

**PROPOSED AMENDMENTS TO REGULATION 26A.010, 26A.020, 26A.040,
26A.100, 26A.140, 26A.170, 26A.190, AND 26A.200**

PURPOSE: To cross reference the applicability of Regulation 26C; to add to, change, and/or update the definitions; to remove gender specific pronouns; to update this regulation with regard to the changes to Regulation 6.080; to increase the information required to be in an agreement between pari-mutuel books; to increase the due diligence requirement of a track with regard to applicable laws; to allow this regulation to contemplate tracks operating in foreign countries; to require assurances from tracks with regard to disseminators; to add deadlines for submission of pari-mutuel agreements; to reflect that no reports are required to be filed on a monthly basis; to allow the Board Chairman to waive certain requirements, rather than requiring waiver by the full Commission; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

**REGULATION 26A
OFF-TRACK PARI-MUTUEL WAGERING**

(Draft Date November 16, 2010)

New
~~{Deleted}~~

- 26A.010 Scope.**
- 26A.020 Definitions.**
- 26A.030 License required to accept off-track pari-mutuel wagers; applications.**
- 26A.040 Conduct of off-track pari-mutuel wagering.**
- 26A.050 Reserved.**
- 26A.060 Approval to share in revenues; applications.**
- 26A.070 Criteria for approval to share in revenue.**
- 26A.080 Requirements imposed upon tracks approved to share in the revenue or otherwise receive compensation.**
- 26A.090 Licensing of off-track pari-mutuel systems operator.**
- 26A.100 Requirements imposed upon systems operators.**
- 26A.110 Approval of off-track pari-mutuel systems; applications.**
- 26A.120 Minimum technical requirements for off-track pari-mutuel systems.**
- 26A.130 Operation of the off-track pari-mutuel system.**
- 26A.140 Approval of agreements.**
- 26A.150 Deduction of commission on wagers.**
- 26A.160 Limits and conditions on approvals.**
- 26A.170 Record retention; ~~{monthly reports;}~~ access to premises.**
- 26A.180 Grounds for disciplinary action.**
- 26A.190 Authority to issue orders for racing meets.**

26A.200 Waivers.

26A.010 Scope. This regulation and Regulation 26C govern~~[s]~~ 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.

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 ~~[not to exceed 10 cents]~~;
 - (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 ~~[his]~~ 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.
- ~~[6]~~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.
- ~~[7]~~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.
- ~~[8]~~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 ~~[and which is not used by a pari-mutuel book to determine winners of or payoffs on nonpari-mutuel race wagers]~~.

~~{9}~~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.

~~{10}~~11. "Nonpari-mutuel race wager" means a wager other than one offered to be included in an interstate or intrastate common pari-mutuel pool.

~~{11}~~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 totalizator equipment used to determine the winners of and payoffs on intrastate common pari-mutuel pools.

~~{12}~~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.

~~{13}~~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.

~~{14}~~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.

~~{15}~~16. "Post time" means "post time" as that term is defined in Regulation 22 ~~[for purposes of off-track pari-mutuel wagering means, unless an earlier time is required by regulation in the state where the race is run, the time when the race is started by, as applicable, the opening of the gates and/or box, the starting gate car begins to close its arm, or such other method used by the track and administratively approved by the chairman].~~

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.

~~{16}~~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.

~~[17]~~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.

~~[18]~~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.

~~[19]~~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.

26A.030 No Change.

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

1. No Changes.
2. No Changes.
3. No Changes.
4. No Changes.
5. No Changes.
6. No Changes.
7. No Changes.
8. No Changes.
9. No Changes.
10. No Changes.
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 his]~~ for approval.
12. No Changes.
13. No Changes.
14. No Changes.

26A.050 No Change.

26A.060 No Change.

26A.070 No Change.

26A.080 No Change.

26A.090 No Change.

26A.100 Requirements imposed upon systems operators. ~~[As used in this section, "chairman" means the chairman or other member of the state gaming control board designated by the chairman.]~~

1. No Change.

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 ~~he~~ 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 ~~[licensed by the Nevada state board of accountancy to]~~ 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 ~~[standards established by the American Institute of Certified Public Accountants]~~.

4. No Change.
5. No Change.
6. No Change.
7. No Change.
8. No Change.
9. No Change.

26A.110 No Change.

26A.120 No Change.

26A.130 No Change.

26A.140 Approval of agreements.

1. No Change.
2. The chairman, after whatever investigation or review ~~he~~ 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. No Change.
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 ~~[statutes]~~, state and local applicable to 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;

~~[(h)](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;

~~[(i)](j)~~ ~~[These]~~ 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

~~[(j)](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.

26A.150 No Change.

26A.160 No Change.

26A.170 Record retention; ~~monthly reports;~~ 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 ~~his~~ 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~~;~~ and

~~3. Shall file monthly with the board all reports required by the chairman. The reports must be filed with the board not later than the 24th day of the month after the month covered by the report].~~

26A.180 No Change.

26A.190 Authority to issue orders for racing meets. The commission chairman shall issue such orders as ~~he~~ the commission chairman deems appropriate ~~[in his sole and absolute discretion]~~ to further the process of off-track pari-mutuel wagering.

26A.200 Waivers. The ~~commission~~ chairman may waive one or more of the requirements of Regulation 26A if ~~it~~ 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.