relating to payout odds; rate of progression).

(ii) Is an ace-king or better, and the player’s highest ranking five-card poker hand:

(A) Is ranked lower than the dealer’s five-card poker hand, the dealer shall immediately collect the Ante and Bet Wagers made by the player.

(B) Is ranked higher than the dealer’s five-card poker hand, the dealer shall pay the Ante and Bet Wagers made by the player in accordance with the payout odds in § 639a.12(a) and (b).

(C) Is equal in rank to the dealer’s five-card hand, the dealer shall return the Ante and Bet Wagers made by the player.

(4) The dealer shall settle any Caribbean Stud Bonus Wager made by the player by determining whether the player's five-card poker hand qualifies for a payout in accordance with § 639a.12(c). A winning Caribbean Stud Bonus Wager shall be paid irrespective of whether the player's five-card poker hand outranks the dealer's hand.

(5) After settling a player's Ante, Bet and Caribbean Stud Bonus Wagers, the dealer shall then settle the Progressive Payout Wager, if offered by the certificate holder. A winning Progressive Payout Wager shall be paid irrespective of whether the player's five-card poker hand outranks the dealer's hand. If a player has won a progressive payout, the dealer shall:

- (i) Verify that the hand is a winning hand.
- (ii) Verify that the appropriate light on the progressive table game system has been illuminated.
- (iii) Have a floorperson or above validate the progressive payout in accordance with the certificate holder's approved internal control procedures.
- (iv) Pay the winning Progressive Payout Wager in accordance with the payout odds in § 639a.12(d). If a player has won a progressive payout that is a percentage of the jackpot amount on the progressive meter, the progressive payout may not be paid from the table inventory container. If a player has won a progressive payout that is not being paid from the table inventory container, the cards of that player shall remain on the table until the necessary documentation has been completed.

(d) After all wagers have been settled, the dealer shall remove all remaining cards from the table and place them in the discard rack in a manner that permits the reconstruction of each hand in the event of a question or dispute.

§ 639a.12. Payout odds; rate of progression.

(a) A certificate holder shall pay each winning Ante Wager at odds of 1 to 1.

(b) A certificate holder shall pay winning Bet Wagers in accordance with the following odds:

<i>Hand</i>	<i>Paytable</i>
Royal Flush	100 to 1
Straight Flush	50 to 1
Four-of-a-kind	20 to 1
Full House	7 to 1
Flush	5 to 1
Straight	4 to 1
Three-of-a-kind	3 to 1
Two pair	2 to 1
A pair or less	1 to 1

(c) If a certificate holder offers the Caribbean Stud Bonus Wager, the certificate holder shall pay out winning Caribbean Stud Bonus Wagers at the odds in one of the following paytables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2 (relating to table games Rules Submissions):

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>	<i>Paytable 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	100 to 1	100 to 1	100 to 1
Full House	50 to 1	50 to 1	50 to 1
Flush	40 to 1	40 to 1	40 to 1
Straight	25 to 1	25 to 1	20 to 1
Three-of-a-kind	7 to 1	6 to 1	6 to 1

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>	<i>Paytable C</i>
Two pair	3 to 1	3 to 1	3 to 1
A pair of 10s or better	1 to 1	1 to 1	1 to 1

(d) If a certificate holder offers the Progressive Payout Wager:

(1) A player placing a Progressive Payout Wager shall be paid at the odds in one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2:

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>	<i>Paytable C</i>
Royal Flush	100% of meter	100% of meter	100% of meter
Straight Flush	5,000 for 1	10% of meter	10% of meter
Four-of-a-kind	500 for 1	500 for 1	200 for 1
Full House	100 for 1	100 for 1	50 for 1
Flush	50 for 1	50 for 1	40 for 1
Straight	10 for 1	10 for 1	30 for 1
Three-of-a-kind	3 for 1	3 for 1	9 for 1
Two pair	2 for 1	2 for 1	N/A

(2) A player shall receive the payout for only the highest ranking five-card poker hand formed.

(3) The rate of progression for the meter used for the progressive payout in paragraph (1) must be in the certificate holder's Rules Submission filed in accordance with § 601a.2. The initial and reset amount must also be in the certificate holder's Rules Submission and must be at least \$10,000.

(4) Winning Progressive Payout Hands shall be paid in accordance with the amount on the meter when it is the player's turn to be paid in accordance with § 639a.11(c)(5) (relating to procedure for completion of each round of play).

§ 639a.13. Irregularities.

(a) A card that is found face up in the shoe or the deck while the cards are being dealt may not be used in that round of play and shall be placed in the discard rack. If more than one card is found face up in the shoe or the deck during the dealing of the cards, all hands shall be void, all wagers shall be returned to the players and the cards shall be reshuffled.

(b) A card drawn in error without its face being exposed shall be used as though it were the next card from the shoe or the deck.

(c) If any player or the dealer is dealt an incorrect number of cards, all hands shall be void, all wagers shall be returned to the players and the cards shall be reshuffled.

(d) If any of the dealer's hole cards are inadvertently exposed prior to each player having either folded or placed a Bet Wager as provided under § 639a.11 (relating to procedure for completion of each round of play), all hands shall be void, all wagers shall be returned to the players, and the cards shall be reshuffled.

(e) If an automated card shuffling device is being used and the device jams, stops shuffling during a shuffle or fails to complete a shuffle cycle, the cards shall be reshuffled.

(f) If an automated dealing shoe is being used and the device jams, stops dealing cards or fails to deal cards during a round of play, the round of play shall be void, all

wagers shall be returned to the players and the cards shall be removed from the device and reshuffled with any cards already dealt.

(g) If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, the automated card shuffling device or automated dealing shoe shall be covered or have a sign indicating that the automated card shuffling device or automated dealing shoe is out of order placed on the device before any other method of shuffling or dealing may be utilized at that table.

CHAPTER 647a. TEXAS HOLD 'EM BONUS POKER

Sec.

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- 647a.13. Irregularities.

§ 647a.1. Definitions.

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

Burn—To remove the top or next card from the deck and place it face down in the discard rack without exposing the card to anyone.

Community card—A card which may be used by each player and the dealer to form the best possible five-card poker hand.

Flop—The first three community cards dealt during a round of play.

Flop Wager—The second wager that a player shall make prior to the Flop being dealt to continue participation in the round of play.

Fold—The withdrawal of a player from a round of play by not making a Flop Wager.

Hand—The five-card poker hand formed from the two cards of the player or the dealer and any of the five community cards.

River card—The fifth and final community card dealt during a round of play.

River Wager—The fourth wager that a player may place prior to the River card being dealt.

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 settled in accordance with the rules of this chapter.

Turn card—The fourth community card dealt during a round of play.

Turn Wager—The third wager that a player may place prior to the Turn card being dealt.

§ 647a.2. Texas Hold 'Em Bonus Poker table physical characteristics.

(a) Texas Hold 'Em Bonus Poker shall be played at a table having betting positions for no more than six players on one side of the table and a place for the dealer on the opposite side of the table.

(b) The layout for a Texas Hold 'Em Bonus 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.

(2) Four separate betting areas designated for the placement of Ante, Flop, Turn and River Wagers for each player.

(3) A separate area designated for the placement of the five community cards located directly in front of the table inventory container.

(4) A separate area designated for the placement of the dealer's two cards.

(5) If the certificate holder offers the optional Texas Hold 'Em Bonus Wager authorized under § 647a.7(d)(2) (relating to wagers), a separate areas designated for the placement of the Texas Hold 'Em Bonus Wager for each player.

(6) Inscriptions that advise patrons of the payout odds for all permissible wagers offered by the certificate holder. If the payout odds are not inscribed on the layout, a sign identifying the payout odds for all permissible wagers shall be posted at each Texas Hold 'Em Bonus Poker table.

(7) Inscriptions indicating the following:

(i) The Ante Wager will be returned if the player's winning hand is not a straight or better or a flush or better as specified in the certificate holder's Rules Submission under § 601a.2 (relating to table games Rules Submissions).

(ii) The payout limit per hand established by the certificate holder under § 647a.12(c) (relating to payout odds; payout limitation) or a generic inscription indicating that the game is subject to the posted payout limit.

(8) If the information required under paragraph (7) is not inscribed on the layout, a sign which sets forth the required information shall be posted at each Texas Hold 'Em Bonus Poker table.

(c) Each Texas Hold 'Em Bonus Poker table must have a drop box and a tip box attached on the same side of the table as, but on opposite sides of, the dealer, as approved by the Bureau of Casino Compliance. The Bureau of Casino Compliance may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

(d) Each Texas Hold 'Em Bonus Poker table must have a discard rack securely attached to the top of the dealer's side of the table.

§ 647a.3. Cards; number of decks.

(a) Except as provided in subsection (b), Texas Hold 'Em Bonus Poker shall be played with one deck of cards that are identical in appearance and two cover cards.

(b) If an automated card shuffling device is utilized, Texas Hold 'Em Bonus Poker may be played with two decks of cards in accordance with the following requirements:

(1) The cards in each deck must be of the same design. The backs of the cards in one deck must be of a different color than the cards included in the other deck.

(2) One deck of cards shall be shuffled and stored in the automated card shuffling device while the other deck is being used to play the game.

(3) Both decks are continuously alternated in and out of play, with each deck being used for every other round of play.

(4) The cards from only one deck are placed in the discard rack at any given time.

(c) The decks of cards used in Texas Hold 'Em Bonus Poker shall be changed:

(1) At least every 4 hours if the cards are dealt by hand.

(2) At least every 8 hours if the cards are dealt from a manual or automated dealing shoe.

§ 647a.4. Opening of the table for gaming.

(a) After receiving one or more decks of cards at the table, the dealer shall inspect the cards for any defects. The floorperson assigned to the table shall verify the inspection.

(b) After the cards are inspected, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread out in horizontal fan shaped columns by deck according to suit and in sequence.

(c) After the first player arriving at the table has been afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Once the cards have been stacked, the cards shall be shuffled in accordance with § 647a.5 (relating to shuffle and cut of the cards).

(d) If an automated card shuffling device is utilized and two decks of cards are received at the table, each deck of cards shall be spread for inspection, mixed, stacked and shuffled in accordance with subsections (a)—(c).

(e) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 603a.16(u) or (v) (relating to cards; receipt, storage, inspection and removal from use), subsections (a)—(d) do not apply.

§ 647a.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 603a.16(u) or (v) (relating to cards; receipt, storage, inspection and removal from use), after each round of play has been completed or when directed by a floorperson or above, the dealer shall shuffle the cards, either manually or by use of an automated card shuffling device, so that the cards are randomly intermixed. Upon completion of the shuffle, the dealer or automated shuffling device shall place the deck of cards in a single stack provided, however, that the certificate holder may use an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the stack of cards directly into a dealing shoe.

(b) If an automated card shuffling device is being used, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, and the device reveals that an incorrect number of cards are present, the deck shall be removed from the table.

(c) After the cards have been shuffled and stacked, the dealer shall:

(1) If the cards were shuffled using an automated card shuffling device, deal the cards in accordance with § 647a.8, § 647a.9 or § 647a.10 (relating to procedure for

dealing the cards from a manual dealing shoe; procedure for dealing the cards from the hand; and procedure for dealing the cards from an automated dealing shoe).

(2) If the cards were shuffled manually or were reshuffled, cut the cards in accordance with subsection (d).

(d) If a cut of the cards is required, the dealer shall place the cover card in the stack at least ten cards in from the top of the stack. Once the cover card has been inserted, the dealer shall take all cards above the cover card and the cover card and place them on the bottom of the stack. The stack of cards shall then be inserted into the dealing shoe for commencement of play.

(e) After the cards have been cut and before any cards have been dealt, a floorperson or higher may require the cards to be recut if the floorperson determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

(f) If there is no gaming activity at a Texas Hold 'Em Bonus Poker table which is open for gaming, the cards shall be spread out on the table face down unless a player requests that the cards be spread face up on the table. After the first player arriving at the table is afforded an opportunity to visually inspect the cards:

(1) If there is no automated shuffling device in use, the cards shall be mixed thoroughly by a washing of the cards, stacked, then shuffled and cut in accordance with this section.

(2) If an automated shuffling device is in use, the cards shall be stacked and placed into the automated shuffling device to be shuffled. The deck of cards already in the shuffler shall then be removed. Unless a player requests otherwise, the deck of cards removed from the shuffler does not need to be spread for inspection and reshuffled prior to being dealt if:

(i) The automated card shuffling device stores a single deck of shuffled cards inside the shuffler in a secure manner.

(ii) The shuffled cards have been secured, released and prepared for play in accordance with procedures approved by the Bureau of Gaming Laboratory Operations.

(g) In lieu of the dealing and shuffling requirements in this section, a certificate holder may utilize a dealing shoe or other device designed to automatically reshuffle the cards provided that the device and the procedures for dealing and shuffling the cards through use of this device are approved by the Bureau of Gaming Laboratory Operations.

§ 647a.6. Texas Hold 'Em Bonus Poker rankings.

(a) The rank of the cards used in Texas Hold 'Em Bonus Poker, for the determination of winning hands, in order of highest to lowest rank, shall be: ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3 and 2. Notwithstanding the foregoing, an ace may be used to complete a straight flush or straight formed with a 2, 3, 4 and 5 but may not be combined with any other sequence of cards (for example queen, king, ace, 2 and 3). All suits shall be equal in rank.

(b) The permissible five-card poker hands at the game of Texas Hold 'Em Bonus Poker, 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, other than a royal flush, consisting of five cards of the same suit in consecutive ranking, with king, queen, jack, 10 and 9 being the highest ranking straight flush and ace, 2, 3, 4 and 5 being the lowest straight flush.

(3) A four-of-a-kind, which is a hand consisting of four cards of the same rank, with four aces being the highest ranking four-of-a-kind and four 2s being the lowest ranking four-of-a-kind.

(4) A full house, which is a hand consisting of a three-of-a-kind and a pair, with three aces and two kings being the highest ranking full house and three 2s and two 3s being the lowest ranking full house.

(5) A flush, which is a hand consisting of five cards of the same suit, not in consecutive order, with ace, king, queen, jack and 9 being the highest ranking flush and 2, 3, 4, 5 and 7 being the lowest ranking flush.

(6) A straight, which is a hand consisting of five cards of more than one suit and of consecutive rank, with an ace, king, queen, jack and 10 being the highest ranking straight and an ace, 2, 3, 4 and 5 being the lowest ranking straight.

(7) A three-of-a-kind, which is a hand consisting of three cards of the same rank, with three aces being the highest ranking three-of-a-kind and three 2s being the lowest ranking three-of-a-kind.

(8) Two pair, which is a hand consisting of two pairs, with two aces and two kings being the highest ranking two pair and two 3s and two 2s being the lowest ranking two pair.

(9) A pair, which is a hand consisting of two cards of the same rank, with two aces being the highest ranking pair and two 2s being the lowest ranking pair.

(c) When comparing two hands that are of identical rank under subsection (b), or that contain none of the hands listed in subsection (b), the hand that contains the highest ranking card under subsection (a), which is not contained in the other hand, shall be considered the higher ranking hand. If the hands are of identical rank after the application of this subsection, the hands shall be considered a tie.

§ 647a.7. Wagers.

(a) Wagers at Texas Hold 'Em Bonus Poker shall be made by placing value chips or plaques on the appropriate areas of the table layout. Verbal wagers accompanied by cash may not be accepted.

(b) Only players who are seated at the Texas Hold 'Em Bonus Poker table may place a wager at the game. Once a player has placed a wager and received cards, that player shall remain seated until the completion of the round of play. If a player leaves the table during a round of player, any wagers made by the player may be considered abandoned and may be treated as losing wagers.

(c) All Ante and Texas Hold 'Em Bonus Wagers shall be placed prior to the dealer announcing "no more bets" in accordance with the dealing procedure in § 647a.8, § 647a.9 or § 647a.10 (relating to procedure for dealing the cards from a manual dealing shoe; procedure for dealing the cards from the hand; and procedure for dealing the cards from an automated dealing shoe). Except as provided in § 647a.11(b), (d) and (f) (relating to procedure for completion of each round of play), a wager may not be made, increased or withdrawn after the dealer has announced "no more bets."

(d) The following wagers may be placed in the game of Texas Hold 'Em Bonus Poker:

(1) A player shall compete against the dealer's five-card poker hand by placing an Ante Wager then Flop, Turn and River Wagers in accordance with § 647a.11(b), (d) and (f).

(2) A certificate holder may, if specified in its Rules Submission under § 601a.2 (relating to table games Rules Submissions), offer to each player at a Texas Hold 'Em Bonus Poker table the option to make an additional Texas Hold 'Em Bonus Wager that the player's first two cards will qualify for a payout in accordance with § 647a.12(b) (relating to payout odds; payout limitation). A Texas Hold 'Em Bonus Wager shall have no bearing on any other wager made by the player.

(e) A player may not wager on more than one player position at a Texas Hold 'Em Bonus Poker table.

§ 647a.8. Procedure for dealing the cards from a manual dealing shoe.

(a) If a manual dealing shoe is used, the dealing shoe must be located on the table in a location as approved by the Bureau of Casino Compliance. Once the procedures required under § 647a.5 (relating to shuffle and cut of the cards) have been completed, the stacked deck of cards shall be placed in the dealing shoe either by the dealer or by the automated card shuffling device.

(b) Prior to dealing the cards and after all Ante and Texas Hold 'Em Bonus Wagers have been placed, the dealer shall announce "no more bets."

(c) Each card shall be removed from the dealing shoe with the hand of the dealer that is the closest to the dealing shoe and placed on the appropriate area of the layout with the opposite hand.

(d) The dealer shall, starting with the player farthest to the dealer's left and continuing around the table in a clockwise manner, deal one card at a time, face down, to each player who placed an Ante Wager in accordance with § 647a.7(d)(1) (relating to wagers) and to the dealer, under a cover card, until each player who placed an Ante Wager and the dealer have two cards.

(e) After two cards have been dealt to each player and to the area designated for the placement of the dealer's hand, the dealer shall deal the five community cards in accordance with § 647a.11(c), (e) and (g) (relating to procedure for completion of each round of play). After all community cards have been dealt, the dealer shall remove the stub from the manual dealing shoe and, except as provided in subsection (f), place the stub in the discard rack without exposing the cards.

(f) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(g) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(h) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If

the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 647a.9. Procedure for dealing the cards from the hand.

(a) If the cards are dealt from the dealer's hand, the following requirements shall be observed:

(1) An automated shuffling device shall be used to shuffle the cards.

(2) After the procedures required under § 647a.5 (relating to shuffle and cut of the cards) have been completed, the dealer shall place the stacked deck of cards in either hand. After the dealer has chosen the hand in which he will hold the cards, the dealer shall continue to use that hand whenever holding the cards during that round of play. The cards held by the dealer shall be kept over the table inventory container and in front of the dealer at all times.

(b) The dealer shall announce "no more bets" and then deal each card by holding the deck of cards in the chosen hand and use the other hand to remove the top card of the deck and place it face down on the appropriate area of the layout. The dealer shall, starting with the player farthest to the dealer's left and continuing around the table in a clockwise manner, deal one card at a time to each player who placed an Ante Wager in accordance with § 647a.7(d)(1) (relating to wagers) and to the dealer, under a cover card, until each player who placed an Ante Wager and the dealer have two cards.

(c) After two cards have been dealt to each player and to the area designated for the placement of the dealer's hand, the dealer shall deal the five community cards in accordance with § 647a.11(c), (e) and (f) (relating to procedure for completion of each round of play). After all community cards have been dealt, the dealer shall, except as provided in subsection (d), place the stub in the discard rack without exposing the cards.

(d) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(e) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(f) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 647a.10. Procedure for dealing the cards from an automated dealing shoe.

(a) If the cards are dealt from an automated dealing shoe, the following requirements shall be observed:

(1) After the procedures required under § 647a.5 (relating to shuffle and cut of the cards) have been completed, the cards shall be placed in the automated dealing shoe.

(2) Prior to the shoe dispensing any stacks of cards, the dealer shall announce "no more bets."

(b) The dealer shall deliver the first stack of two cards dispensed by the automated dealing shoe face down to the player farthest to the dealer's left who has placed an Ante Wager in accordance with § 647a.7(d)(1) (relating to wagers). As the remaining stacks are dispensed to the dealer by the automated dealing shoe, the dealer shall, moving clockwise around the table, deliver a stack of two cards face down to each of the other players who has placed an Ante Wager. The dealer shall then deliver a stack of two cards face down under a cover card to the area designated for the dealer's cards.

(c) After each stack of two cards has been dispensed and delivered in accordance with subsection (b), the dealer shall remove the remaining cards from the automated dealing shoe and, following the procedures in § 647a.9(a)(2) (relating to procedure for dealing the cards from the hand), deal from his hand the five community cards in accordance with § 647a.11(c), (e) and (f) (relating to procedure for completion of each round of play). After all five community cards have been dealt, the dealer shall, except as provided in subsection (d), place the stub in the discard rack without exposing the cards.

(d) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(e) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(f) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

(g) Notwithstanding the requirements in subsections (b) and (c), if a certificate holder is utilizing an automated dealing shoe which automatically reshuffles the cards, the five community cards may be dispensed before the two cards are dispensed to each player and to the dealer. The community cards shall then be revealed in accordance with § 647a.11(c), (e) and (f).

§ 647a.11. Procedure for completion of each round of play.

(a) After the dealing procedures required under § 647a.8, § 647a.9 or § 647a.10 (relating to procedure for dealing the cards from a manual dealing shoe; procedure for dealing the cards from the hand; and procedure for dealing the cards from an automated dealing shoe) have been completed, each player shall examine his cards subject to the following limitations:

(1) Each player who wagers at Texas Hold 'Em Bonus 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.

(2) Each player shall keep his cards in full view of the dealer at all times.

(b) After each player has examined his cards, the dealer shall, beginning with the player farthest to the dealer's left and moving clockwise around the table, ask each player if he wishes to place a Flop Wager prior to the dealing of the Flop. The player may either fold or place a Flop Wager equal to twice the amount of the player's Ante Wager. If a player:

(1) Places a Flop Wager, the wager shall be placed in the area designated for the Flop Wager.

(2) Folds, the player's Ante Wager shall be collected by the dealer and placed in the table inventory container. If the player:

(i) Has also placed a Texas Hold 'Em Bonus Wager, the dealer shall place the cards of the player face down underneath the Texas Hold 'Em Bonus Wager pending its resolution at the conclusion of the round of play.

(ii) Has not placed a Texas Hold 'Em Bonus Wager, the dealer shall immediately collect the player's cards and place them in the discard rack.

(c) After each player has either placed a Flop Wager or folded, the dealer shall burn the next card. The dealer shall then deal the Flop face up to the designated area for the community cards.

(d) After the Flop has been dealt, the dealer shall, beginning with the player farthest to the dealer's left who has placed a Flop Wager and moving clockwise around the table, ask each player who has placed a Flop Wager if he wishes to place a Turn Wager prior to the dealing of the turn card. The player may either check and remain in the game or place a Turn Wager in an amount equal to the player's Ante Wager.

(e) Once all remaining players have either placed a Turn Wager or checked, the dealer shall burn the next card. The dealer shall then deal the turn card face up to the designated area for the community cards.

(f) After the Flop and turn cards have been dealt, the dealer shall, beginning with the player farthest to the dealer's left who has placed a Flop Wager and moving clockwise around the table, ask each player if he wishes to place a River Wager prior to the dealing of the River card. The player may either check and remain in the game or place a River Wager in an amount equal to the player's Ante Wager.

(g) Once all remaining players have either placed a River Wager or checked, the dealer shall burn the next card face down. The dealer shall then deal the River card face up to the designated area for the community cards.

(h) After the five community cards have been dealt, the dealer shall remove the cover card on top of the dealer's cards and turn his two cards face up on the layout. The dealer shall then select five cards using the dealer's two cards and the five community cards to form the highest ranking five-card poker hand. After the dealer's cards are turned face up, the dealer shall, beginning with the player farthest to the dealer's right who has placed a Flop Wager and continuing around the table in a counterclockwise direction, complete the following applicable procedures in succession for each player:

(1) The dealer shall turn the two cards of each player who has placed a Flop Wager face up on the layout.

(2) The dealer shall examine the cards of the player and select the five cards using the player's two cards and the five community cards to form the highest ranking five-card poker hand. The wagers of each player shall be

resolved one player at a time regardless of outcome. If a player's five card poker hand:

(i) Is ranked lower than the dealer's five-card poker hand, the dealer shall immediately collect the Ante, Flop, Turn and River Wagers made by the player.

(ii) Is ranked higher than the dealer's five-card poker hand, the dealer shall pay the Ante, Flop, Turn and River Wagers in accordance with the payout odds in § 647a.12 (relating to payout odds; payout limitation) provided, however, that the player's Ante Wager will be returned if the player's winning hand is not a straight or higher or a flush or higher as specified in the certificate holder's Rules Submission under § 601a.2 (relating to table games Rules Submissions).

(iii) Is equal in rank to the dealer's five-card hand, the dealer shall return the player's Ante, Flop, Turn and River Wagers.

(3) After settling a player's Ante, Flop, Turn and River Wagers, the dealer shall settle any Texas Hold 'Em Bonus Wager made by the player by determining whether the player's two cards qualify for a payout in accordance with § 647a.12(b).

(i) After all wagers have been settled, the dealer shall remove all remaining cards from the table and place them in the discard rack in a manner that permits the reconstruction of each hand in the event of a question or dispute.

§ 647a.12. Payout odds; payout limitation.

(a) A certificate holder shall pay winning Ante, Flop, Turn and River Wagers at odds of 1 to 1.

(b) A certificate holder shall pay out winning Texas Hold 'Em Bonus Wager at the odds in one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2 (relating to table games Rules Submissions):

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>
Ace-ace (dealer and player)	1,000 to 1	N/A
Ace-ace	30 to 1	30 to 1
Ace-king (same suit)	25 to 1	25 to 1
Ace-queen or ace-jack (same suit)	20 to 1	20 to 1
Ace-king (different suits)	15 to 1	15 to 1
King-king, queen-queen or jack-jack	10 to 1	10 to 1
Ace-queen or ace-jack (different suits)	5 to 1	5 to 1
A pair of 10-10 through 2-2	3 to 1	3 to 1

(c) Notwithstanding the payout odds in subsections (a) and (b), the maximum aggregate payout limit on all winning Ante, Flop, Turn, River and Texas Hold 'Em Bonus Wagers for any hand shall be \$50,000 or the maximum amount that one patron could win per round when betting the minimum wager, whichever is greater.

§ 647a.13. Irregularities.

(a) A card that is found face up in the shoe or the deck while the cards are being dealt may not be used in that round of play and shall be placed in the discard rack. If more than one card is found face up in the shoe or the deck during the dealing of the cards, all hands shall be void, all wagers shall be returned to the players and the cards shall be reshuffled. Notwithstanding the foregoing, if the cards are found face up after each player and the dealer have received their initial two cards, any Texas

Hold 'Em Bonus Wager shall be settled in accordance with the payout odds in § 647a.12(b) (relating to payout odds; payout limitation).

(b) A card drawn in error without its face being exposed shall be used as though it were the next card from the shoe or the deck.

(c) If any player, the dealer or the area designated for the placement of the community cards is dealt an incorrect number of cards, all hands shall be void, all wagers shall be returned to the players and the cards shall be reshuffled.

(d) If either of the cards dealt to the dealer in Texas Hold 'Em Bonus Poker is inadvertently exposed prior to each player having either folded or placed a Flop, Turn or River Wager as provided for under § 647a.11 (relating to procedure for completion of each round of play), all hands shall be void and all Ante, Flop, Turn and River Wagers shall be returned to the players and the cards shall be reshuffled. Notwithstanding the forgoing, if a player has placed a Texas Hold 'Em Bonus Wager, the wager shall be settled in accordance with the payout odds in § 647a.12(b).

(e) If an automated card shuffling device is being used and the device jams, stops shuffling during a shuffle or fails to complete a shuffle cycle, the cards shall be reshuffled.

(f) If an automated dealing shoe is being used and the device jams, stops dealing cards or fails to deal cards during a round of play, the round of play shall be void, all wagers shall be returned to the players and the cards shall be removed from the device and reshuffled with any cards already dealt.

(g) If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, the automated card shuffling device or automated dealing shoe must be covered or have a sign indicating that the automated card shuffling device or automated dealing shoe is out of order placed on the device before any other method of shuffling or dealing may be utilized at that table.

[Pa.B. Doc. No. 11-1221. Filed for public inspection July 22, 2011, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

[25 PA. CODE CH. 806]

Review and Approval of Projects

Summary: This document contains proposed rules that would amend the project review regulations of the Susquehanna River Basin Commission (Commission) to: Include definitions for new terms that are used in the proposed rulemaking; provide for administrative approval of interbasin transfers of flowback and production fluids between drilling pad sites that are isolated from the waters of the basin; provide for administrative approval of out-of-basin transfers of flowback or produced fluids from a Commission approved hydrocarbon development project to an out-of-basin treatment or disposal facility; insert language authorizing "renewal" of expiring approvals, including Approvals by Rule (ABRs); delete specific references to geologic formations that may be the subject

of natural gas development using hydrofracture stimulation and replace with a generic category—"unconventional natural gas development;" broaden the scope of ABRs issued to include hydrocarbon development of any kind utilizing the waters of the basin, not just unconventional natural gas well development; memorialize the current practice of requiring post-hydrofracture reporting; standardize at 15 years the term of ABR approvals for both gas and non-gas projects; and provide further procedures for the approval of water sources utilized at projects subject to the ABR process.

Dates: Comments on these proposed rules may be submitted to the Commission on or before August 23, 2011. The Commission has scheduled two public hearings on the proposed rules, to be held August 2, 2011, in Harrisburg, Pennsylvania, and August 4, 2011, in Binghamton, New York. The locations of the public hearings are listed in the addresses section of this notice.

Addresses: Comments may be mailed to: Mr. Richard A. Cairo, Susquehanna River Basin Commission, 1721 N. Front Street, Harrisburg, PA 17102-2391, or by email to rcairo@srbc.net.

The public hearings will be held on Tuesday, August 2, 2011, at 10:00 a.m., at the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101, and on Thursday, August 4, 2011 at 7:00 p.m., at the Holiday Inn Binghamton Downtown, 2-8 Hawley Street, Binghamton, New York 13901. Those wishing to testify are asked to notify the Commission in advance, if possible, at the regular or electronic addresses given below.

For Further Information Contact: Richard A. Cairo, General Counsel, telephone: 717-238-0423, ext. 306; fax: 717-238-2436; e-mail: rcairo@srbc.net. Also, for further information on the proposed rulemaking, visit the Commission's web site at www.srbc.net.

Supplementary Information

Background and Purpose of Amendments

The basic purpose of the regulatory amendments set forth in this proposed rulemaking is to make further modifications to the Commission's project review regulations, most of which relate to the approval of hydrocarbon development projects.

New terms are used in these amendments that require further definition in 18 CFR § 806.3. These include definitions for the terms flowback, formation fluids, hydrocarbon development, hydrocarbon water storage facility, production fluids, tophole water, and unconventional natural gas development.

In order to encourage the reuse of least quality water instead of fresh water for hydraulic fracturing by unconventional natural gas development, the Commission proposes to add paragraph (a)(3)(iv) to § 806.4, which would provide for administrative approval of diversions involving flowback or production fluids from hydrocarbon development projects being transferred across the basin boundary from one drilling pad site to another drilling pad site, provided this water is handled in a manner that isolates it from the waters of the basin. Such diversions would be approved administratively under the provisions of § 806.22(f), rather than § 806.4. This change would incorporate into the regulation a policy adopted by the Commission on March 10, 2011.

To encourage reuse, treatment and proper disposal, paragraph (a)(3)(v) of § 806.4 would also be added, which would provide for diversions involving flowback or production fluids transferred to an out-of-basin treatment or disposal facility operating under separate governmental

approval to be subject to administrative approval under the provisions of § 806.22(f), rather than being subject to docket approval under § 806.4.

Currently, § 806.4(a)(8) states that natural gas well development projects targeting the Marcellus and Utica shale formation, or any other shale formations identified in an Executive Director determination, involving a withdrawal, diversion or consumptive use of water in any quantity, must be approved by the Commission. Rather than attempting to name every possible geologic formation that may be the subject of development using hydrofracture stimulation (beyond Marcellus and Utica and the additional formations referenced in the Executive Director’s recent Notice of Determination issued on April 21, 2011), the specific formation references would be deleted and replaced with a generic category—“unconventional natural gas development,” which relates to the extraction of gaseous hydrocarbons from low permeability geologic formations utilizing enhanced drilling, stimulation and recovery techniques. The “gallon one” regulatory threshold currently applicable under the regulations to gas well development in the specifically named formations would instead be extended to this broader category.

Language is inserted into §§ 806.13 and 14 authorizing “renewal” of expiring approvals, including Approvals by Rule (ABRs). Currently, the regulations have no specific reference to a “renewal” process for expiring approvals. Renewals are also provided for in additions to § 806.22(e)(6) and (f)(9).

Adjustments are made to § 806.15—Notice of Application to account for changes and additions to § 806.22(f) described below relating to source registrations and administrative approvals of sources.

Currently, § 806.22(f) establishes an ABR process for consumptive use approvals related to natural gas well development. The Commission proposes to broaden the scope of ABRs issued under § 806.22(f) to include hydrocarbon development of any kind utilizing the waters of the basin, not just unconventional natural gas well development. Rather than requiring such projects to go through review and docket approval under § 806.4, they would be regulated under the administrative ABR process for consumptive use approvals, which has become a very effective mechanism for managing this type of activity. The inclusion of “unconventional natural gas well development” as a subcategory of hydrocarbon development retains coverage of well development using unconventional stimulation or recovery techniques such as hydraulic fracturing under the ABR process.

Proposed § 806.22(f)(4) would clarify that post-hydrofracture reporting is intended to be included in the metering, daily use monitoring and quarterly reporting requirement specified in § 806.30. This would memorialize an ongoing practice of the Commission.

Proposed § 806.22(f)(8) would broaden the certification provided by project sponsors on their compliance with state and federal laws to include “re-use” as well as treatment and disposal of flowback and production fluids.

Revised § 806.22(f)(9) would extend the concept of “renewal” to an existing ABR, where it is not explicitly mentioned in the current regulations.

The current regulations only provide a 4-year duration for natural gas development project ABRs. This relatively short approval term was implemented to give the Commission a near-term opportunity to evaluate the use of an administrative approval process for natural gas-related consumptive use activity. Revised § 806.22(f)(10) would

extend the term of an approval by rule from 4 years to 15 years from the date of notification by the Executive Director, reflecting the knowledge and experience gained by the Commission in reviewing natural gas development projects. A 15-year term is the standard approval term for all other ABRs.

Water source approvals under the hydrocarbon development ABR program are restructured in three ways. First, language would be inserted in § 806.22(f)(11) to identify water sources that are authorized for use by operation of the rule, rather than by separate approval. These sources would continue to be subject to tracking, recordkeeping and reporting requirements. The existing provisions of § 806.22(f)(12) would be split apart, resulting in revised language and the creation of a new § 806.22(f)(13). As revised, § 806.22(f)(12) sets out the registration procedure for hydrocarbon developers to use a source of water approved by the Commission pursuant to § 806.4(a) and issued to persons other than the project sponsor. The new § 806.22(f)(13) authorizes approvals for sources, including, but not limited to public water supplies, wastewater, and hydrocarbon water storage facilities not otherwise associated with docket approvals issued by the Commission or ABRs issued by the Executive Director. By issuing approvals for such hydrocarbon water storage facilities, a tracking mechanism would be created authorizing use of these sources by operation of the rule, rather than needing individual registrations or approvals. Such an approach provides the necessary management controls.

List of Subjects in 18 CFR Part 806

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission proposes to amend 18 CFR Part 806 as follows:

Part 806—Review and Approval of Projects

Subpart A—General Provisions

1. The authority citation for Part 806 continues to read as follows:

Authority: Secs. 3.4, 3.5(5), 3.8, 3.10 and 15.2, Pub. L. 91-575, 84 Stat. 1509 et seq.

2. Amend § 806.3 by adding definitions for “Flowback”, “Formation fluids”, “Hydrocarbon development”, “Production fluids”, “Project”, “Tophole water”, and “Unconventional natural gas development” to read as follows:

§ 806.3—Definitions.

* * * * *

Flowback. The return flow of water and formation fluids recovered from the well bore of an unconventional natural gas or hydrocarbon development well within 30 days following the release of pressures induced as part of the hydraulic fracture stimulation of a target geologic formation, or until the well is placed into production, whichever occurs first.

Formation fluids. Fluids in a liquid or gaseous physical state, present within the pore spaces, fractures, faults, vugs, caverns, or any other spaces of formations, whether or not naturally occurring or injected therein.

* * * * *

Hydrocarbon development. Activity associated with the siting, drilling, casing, cementing, stimulation and completion of wells, including but not limited to uncon-

ventional natural gas development wells, undertaken for the purpose of extraction of liquid or gaseous hydrocarbon from geologic formations.

Hydrocarbon water storage facility. An engineered barrier or structure, including but not limited to tanks, pits or impoundments, constructed for the purpose of storing water, flowback or production fluids for use in hydrocarbon development.

* * * * *

Production fluids. Water or formation fluids recovered at the wellhead of a producing hydrocarbon well as a by-product of the production activity.

Project. Any work, service, activity, or facility undertaken, which is separately planned, financed or identified by the Commission, or any separate facility undertaken or to be undertaken by the Commission or otherwise within a specified area, for the conservation, utilization, control, development, or management of water resources, which can be established and utilized independently, or as an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation. For purposes of hydrocarbon development activity, the project shall be considered to be the drilling pad upon which one or more exploratory or production wells are undertaken, and all water-related appurtenant facilities and activities related thereto.

* * * * *

Tophole water. Groundwater that is encountered collected at the surface during drilling operations undertaken in conjunction with hydrocarbon development.

Unconventional natural gas development. Activity associated with the siting, drilling, casing, cementing, stimulation and completion of wells undertaken for the purpose of extraction of gaseous hydrocarbons from low permeability geologic formations utilizing enhanced drilling, stimulation or recovery techniques.

* * * * *

3. In § 806.4, revise paragraph (a)(3) introductory text, add paragraphs (a)(3)(v) and (a)(3)(vi), and revise paragraph (a)(8), as follows:

§ 806.4—Projects Requiring Review and Approval

(a) * * *

(3) Diversions. Except with respect to agricultural water use projects not subject to the requirements of paragraph (a)(1) of this section, the projects described in paragraphs (3)(i) through (3)(iv) below shall require an application to be submitted in accordance with § 806.13, and shall be subject to the standards set forth in § 806.24. The project sponsors of out-of-basin diversions shall also comply with all applicable requirements of this part relating to consumptive uses and withdrawals. The projects identified in paragraphs (3)(v) and (3)(vi) below shall be subject to regulation pursuant to § 806.22(f).

* * * * *

(v) The interbasin diversion of any flowback or production fluids from hydrocarbon development projects from one drilling pad site to another drilling pad site for use in hydrofracture stimulation, and handled in such a manner as to isolate it from the waters of the basin, shall not be subject to separate review and approval as a diversion under this paragraph if the generating or receiving pad site is subject to an Approval by Rule issued pursuant to § 806.22(f).

(vi) The out-of-basin diversion of flowback or production fluids from a hydrocarbon development project for which an Approval by Rule has been issued pursuant to § 806.22(f), to an out-of-basin treatment or disposal facility authorized under separate governmental approval to accept the same, shall not be subject to separate review and approval as a diversion under this paragraph.

* * * * *

(8) Any unconventional natural gas development project in the basin involving a withdrawal, diversion or consumptive use, regardless of the quantity.

* * * * *

Subpart B—Application Procedure

4. Revise § 806.13, as follows:

§ 806.13—Submission of Application

Project sponsors of projects subject to review and approval of the Commission under §§ 806.4, 806.5 or 806.6, or project sponsors seeking renewal of an existing approval of the Commission, shall submit an application and applicable fee to the Commission, in accordance with this subpart.

5. In § 806.14, revise paragraph (a), as follows:

§ 806.14—Contents of Application

(a) Except with respect to applications to renew an existing Commission approval, applications shall include, but not be limited to, the following information and, where applicable, shall be submitted on forms and in the manner prescribed by the Commission. Renewal applications shall include such information that the Commission determines to be necessary for the review of same, and shall likewise be submitted on forms and in the manner prescribed by the Commission.

* * * * *

6. In § 806.15, revise paragraphs (d), (e) and (f) and add paragraph (g), as follows:

§ 806.15—Notice of Application

* * * * *

(d) For applications submitted under § 806.22(f)(13) for a public water supply source, the newspaper notice requirement contained in paragraph (a) of this section shall be satisfied by publication in a newspaper of general circulation in the area served by the public water supply.

(e) For applications submitted under § 806.22(f)(13) for a wastewater discharge source, the newspaper notice requirement contained in paragraph (a) of this section shall be satisfied by publication in a newspaper of general circulation in each area within which the water obtained from such source will be used for natural gas development.

(f) For applications submitted under § 806.22(f)(13) for a hydrocarbon water storage facility, the newspaper notice requirement contained in paragraph (a) of this section shall be satisfied by publication in a newspaper of general circulation in the area in which the project is located.

(g) The project sponsor shall provide the Commission with a copy of the United States Postal Service return receipt for the notifications to agencies of member States, municipalities and county planning agencies required under paragraph (a) of this section. The project sponsor

shall also provide certification on a form provided by the Commission that it has published the newspaper notice(s) required by this section and made the landowner notifications as required under paragraph (b) of this section, if applicable. Until these items are provided to the Commission, processing of the application will not proceed. The project sponsor shall maintain all proofs of notice required hereunder for the duration of the approval related to such notices.

Subpart C—Standards for Review and Approval

7. In § 806.22, revise paragraphs (e)(1), (e)(6), (f), (f)(1), (f)(4), (f)(8), (f)(9), (f)(10), (f)(11), and (f)(12), and add paragraph (f)(13), to read as follows:

§ 806.22—Standards for consumptive uses of water

* * * * *

(e) * * *

(1) Except with respect to projects involving hydrocarbon development subject to the provisions of paragraph (f) of this section, any project whose sole source of water for consumptive use is a public water supply, may be approved by the Executive Director under this paragraph (e) in accordance with the following, unless the Executive Director determines that the project cannot be adequately regulated under this approval by rule.

* * * * *

(6) The Executive Director may grant, deny, suspend, rescind, modify or condition an approval to operate under this approval by rule, or renew an existing approval by rule previously granted hereunder, and will notify the project sponsor of such determination, including the quantity of consumptive use approved.

* * * * *

(f) Approval by rule for consumptive use related to unconventional natural gas and other hydrocarbon development.

(1) Any unconventional natural gas development project, or any hydrocarbon development project subject to review and approval under §§ 806.4, 806.5, or 806.6 of this part, shall be subject to review and approval by the Executive Director under this paragraph (f) regardless of the source or sources of water being used consumptively.

* * * * *

(4) The project sponsor shall comply with metering, daily use monitoring and quarterly reporting as specified in § 806.30, or as otherwise required by the approval by rule. Daily use monitoring shall include amounts delivered or withdrawn per source, per day, and amounts used per gas well, per day, for well drilling, hydrofracture stimulation, hydrostatic testing, and dust control. The foregoing shall apply to all water, including stimulation additives, flowback and production fluids, utilized by the project. The project sponsor shall also submit a post-hydrofracture report in a form and manner as prescribed by the Commission.

* * * * *

(6) Any flowback or production fluids utilized by the project sponsor for hydrofracture stimulation undertaken at the project shall be separately accounted for, but shall not be included in the daily consumptive use amount calculated for the project, or be subject to the mitigation requirements of § 806.22(b).

* * * * *

(8) The project sponsor shall certify to the Commission that all flowback and production fluids have been re-used or treated and disposed of in accordance with applicable state and federal law.

(9) The Executive Director may grant, deny, suspend, rescind, modify or condition an approval to operate under this approval by rule, or renew an existing approval by rule granted hereunder, and will notify the project sponsor of such determination, including the sources and quantity of consumptive use approved. The issuance of any approval hereunder shall not be construed to waive or exempt the project sponsor from obtaining Commission approval for any water withdrawals or diversions subject to review pursuant to § 806.4(a). Any sources of water approved pursuant to this section shall be further subject to any approval or authorization required by the member State.

(10) An approval by rule shall be effective upon written notification from the Executive Director to the project sponsor and shall expire 15 years from the date of such notification.

(11) A project sponsor issued an approval by rule pursuant to paragraph (f)(9) of this section may utilize any of the following water sources at the drilling pad site:

(i) Water sources approved for use by the project sponsor for unconventional natural gas development, or hydrocarbon development, whichever is applicable, pursuant to § 806.4 or this section.

(ii) Tophole water encountered during the drilling process.

(iii) Precipitation or stormwater collected on the drilling pad site.

(iv) Flowback or production fluids obtained from a hydrocarbon water storage facility, provided it is used for hydrofracture stimulation only, and is handled in such a manner as to isolate it from the waters of the basin.

(v) Water obtained from a hydrocarbon water storage facility associated with an approval issued by the Commission pursuant to § 806.4(a) or by the Executive Director pursuant to this section.

(12) A project sponsor issued an approval by rule pursuant to paragraph (f)(9) of this section may utilize a source of water approved by the Commission pursuant to § 806.4(a) and issued to persons other than the project sponsor, provided any such source is approved for use in unconventional natural gas development, or hydrocarbon development, whichever is applicable, the project sponsor has an agreement for its use, and at least 10 days prior to use, the project sponsor registers such source with the Commission on a form and in a manner as prescribed by the Commission. The project sponsor shall also provide a copy of same to the appropriate agency of the member State. The project sponsor shall record on a daily basis, and report quarterly on a form and in a manner prescribed by the Commission, the quantity of water obtained from any source registered hereunder.

(13) A project sponsor issued an approval by rule pursuant to paragraph (f)(9) of this section may also utilize other sources of water, including but not limited to, public water supply, wastewater discharge, or a hydrocarbon water storage facility not otherwise associated with an approval issued by the Commission pursuant to § 806.4(a) or an approval by rule issued pursuant to

paragraph (f)(9) of this section, provided such sources are first approved by the Executive Director. Any request for approval shall be submitted on a form and in a manner as prescribed by the Commission, shall satisfy the notice requirements set forth in § 806.15, and shall be subject to review pursuant to the standards set forth in subpart C of this part. Any approval issued hereunder shall be subject to such monitoring and reporting requirements as may be contained therein.

Dated: July 11, 2011.

THOMAS W. BEAUDUY,
Deputy Executive Director

Fiscal Note: 72-9. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART IV. SUSQUEHANNA RIVER BASIN
COMMISSION**

**CHAPTER 806. REVIEW AND APPROVAL OF
PROJECTS**

§ 806.1. Incorporation by reference.

The regulations and procedures for review of projects as set forth 18 CFR Part 806 [(2010)] (2011) (relating to review and approval of projects) are incorporated by reference and made part of this title.

[Pa.B. Doc. No. 11-1222. Filed for public inspection July 22, 2011, 9:00 a.m.]