

Explanations of Proposed Amendments to Regulations 20, 21, 22, 26A and 26C

The following are explanations of proposed changes reflected in the drafts of the regulations as posted on www.gaming.nv.gov in conjunction with an industry letter dated October 20, 2009. Explanations for changes that are self-explanatory have been omitted.

Regulation 20 - Disseminators

Regulation 20.005: This section was added to specifically allow the chairman to grant administrative waivers of Regulation 20.

Regulation 20.010(2): “Animal” was added to clarify that the receipt of disseminated information does not relate to non-animal races (e.g., car racing or human races), and is consistent with similar changes made in Regulation 22. Additionally, changes were made to clarify that the live audio visual signal provided by the disseminator to the systems operator and pari-mutuel books, pursuant to Regulation 26A.080(1)(d), does not constitute an event that would result in the books or the systems operator being considered “buyers”.

Regulation 20.010(3) and (4): These subsections were added to include additional definitions that are relevant to Regulation 20.

Regulation 20.020(1): This subsection of the existing regulation has been deleted because a disseminator is no longer considered a nonrestricted gaming licensee, due to amendments to Regulation 4.030 [see Regulation 20.020(2) comments below for further explanation]. The draft of new subsection 1 has been expanded to clarify that a person providing transmission services in association with a disseminator may be required to file an application for a finding of suitability. This is already codified in NRS 463.168 and is being added to the regulation to enhance awareness.

Regulation 20.020(2): The existing regulation does not allow the disseminator to hold any gaming license other than a disseminator’s license. Regulation 4.030, though, has been amended since Regulation 20 was adopted in 1985. Previously, Regulation 4.030 defined a disseminator license as a category of gaming license. However, existing Regulation 4.030 does not include a disseminator license within in the definition of a gaming license. Therefore, this subsection was changed slightly to reflect the change in Regulation 4.030.

Regulation 20.030(7): This subsection was updated to require the amount “won” to be included on the report (i.e., the NGC-32 form). The NGC-32 form currently requires the reporting of win by each racing meet, so the regulation change will formalize that which is already reported. This additional data can be used for statistical analyses of book operations, enhancing the Board’s ability to conduct analytical review. Additionally, the amounts wagered and won on non-live broadcast and nonpari-mutuel races will now be required. These latter races would include, for example, races for which a book uses a disseminator service, other than a live broadcast (e.g., wire service), to determine winners of and payoffs on race wagers. While this category will seldom be used, it will allow the casinos to balance the NGC-32 handle and win to the NGC-31 tax returns handle and win.

Regulation 20.050: This section was deleted because the information included in the reports it requires is not so critical that such information needs to be submitted to the Board on a regular basis. It is sufficient for the disseminator to maintain it and make it available, upon request, to Board agents who will periodically confirm that all race books pay the same fees. In conjunction with deleting Regulation 20.050, section 20.060(3) was added to require the disseminator to maintain this information.

Regulation 20.060(1)(a) – (c): “Announced” was deleted in subsection (a) and replaced with “supplied” because “announce” implies verbal notification over a loud speaker. However, the disseminator can provide this information by other means as well (e.g., by wire service). Subsection (b) was changed to accommodate the post time definition that was recently added to Regulation 22. Subsection (c) was updated to clarify that this information must originate from the track.

Regulation 20.060(2): This subsection was changed because there are no requirements in Regulation 6 that specifically apply to a disseminator. The disseminator does, however, have specific reporting and recording requirements, as indicated in Regulation 21.090.

Regulation 20.060(3): As previously indicated, this subsection was added to require the disseminator to *maintain* the information that existing Regulation 20.050 requires be *filed with the Board*.

Regulation 20.070(1)(b) and (c): These subsections were deleted because the information they require is no longer significant in the current environment.

Regulation 20.070(2): This subsection was changed to conform to the definition of “independent accountant” in Regulation 1.139, to the changes in subsection 1 described above and to the deletion of Regulation 21.053 which is explained below.

Regulation 21 – Live Broadcasts

Regulation 21.010(1) – (4): Subsections 2-4 were added to include additional definitions that are relevant to Regulation 21, and the original definition of “Chairman” found in 21.010 was reworded slightly.

Regulation 21.030(1): This subsection was changed to more clearly reflect the Board's regulatory concerns.

Regulation 21.030(2): When this subsection was originally adopted, the Board was concerned that an audio-only transmission was easier to manipulate than a combined audio/video signal. Additionally, the Board wanted to prevent disseminators from delivering, without charge, live audio-only signals to books. The concern was that those books could receive, free of charge, a service that books who receive both the audio and video signals must pay for. The Board wanted to ensure that race information was disseminated on a fair and equitable basis.

Since live broadcast wagering is minimal now, and is expected to remain this way, the Board's former concerns are not as relevant. Therefore, this subsection has been changed to allow for audio-only transmissions, provided that they are not used to determine winners of or payoffs on nonpari-mutuel wagers.

Regulation 21.031: This section (currently at section 21.039, but being moved to present a more logical ordering of requirements) was changed so that it primarily relates to a disseminator's notification that it intends to submit a live broadcast proposal. The section also specifies filing deadlines for intent and live broadcast proposal submissions. These deadlines will provide sufficient time to review, consider and process intent notifications and proposal submissions.

Regulation 21.032: This section, currently at section 21.040, has been moved to present a more logical ordering of requirements.

Regulation 21.032(1)(b) – (h): These updates clarify the existing subsections.

Regulation 21.032(1)(i): This subsection was added to require the submission of the proposed agreement between the disseminator and the live broadcast track rightsholder, and a statement from the disseminator that it will not disseminate the live broadcast to users before an executed agreement is finalized. The executed agreement needs to be filed no later than 7 days after the meet begins, pursuant to Regulation 21.050(1), to demonstrate that the proposed agreement was finalized. Receiving the proposed agreement before the meet begins will give the chairman additional information that is necessary to evaluate the overall proposal.

Regulation 21.032(1)(k): This subsection was added so that the chairman has adequate time before the meet begins to consider a waiver of any of the Regulation 21.060 production requirements.

Regulation 21.032(2): This subsection was added to allow the chairman sufficient time before the meet begins to consider and process a disseminator's modification of a proposal submission.

Regulation 21.034: The content of this section is substantially contained in existing Regulation 21.039(2). It has been moved to this section to keep the regulation governing intent notification separate from the regulations governing proposal submissions and the hearing process.

Regulation 21.045: The content of this section was streamlined to more directly indicate the standards for approval of a proposal.

Regulation 21.046: This section was added to specify the approval process of live broadcast proposals, as well as specifying the notification that will be given to disseminators and users when a disseminator is selected to disseminate a live broadcast.

Regulation 21.047(2): Changes were made to replace “board” with “chairman” to eliminate the inference that all three Board members in a public meeting must decide on these issues, rather than just the chairman. Additionally, the “enforcement division of the board” was replaced with “chairman” to allow the chairman flexibility to determine who (e.g. the Audit Division, the Technology Division, etc.) who can make the determination.

Regulation 21.050(1): Since Regulation 21.032(1)(h) requires the submission of an executed letter of intent between the disseminator and the rightsholder, indicating that the disseminator will be granted the exclusive right for the live broadcast, and Regulation 21.032(1)(i) requires the submission of the proposed agreement between the disseminator and the rightsholder, as well as a statement from the disseminator, indicating that it will not disseminate the live broadcast to users before an executed agreement is finalized, the chairman will have sufficient information related to the rights contract before the meet begins to consider and approve the proposal. Submission of the executed agreement no later than 7 days after the meet begins is considered sufficient to verify that the agreement was actually executed.

Regulation 21.050(2): This existing subsection has been deleted because amendments to NRS 463.0157 expanded the definition of “gaming employee” to include employees of the disseminator and employees of a disseminator’s affiliate who are engaged in carrying out the disseminator’s duties in Nevada.

Regulation 21.050(2): The requirements in this subsection (previously subsection 3) have been changed from the submission of the race book user agreements to the maintaining of the agreements by the disseminator. Board agents may request these agreements when necessary. Additionally, Regulation 21.080(1) has been changed to also require users to maintain the agreements.

Regulation 21.050(3): This subsection (previously subsection 4) has been reworded slightly with no substantive changes in the requirements.

Regulation 21.053: This section has been deleted because the financial information presented in the disseminator's financial statements, which are required by Regulation 20.070 to be filed with the Board, is considered sufficient.

Regulation 21.055(4): This subsection was added to emphasize the importance of compliance with filing deadlines specified in the regulation.

Regulation 21.060(1): This subsection was updated to reflect technological changes that now make a graphics display acceptable. Additionally, the United States currency requirement was added to address the issue of racing meets being held in foreign jurisdictions that do not display pools and payoff prices in United States currency.

Regulation 21.060(4): The existing subsection was deleted because paging announcements, commercials, advertisements, touting, etc. have become commonplace in the audio/video transmissions that are disseminated from the tracks to other jurisdictions. Therefore, it is difficult for Nevada disseminators to prevent this information from being included in the transmission. Additionally, this information does not affect the integrity of the transmission. It is merely additional information that is currently included in non-live broadcast transmissions that are routinely displayed to patrons in race books (e.g., cable and free TV transmissions of horse races, such as the Kentucky Derby or the Breeder's Cup).

Regulation 21.060(6): The existing subsection was deleted because section 21.060 specifies the required production requirements. Therefore, if the disseminator is in compliance with these requirements, that is considered sufficient.

Regulation 21.070: This section was changed to reflect previous input received from disseminators. This section still requires that signals be encrypted and decrypted using equipment that the chairman may approve. However, considering technological advancements, the deleted items are no longer considered necessary.

Regulation 21.080(1): This subsection was added to put a regulatory requirement upon users to ensure that they do not use a live broadcast to determine winners of or payoffs on wagers before they execute an agreement with the disseminator. Currently, there is no regulation that requires the race books to do this. Instead, the requirement is put on the disseminator through existing Regulation 21.050(3), which requires disseminators to submit executed user agreements to the Board before the meet begins. Adding this requirement to Regulation 21.080 will now place additional responsibility upon the user for ensuring compliance. Additionally, the users will now be required to maintain copies of these executed agreements. Having the user maintain agreements will allow Board auditors to review their agreements during audits, and will provide an important cross-check for comparison with the agreements maintained by the disseminator.

Regulation 21.090(1): This subsection was changed to require the user to maintain records of both the scheduled post time supplied by the disseminator, as well as the actual post time defined in Regulation 22, which may or may not be the same. Additional clarifications are also included in this subsection.

Regulation 21.090(2): This subsection was changed to eliminate redundancies with Regulation 20.030(7).

Regulation 21.100(3): This existing subsection is obsolete and the authority granted to the Board has never been used. Therefore, it was deleted.

Regulation 21.100(4): This section was added to make readers of Regulation 21 specifically aware of this requirement.

Regulation 21.120: This section was added to provide the chairman with more flexibility whenever notification to a disseminator or user is required by Regulation 21. The use of alternatives to US mail will streamline the live broadcast approval process and result in more timely notification.

Regulation 22 – Race Books and Sports Pools

Regulation 22.195: This subsection was added to emphasize that books are also required to comply with the indicated reporting requirements.

Regulation 26A – Off-Track Pari-Mutuel Wagering

Regulation 26A.010: A reference to Regulation 26C was added to make readers of Regulation 26A aware that Regulation 26C exists and that it should be considered in tandem with Regulation 26A.

Regulation 26A.020(5): A definition of a foreign track was added because Regulation 26A.140(5) will require different filing deadlines for the agreements between the pari-mutuel books and tracks when a foreign track is involved.

Regulation 26A.020(9): “Simulcast” was added because this is a common term used by race tracks and other regulatory bodies. Its meaning is analogous to Nevada’s definition of “live audio visual signal”. Additionally, the reference to a pari-mutuel book not using the “live audio visual signal” to determine winners of or payoffs on nonpari-mutuel race wagers was deleted. A “live audio visual signal” could effectively be considered a “live broadcast” if Regulation 21 is complied with, and a “live broadcast” may be used to determine winners and payoffs.

Regulation 26A.010(16): The definition of “post time” was streamlined by referencing to the definition of post time in Regulation 22.

Regulation 26A.010(17): A definition of “source market fee” was added because it is a common term now used in the pari-mutuel wagering industry. Additionally, it is a

type of track fee that needs to be specified in the agreement between the pari-mutuel books and the tracks, pursuant to Regulation 26A.140(4)(a). Defining this term as a type of track fee would clarify that source market fees paid to race tracks can be used to reduce gross revenue.

Regulation 26A.100(3): This subsection was changed conform to the definition of “independent accountant” in Regulation 1.139 and to more accurately identify the standards with which the accountant must comply.

Regulation 26A.140(4)(a): This subsection was updated to require the disclosure of track fees, including source market fees, in the agreements between the pari-mutuel books and the race tracks. This information is relevant information because track fees are an important consideration for the chairman, when considering approval of agreements. Agreements typically already include this information; therefore, adding it as a requirement just makes a common practice a requirement.

Regulation 26A.140(4)(d): The modified wording expands due diligence to include compliance with all laws and regulations of the jurisdiction in which the track operates.

Regulation 26A.140(4)(e): “Country” was added to this subsection to include foreign tracks.

Regulation 26A.140(4)(g): This subsection was added to provide the chairman with evidence that Regulation 26A.080(1)(d) has been complied with (i.e., track has agreed to provide a simulcast), and that the related live broadcast proposal submission has been approved pursuant to Regulation 21.046.

Regulation 26A.140(5): This subsection was added to establish filing deadlines for pari-mutuel agreement submissions. The existing regulation does not include specific filing deadlines. As a result, the filings are frequently not complete until the day the racing meet begins. Filing deadlines will allow the chairman sufficient time to review, evaluate, consider and process approval of the submission. This will result in a timely and effective approval process. The filing deadline for foreign tracks is earlier than it is for domestic tracks because it typically takes the Board additional time to gather sufficient information to perform its evaluation. The evaluation is easier for domestic tracks because the Board generally has extensive past experiences with them.

Regulation 26A.170: This section was updated to require the Off-Track Pari-Mutuel Wagering Committee to maintain records they create in conjunction with complying with Regulation 26A. Additionally, the subsection related to monthly filings was deleted because there are no “monthly” filings required by Regulation 26A. There are other filings required by Regulation 26A; however, the filing requirements and related deadlines are already specified in other sections of the regulation.

Regulation 26C – Off-Track Pari-Mutuel Horse Race Account Wagering

Regulation 26C.005: This section was added to make readers of Regulation 26C aware that this regulation and Regulation 26A are the primary regulations that govern pari-mutuel wagering activity in Nevada. This section is consistent with a similar scope paragraph in Regulation 26A.

Regulation 26C.160(2) and Regulation 26C.180: These subsections were added to require house rules to be submitted to the chairman for approval. This is consistent with existing Regulation 26A.040(11).