

## REGULATION 26A

### OFF-TRACK PARI-MUTUEL WAGERING

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**26A.010 Scope.** This regulation and Regulation 26C govern all off-track pari-mutuel wagering in Nevada for which a license or approval has been granted by the commission pursuant to chapter 464 of the Nevada Revised Statutes. The provisions of chapter 463 of the Nevada Revised Statutes and all other regulations of the commission apply when not in conflict with this regulation.

(Adopted: 3/90. Amended: 4/91; 1/11.)

**26A.020 Definitions.** As used in this regulation:

1. "Affiliate" has the same meaning as defined in Regulation 15.482-3.
2. "Breakage" means:
  - (a) The rounding of a payout on a winning pari-mutuel wager, as determined by the track in accordance with the laws and regulations that are applicable to the jurisdiction in which the track operates;
  - (b) Those deficiencies arising from payouts made pursuant to Regulation 26A.040(6); or
  - (c) Those deficiencies arising from the payment of a guaranteed payout pursuant to Regulation 26A.040(7).
3. "Chairman" means the chairman of the state gaming control board or the chairman's designee.
4. "Commission on wagers" ("takeout") means the amount retained and not returned to patrons by a pari-mutuel book from the total amount of off-track pari-mutuel wagers.
5. "Foreign track" means a track located outside of the United States.
6. "Gross revenue" means, for purposes of chapter 464 of the Nevada Revised Statutes, the amount of the commission on wagers received by a licensee, plus positive breakage and the dollar amount of winning tickets that remain unpaid pursuant to section 26A.040(12) of this regulation, less negative breakage and the amount paid to a track for the right to be part of an interstate or intrastate common pari-mutuel pool ("track fee"). In calculating the monthly state license fee imposed by NRS 463.370, a licensee shall not deduct from gross revenue any promotional allowances related to pari-mutuel wagering including, without limitation, prizes, payments, premiums, drawings, discounts, rebates, bonus payouts, benefits, or tickets that are redeemable for money or merchandise.
7. "Interstate common pari-mutuel pool" means a pari-mutuel pool consisting of the pari-mutuel wagers placed at a track, its intrastate betting locations, other jurisdictions and the off-track pari-mutuel wagers placed and accepted at pari-mutuel books.
8. "Intrastate common pari-mutuel pool" means a pari-mutuel wagering pool operated by a systems operator consisting solely of the wagers placed and accepted at two or more pari-mutuel books on races at tracks.

9. "Live audio visual signal" ("simulcast") means the audio and visual transmission of a race, or series of races, as it occurs at a track.

10. "Manual merge" means the process used in the event of a systems or communications failure by which the systems operator transmits to the track through telephone, telecopy, cellular, or other means of communication, the pari-mutuel books wagering information and the process by which the track includes the off-track pari-mutuel wagers in the interstate common pari-mutuel pool in such event.

11. "Nonpari-mutuel race wager" means a wager other than one offered to be included in an interstate or intrastate common pari-mutuel pool.

12. "Off-track pari-mutuel system" means a computerized system or component of a system that is used to transmit wagering data:

(a) In an interstate common pari-mutuel system, to and from a track which offers interstate common pari-mutuel pools; or

(b) In an intrastate common pari-mutuel system, between the pari-mutuel books and a systems operator, and includes the totalizer equipment used to determine the winners of and payoffs on intrastate common pari-mutuel pools.

13. "Off-track pari-mutuel wager" means either:

(a) A wager placed by a patron and accepted by a pari-mutuel book on a race or races offered as part of an interstate common pari-mutuel pool whether or not the wager is actually included in the total amount of the interstate common pari-mutuel pool; or

(b) A wager placed by a patron and accepted by a pari-mutuel book on a race or races offered as part of an intrastate common pari-mutuel pool.

14. "Pari-mutuel book" means a race book that has received a license to accept off-track pari-mutuel wagers pursuant to the provisions of chapters 463 and 464 of the Nevada Revised Statutes and this regulation. The term "pari-mutuel book" shall include pari-mutuel only books, unless stated otherwise within this regulation.

15. "Pari-mutuel only book" means a race book that has received a license to accept off-track pari-mutuel wagers pursuant to the provisions of chapters 463 and 464 of the Nevada Revised Statutes and this regulation, but has elected not to accept nonpari-mutuel race wagers.

16. "Post time" means "post time" as that term is defined in Regulation 22.

17. "Source market fee" means a track fee paid for accepting wagering account wagers, in accordance with Regulation 26C, from a customer residing in the track's defined market area.

18. "Systems operator" or "operator of a system" means a person engaged in providing the off-track pari-mutuel system or services directly related to the reconciliation of the interstate or intrastate common pari-mutuel pool and transfers of funds between the tracks and the pari-mutuel books, or among the pari-mutuel books.

19. "Track" means an out-of-state facility licensed to operate horse or other racing where pari-mutuel wagering on races is conducted, or a person licensed in another jurisdiction to conduct pari-mutuel wagering on such races. Where applicable, the term also includes a person or governmental agency from outside this state that operates a track, holds a track's rights to off-track pari-mutuel wagering or shares in its revenues. The term also includes an association of tracks.

20. "Wagering data" means the information regarding results, actual payouts, and the amount of pari-mutuel and off-track pari-mutuel wagers accepted for each race or group of races in an interstate or intrastate common pari-mutuel pool.

21. "Wagering information" means the amount of off-track pari-mutuel wagers accepted for each race or group of races by a pari-mutuel book.

(Adopted: 3/90. Amended: 4/91; 10/21/99; 6/20/02; 1/27/11.)

#### **26A.030 License required to accept off-track pari-mutuel wagers; applications.**

1. A person shall not accept off-track pari-mutuel wagers unless it has received a license pursuant to chapters 463 and 464 of the Nevada Revised Statutes to accept such wagers. Licenses to accept off-track pari-mutuel wagers shall not be granted to anyone other than a nonrestricted licensee who is licensed to operate a race book.

2. Applications for a license to accept off-track pari-mutuel wagers must be made, processed, and determined using such forms as the chairman may require or approve. Each application must be accompanied by an internal control system prepared and submitted in accordance with Regulation 6.

(Adopted: 3/90. Amended: 4/91; 10/21/99.)

**26A.040 Conduct of off-track pari-mutuel wagering.**

1. Off-track pari-mutuel wagering may be conducted only within a race book or any other area approved by the chairman.
2. A pari-mutuel book offering off-track pari-mutuel wagering must comply with the provisions of Regulation 22, when not in conflict with this regulation.
3. A pari-mutuel book shall not use the information received from the off-track pari-mutuel system to determine the winners of or payoffs on nonpari-mutuel race wagers.
4. A pari-mutuel book shall not use the information received from a live broadcast to determine the winners of or payoffs on off-track pari-mutuel wagers.
5. A pari-mutuel book may use the information received from a live audio visual signal to determine the winners of or payoffs on off-track pari-mutuel wagers in the event the systems operator notifies the pari-mutuel book that it is unable to relay that information to the pari-mutuel book through the off-track pari-mutuel system. A pari-mutuel book shall comply with the Regulation 6 minimum internal control standards when making such payoffs.
6. A pari-mutuel book shall pay winning interstate off-track pari-mutuel wagers in accordance with official results at the track, irrespective of whether the wagering information from the pari-mutuel book was included in the interstate common pari-mutuel pool.
7. A pari-mutuel book shall pay winnings, intrastate off-track pari-mutuel wagers in accordance with official results from the approved, off-track pari-mutuel system and shall return at least one dollar and five cents for each winning dollar wagered, and any other guaranteed payout.
8. The pari-mutuel books shall be jointly responsible for any deficiencies and shall share in any excesses resulting from the requirements of subsections 6 and 7. The terms of any such agreement must be approved pursuant to the provisions of section 26A.140 of this regulation.
9. A pari-mutuel book, other than a pari-mutuel only book, that has agreed to accept off-track pari-mutuel wagers may only accept nonpari-mutuel race wagers on types of bets not offered as part of the interstate or intrastate common pari-mutuel pool, and may accept nonpari-mutuel race wagers on types of bets offered as part of an interstate or intrastate common pari-mutuel pool in the event the off-track pari-mutuel system is not functioning.
10. A pari-mutuel book shall not pay a systems operator or a track any compensation for the right to be part of an interstate or intrastate common pari-mutuel pool unless the agreement setting forth the terms of the compensation has been approved pursuant to the provisions of section 26A.140 of this regulation.
11. A pari-mutuel book shall adopt, conspicuously display, and adhere to written house rules governing off-track pari-mutuel wagering transactions with patrons. Prior to adopting or amending such house rules, a pari-mutuel book shall submit such rules to the chairman for approval.
12. A pari-mutuel book shall allow patrons to cash an outstanding off-track pari-mutuel ticket for 120 days from the date of purchase or 30 days after the close of the racing meet whichever shall first occur. Tickets which are not redeemed within such time become valueless, unless the time period is otherwise extended by the licensee, and the sum of money represented by them shall accrue to the issuing licensee.
13. Pari-mutuel books may not accept intrastate pari-mutuel wagers placed by any book, affiliate of the pari-mutuel book, or a systems operator providing the intrastate common pari-mutuel system. Books or systems operators may not place wagers into an intrastate common pari-mutuel pool.
14. Each pari-mutuel book that accepts an intrastate pari-mutuel wager must visually display to patrons, through direct communications with the off-track pari-mutuel system conducting the intrastate pool, the current odds and minutes to post for each race or wagering proposition on which intrastate wagers are being accepted as well as the official results and payoffs. The odds and post information shall be displayed at least 10 minutes prior to the scheduled post time and shall be updated at least every 90 seconds prior to post time. An intrastate pari-mutuel pool shall not be approved unless the systems operator has the capability to deliver this visual information to the pari-mutuel books in a form acceptable to the chairman, and each pari-mutuel book must be capable of displaying the information in a form acceptable to the chairman, before being approved to participate in that intrastate pari-mutuel pool.

(Adopted: 3/90. Amended: 4/91; 10/21/99; 1/27/11.)

**26A.050 [Reserved.]**

**26A.060 Approval to share in revenues; applications.**

1. A pari-mutuel book shall not pay a share of the revenue from off-track pari-mutuel wagering to any person for the right to be part of an interstate or intrastate common pari-mutuel pool or for any services relating to the interstate or intrastate common pari-mutuel pool or off-track pari-mutuel system, unless the person sharing the revenue from the off-track pari-mutuel wagering has received approval from the commission.

2. Applications for approval to be paid a share of the revenue from off-track pari-mutuel wagering must be made, processed, and determined using such forms as the chairman may require or approve.

(Adopted: 3/90. Amended: 4/91; 10/21/99.)

**26A.070 Criteria for approval to share in revenue.** The board and the commission may consider the criteria of section 463.170 of the Nevada Revised Statutes in determining whether to approve an application by a person to receive a share of the revenue from off-track pari-mutuel wagering.

(Adopted: 3/90. Amended: 4/91.)

**26A.080 Requirements imposed upon tracks approved to share in the revenue or otherwise receive compensation.**

1. A track approved to share in the revenue or otherwise receive compensation from pari-mutuel books for the right to be part of an interstate common pari-mutuel pool or for permitting pari-mutuel books to conduct an intrastate pari-mutuel pool shall:

(a) For each racing meet for which it is offering an interstate common pari-mutuel pool or permitting pari-mutuel books to conduct an intrastate pari-mutuel pool, provide a live broadcast signal to a disseminator at a fee which is less than the amount the disseminator may charge pursuant to Regulation 20.030, which amount shall not exceed three percent of the total live broadcast handle;

(b) Offer all pari-mutuel books the right to be part of an interstate common pari-mutuel pool or intrastate pari-mutuel pool and charge the same percentage of the revenue from off-track pari-mutuel wagering to all pari-mutuel books. If charging a fixed daily fee amount, the track shall charge each pari-mutuel book its proportional share of the fixed amount based upon each pari-mutuel book's percentage of the total off-track pari-mutuel wagers.

(c) Comply with all applicable state and federal laws for all racing meets for which it is offering an interstate common pari-mutuel pool or permitting pari-mutuel books to conduct an intrastate pari-mutuel pool;

(d) Engage the services of the disseminator authorized to disseminate the live broadcast signal of a racing meet to provide racing information not part of wagering data, but which is the type of information provided to users and buyers, and to transmit the live audio visual signal of the racing meet to the pari-mutuel books and the systems operator. The live audio visual signal must meet the production requirements of Regulation 21 applicable to live broadcasts. Nothing in this section shall be deemed to require a pari-mutuel book to display a live audio visual signal in conjunction with an interstate or intrastate common pari-mutuel pool.

2. A track approved to share in the revenue from off-track pari-mutuel wagering shall maintain a revolving fund with the state gaming control board in an amount determined by the chairman, which may not exceed \$10,000 without commission approval, for post-approval investigative costs. A track shall remit the amount requested by the board within 15 days of the request.

(Adopted: 3/90. Amended: 4/91; 10/21/99.)

**26A.090 Licensing of off-track pari-mutuel systems operator.**

1. A pari-mutuel book shall not use an interstate or intrastate off-track pari-mutuel system unless the systems operator has been licensed by the commission.

2. Applications for a license to serve as a systems operator must be made, processed, and determined using such forms as the chairman may require or approve. Each application must include an internal control system prepared and submitted in accordance with Regulation 6.

(Adopted: 3/90. Amended: 4/91; 10/21/99.)

**26A.100 Requirements imposed upon systems operators.**

1. Each systems operator shall maintain an office in Nevada and designate a key employee located in the Nevada office to supervise and be responsible for the day-to-day operations of the off-track pari-mutuel system.

2. Each systems operator shall submit and comply with an internal control system and all amendments to such system as have been approved by the chairman pursuant to Regulation 6. Each systems operator shall, if required by the chairman, amend the written system to comply with any requirements consistent with Regulation 6 that the chairman deems appropriate.

3. Each systems operator shall prepare financial statements covering all financial activities of the systems operator for each business year and shall engage an independent accountant who shall audit the financial statements in accordance with generally accepted auditing standards, unless the chairman allows the systems operator upon written request to engage the independent accountant to review the financial statements in accordance with standards for accounting and review services.

4. Each systems operator shall submit to the board two copies of its audited or reviewed financial statements not later than 120 days after the last day of the systems operator's business year.

5. If a systems operator changes its business year, the systems operator shall prepare and submit to the board audited or reviewed financial statements covering the "stub" period from the end of the previous business year to the beginning of the new business year, not later than 120 days after the end of the stub period or incorporate the financial results of the stub period in the financial statements for the new business year.

6. Reports that directly relate to the independent accountant's review or audit of the systems operator's financial statements must be submitted within 120 days after the end of the systems operator's business year.

7. Each systems operator shall require the independent accountant engaged by the systems operator to audit or to review the systems operator's financial statements to submit to the systems operator two copies of a written report of its compliance with the internal control system approved by the chairman. Not later than 150 days after the end of the systems operator's business year, the systems operator shall submit two copies of the independent accountant's report or any other correspondence directly relating to the systems operator's system of internal control to the board, accompanied by the systems operator's statement addressing each item of noncompliance noted by the independent accountant and describing the corrective measure taken.

8. The chairman may request additional information and documents from either the systems operator or the systems operator's independent accountant, through the systems operator, regarding the financial statements or the services performed by the independent accountant.

9. Each systems operator shall maintain a revolving fund with the state gaming control board in an amount determined by the chairman, which may not exceed \$10,000 without commission approval, for post-licensing investigative costs. A systems operator shall remit the amount requested by the board within 15 days of the request.

(Adopted: 3/90. Amended: 4/91; 10/21/99; 1/27/11.)

**26A.110 Approval of off-track pari-mutuel systems; applications.** A pari-mutuel book shall not use an off-track pari-mutuel system unless the system has been approved pursuant to the provisions of Regulation 14 governing associated equipment.

(Adopted: 3/90. Amended: 4/91.)

**26A.120 Minimum technical requirements for off-track pari-mutuel systems.** An off-track pari-mutuel wagering system must include a fully redundant computer system and must:

1. For each race for which wagers are to be included in an interstate common pari-mutuel pool, receive, aggregate by pool and report to a track at regular intervals to be approved by the chairman, all off-track pari-mutuel wagering information received separately from the pari-mutuel books;

2. For each race for which wagers are to be included in an interstate common pari-mutuel pool receive and report to each pari-mutuel book at regular intervals to be approved by the chairman, all wagering data received from the track through the system;

3. For each race for which wagers are to be included in an intrastate common pari-mutuel pool, the system shall include totalizator equipment that shall aggregate by pool and report to the pari-mutuel books at regular intervals approved by the chairman, all pari-mutuel wagering information received separately from the pari-mutuel books;

4. After each race on which pari-mutuel wagering is conducted is declared official, receive and report to each pari-mutuel book the results and payoff prices reported by the track in an interstate common pari-mutuel pool, and the results reported by a licensed disseminator and payoff prices determined by the off-

track pari-mutuel system in an intrastate common pari-mutuel pool. Nothing in this section shall be deemed to require the systems operator or pari-mutuel book to display a live audio visual signal in conjunction with an interstate or intrastate common pari-mutuel pool; and

5. Provide all accounting and reconciliation reports required by the chairman.

(Adopted: 3/90. Amended: 4/91; 10/21/99.)

#### **26A.130 Operation of the off-track pari-mutuel system.**

1. A systems operator operating an interstate common pari-mutuel pool shall immediately notify the pari-mutuel books in the event that it is unable to transmit wagering information to the track and shall cause the system to cease accepting off-track pari-mutuel wagers if it is unable to transmit the wagering information to the track either through the system or through a manual merge.

2. A systems operator operating an interstate common pari-mutuel pool may use the information received from a live audio visual signal furnished by a track to input information regarding winners of or payoffs on off-track pari-mutuel wagers in the event that communications between the track and the systems operator is disrupted.

3. A systems operator operating an intrastate common pari-mutuel pool shall immediately notify the pari-mutuel books in the event that it is unable to compile the information necessary to maintain an intrastate common pari-mutuel pool and shall cause the system to cease accepting intrastate pari-mutuel wagers in such an event.

4. A systems operator shall cause the system to cease accepting off-track pari-mutuel wagers from the pari-mutuel books at post time.

(Adopted: 3/90. Amended: 4/91; 10/21/99.)

#### **26A.140 Approval of agreements.**

1. Except as provided in subsections 2 and 3, the terms and conditions of any agreement between the pari-mutuel books, any person representing the pari-mutuel books, systems operator, disseminator, track, and the holders of track rights agreements, or any combination thereof, relating in any way to the operation of an off-track pari-mutuel wagering system, an interstate or intrastate common pari-mutuel pool, or transmission of a live audio visual signal of races on which off-track pari-mutuel wagering will be conducted must be approved by the commission upon a recommendation of the board.

2. The chairman, after whatever investigation or review the chairman deems necessary, may approve the following agreements:

(a) Any agreement, or amendment to an agreement, involving the sharing of pari-mutuel revenue if the commission has previously approved the person sharing in the revenue; or

(b) Any agreement, or amendment to an agreement, not involving the sharing of pari-mutuel revenue, whether or not the commission has previously approved such an agreement.

3. Agreements among the pari-mutuel books as to the types of intrastate pari-mutuel wagers to be accepted for a particular race or races do not require approval by the commission or the chairman.

4. An agreement between the pari-mutuel books and a track shall not be approved unless the chairman or commission, as applicable, is satisfied that:

(a) The agreement specifies the amount of the commission on wagers and track fees, including source market fees if applicable;

(b) The agreement specifies the manner in which breakage is to be allocated;

(c) The agreement specifies the manner in which the parties will handle a system or communication failure and specifically requires the track to accept wagering information from the systems operator through a manual merge for a reasonable amount of time; or the agreement specifies that if the track is unable to accept wagering information through a manual merge, or the applicable regulatory agency having jurisdiction over the track or the laws of the jurisdiction in which the betting system is located does not permit manual merge as a means of transmitting wagering information, the requirement for manual merge set forth in subsection 26A.130(1) may be administratively waived by the chairman;

(d) The track has complied with all federal, state and local interstate pari-mutuel wagering laws and regulations that are applicable to the jurisdiction where the track operates;

(e) The track holds all necessary licenses in its home state or country to participate in the off-track pari-mutuel system and to provide the live audio visual signal;

(f) There are means for the board and the commission to obtain adequate access to information pertaining to the operation of the off-track pari-mutuel system, and the transmission of the live audio visual signal, and to investigate any associate of the track in such operation and transmission;

(g) There is assurance that the track has engaged the services of a disseminator, as required by section 26A.080(1)(d), and that the related live broadcast proposal has been approved by the chairman pursuant to Regulation 21.046;

(h) There is assurance that the operation of the off-track pari-mutuel system and the transmission of the live audio visual signal will be lawfully conducted after approval by the commission or chairman, as applicable, and will not pose a threat to gaming control in Nevada;

(i) There is assurance that the track and its associates in the off-track pari-mutuel wagering system and live audio visual signal transmission will abide by the conditions and restrictions imposed upon approval;

(j) There is assurance that the right of Nevada to collect license fees from the pari-mutuel books will be adequately protected through an effective accounting system designed to prevent the undetected employment of techniques to avoid payment; and

(k) There is assurance that the relationship of the track with any associate will not pose a threat to the interest of Nevada in regulating the gaming industry within the state.

5. An executed agreement between the pari-mutuel books and a track shall be submitted to the chairman for approval no later than 10 days before the racing meet begins. Additionally, for a foreign track, a draft agreement between the pari-mutuel books and the track and an executed letter of contractual intent between the pari-mutuel books and the track must be submitted to the chairman no later than 90 days before the racing meet begins.

6. An agreement between the pari-mutuel books and a systems operator relating to an interstate or an intrastate common pari-mutuel pool shall not be approved unless the chairman or commission, as applicable, is satisfied that:

(a) The agreement specifies the amount of the common pari-mutuel pool commission on wagers;

(b) The agreement specifies the manner in which the common pari-mutuel pool breakage is to be allocated;

(c) The agreement specifies the manner in which the parties will handle a system or communication failure;

(d) There are means for the board and the commission to obtain adequate access to information pertaining to the operation of the off-track pari-mutuel system; and

(e) There is assurance that the right of Nevada to collect license fees from the pari-mutuel books will be adequately protected through an effective accounting system designed to prevent the undetected employment of techniques to avoid payment.

(Adopted: 3/90. Amended: 4/91; 10/21/99; 8/21/08; 1/27/11.)

**26A.150 Deduction of commission on wagers.** The total percentage of off-track pari-mutuel wagers that is to be deducted as a commission on wagers must be:

1. For interstate common pari-mutuel pools, the same percentage as deducted by the track, unless a different percentage is otherwise approved by the commission; and

2. For intrastate common pari-mutuel pools, a percentage not to exceed 25 percent.

(Adopted: 3/90. Amended: 4/91; 10/21/99.)

**26A.160 Limits and conditions on approvals.** The commission may impose limits or place conditions upon any license or approval issued pursuant to this regulation.

(Adopted: 3/90. Amended: 4/91.)

**26A.170 Record retention; access to premises.** Each pari-mutuel book, each licensed systems operator, and each track which offers an interstate common pari-mutuel pool, shall:

1. Maintain and retain all records required by the chairman, for at least 5 years after they are made and shall provide them to the chairman upon the chairman's request; and

2. Allow the members of the commission, the state gaming control board, their agents and employees to immediately inspect and examine the premises and immediately inspect, examine, photocopy, and audit all papers, books, and records of the pari-mutuel book, track and systems operator, on the premises, or elsewhere as practicable.

(Adopted: 3/90. Amended: 4/91; 10/21/99; 1/27/11.)

**26A.180 Grounds for disciplinary action.** Violation of any applicable law or regulation by a pari-mutuel book, track, or system operator constitutes reasonable cause for disciplinary action.

(Adopted: 3/90. Amended: 4/91.)

**26A.190 Authority to issue orders for racing meets.** The commission chairman shall issue such orders as the commission chairman deems appropriate to further the process of off-track pari-mutuel wagering.

(Adopted: 3/90. Amended: 4/91; 10/21/99; 1/27/11.)

**26A.200 Waivers.** The chairman may waive one or more of the requirements of Regulation 26A if the chairman finds that such waiver is consistent with the public policy set forth in sections 463.0129 and 464.020 of the Nevada Revised Statutes.

(Adopted: 3/90. Amended: 4/91; 1/11.)

**End – Regulation 26A**