

**PROPOSED AMENDMENTS TO REGULATION 21.005, 21.010, 21.020,
21.030, 21.039, 21.040, 21.045, 21.046, 21.047, 21.050, 21.053, 21.055, 21.060,
21.070, 21.080, 21.090, 21.100; PROPOSED NEW REGULATIONS 21.034
AND 21.120**

PURPOSE: To allow the Board Chairman to administratively waive certain provisions of Regulation 21 if consistent with state policy and statute; to replace gender specific pronouns with the word to which the gender specific pronoun referred; to add additional definitions; to cross reference new section 21.046 and the authorizations allowed thereunder; to make changes to more clearly reflect the Board's regulatory concerns; to update the regulation of audio-only transmissions; to add a new section substantially similar to current Regulation 21.039(2) for the purposes of keeping intent notification separate from proposal submissions and hearings; to renumber several sections for more logical flow; to update filing requirements and deadlines concerning notices of intent and proposals; to clarify and update certain portions of the regulation; to require submission of a proposed dissemination agreement; to require a statement that all production requirements will be met; to allow modification of proposals under certain conditions; to set out the process for approval of live broadcast proposals; to update cross references; to allow the Board Chairman to make some determinations necessary for the Board to decide whether or not to withdraw authorization for a live broadcast; to change the time in which an executed rights contract is submitted; to delete a subsection no longer required based on the inclusion of disseminator employees within NRS 463.0157; to change the reporting and record keeping requirements; to delete a section of the regulation in line with the changes herein; to encourage compliance with filing deadlines specified in this regulation; to reflect technological changes; to consider foreign meets that do not display pools and payoff prices in United States currency; to consider the difficulty in removing extraneous information from the broadcasts; to remove chairman control and approval of dissemination equipment due to reasons of impracticality; to make the user, in addition to the disseminator, responsible for making sure a dissemination agreement is in place before the user may use the live broadcast; to reflect provisions contained in statute; to set out permissible notification procedures for this regulation; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

REGULATION 21
LIVE BROADCASTS
(Draft Date November 16, 2010)
New
~~{Deleted}~~

- 21.005 General.
- 21.010 ~~["Chairman" defined]~~ Definitions.
- 21.020 Standards for board authorization.
- 21.030 Prohibited activities.
- 21.031 Intent to submit a live broadcast proposal.
- 21.032 Live broadcast proposals.
- 21.035 Hearing panel members: qualifications and eligibility.
- ~~[21.039 Notices.]~~
- ~~[21.040 Proposals for the exclusive right to disseminate a live broadcast of a racing meet to users.]~~
- 21.045 Standards for approval of a proposal to disseminate a live broadcast.
- 21.046 ~~[Reserved, 10/92]~~ Approval of live broadcast proposals.
- 21.047 Withdrawal of authorization and action following withdrawal.
- 21.050 Documents and information to be maintained or submitted following board authorization.
- ~~[21.053 Standard revenue and expense classifications.]~~
- 21.055 Unsuitable methods of operation.
- 21.060 Production.
- 21.070 Signal transmission, reception and security.
- 21.080 Procedures of users.
- 21.090 Records and reports.
- 21.100 Board monitoring and authority.
- 21.110 Live broadcast supervision.
- 21.120 Notification procedures.

21.005 General.

~~[1.]~~ The ~~[board]~~ chairman ~~[or its designee]~~ may waive one or more of the requirements of ~~[these]~~ this regulation[s] if ~~[it]~~ the chairman determines ~~[makes a written finding that such]~~ the waiver is consistent with the state policy set forth in NRS 463.0129.

21.010 Definitions. As used in this regulation: ~~["Chairman" defined. As used in this regulation, "chairman"]~~

1. "Chairman" means the chairman of the state gaming control board or the chairman's [his] designee.
2. "Disseminator" means "disseminator" as that term is defined in NRS 463.0147.
3. "Live broadcast" means "live broadcast" as that term is defined in NRS 463.4212.
4. "User" of a live broadcast means "user" as that term is defined in NRS 463.4218.

21.020 Standards for board authorization. Pursuant to section 21.046, ~~[it]~~ the board or chairman shall not authorize a disseminator to enter into an agreement with a track to disseminate a live broadcast to users unless it is

established to the board's or chairman's satisfaction that:

1. No Changes.
2. No Changes.
3. No Changes.
4. No Changes.
5. No Changes.

21.030 Prohibited activities.

1. Disseminators shall not distribute audio-only transmissions of more than one race at a time to a race book, ~~simultaneous transmissions of races run at tracks~~.

2. Disseminators ~~shall not~~ may distribute the audio portion of live broadcasts without the video portion; however, a user shall not use an audio-only transmission to determine winners of or payoffs on nonpari-mutuel wagers.

3. No Changes.

~~[21.039 Notices.]~~ **21.031 Intent to submit a live broadcast proposal.**

1. ~~[Within 20 days after the board receives notice from a]~~ A disseminator ~~[of its wish]~~ intending to submit a live broadcast proposal for the exclusive right to disseminate a live broadcast of a racing meet to users must submit written notification of this intent to the chairman no later than 100 days prior to the start of the proposed racing meet ~~[the board shall give written notice to the disseminator indicating when a written proposal for the exclusive right to disseminate the live broadcast must be submitted to the board.~~

~~2. If the board or its designee reviews the submitted proposals and determines that a hearing is necessary, the board shall provide written notice to each disseminator and user indicating that a hearing panel meeting will be conducted wherein the panel will determine which disseminator will be recommended to the board for live broadcast dissemination approval. The notice may include:~~

~~(a) A time certain within which each proposal for the exclusive right to disseminate a live broadcast must be submitted;~~

~~(b) Instructions regarding the manner in which each proposal should be prepared for submittal; and~~

~~(c) Any other information deemed necessary by the chairman.~~

~~3. After considering each recommendation of the hearing panel and selecting a disseminator to receive live broadcast dissemination approval, notice of the board's decision must be mailed to each disseminator who submitted a live broadcast proposal for the racing meet under consideration.~~

~~4. If the board or its designee reviews the submitted proposals and determines that the selection of a disseminator may be made without a hearing, the board shall give written notice of the determination and selection to each disseminator and user and shall post such a notice in a conspicuous place in each of the board's offices in Las Vegas and Carson City for inspection by members of the public.~~

2. If only one disseminator submits written intent notification, pursuant to subsection 1, the chairman will provide notice directing the disseminator to

submit a live broadcast proposal to the chairman that meets the submission requirements set forth in section 21.032. The proposal must be submitted no later than 7 days prior to the start of the proposed racing meet, unless the meet was not distributed in Nevada during the previous year, in which case the proposal must be submitted no later than 30 days prior to the start of the racing meet.

3. If more than one disseminator submits written intent notification, pursuant to subsection 1, the person holding the live broadcast track rights ("rightsholder") shall determine which of the disseminators will be given the exclusive right to disseminate the racing meet to users. The disseminator given this right must notify the chairman of this determination no later than 45 days prior to the start of the proposed racing meet. The disseminator must also submit a live broadcast proposal to the chairman that meets the submission requirements set forth in section 21.032, following the same filing deadlines specified in subsection 2. If the rightsholder does not select a disseminator at least 45 days prior to the start of the meet, each disseminator that submitted written intent notification must submit to the chairman, no later than 30 days prior to the start of the proposed racing meet, a live broadcast proposal that meets the submission requirements set forth in section 21.032. A hearing panel may then be assembled, in accordance with section 21.034, to make a recommendation to the board, as to which disseminator should be granted the right. The chairman will provide timely notices to the disseminator and users throughout this process as the chairman deems necessary.

4. A disseminator must notify the chairman in writing, no later than 7 days prior to the start of the proposed racing meet, to modify or withdraw the intent notification it made pursuant to this section.

~~[21.040] 21.032 Live broadcast [P]proposals [for the exclusive right to disseminate a live broadcast of a racing meet to users].~~

1. Live broadcast [P]proposals submissions for the exclusive right to disseminate a live broadcast of a racing meet to users must be made in a manner and using such forms as the chairman may prescribe. The chairman may require each proposal to be distributed to the users. Each proposal must include, in addition to such other information as this regulation may require:

~~[1.](a)~~ Evidence satisfactory to the ~~[board]~~ chairman that the live broadcast would not be contrary to the laws and regulations of the jurisdictions where the track at which the live broadcast races are to be run is located;

~~[2.](b)~~ A description of the entire racing program, including a schedule of race days, types of wagering and number of races to be offered, and program times;

~~[3.](c)~~ If requested by the chairman, a A precise, detailed diagram showing the path of the live broadcast signal from track to race book;

~~[4.](d)~~ Identification of the satellite proposed to be used ~~[, and a statement of the level of exclusivity of transponder service available to the disseminator];~~

~~[5.](e)~~ If requested by the chairman, a [A] written description of all track and disseminator procedures relating to the live broadcast;

~~[6.](f)~~ The proposed agreement between the disseminator and users;

~~[7.](g)~~ On a live broadcast proposal form to be provided by the chairman, information pertaining to the racing meet under consideration, including but not limited to the percentage rate to be charged users and, if available, the past, present or proposed handle;

~~[8.](h)~~ A copy of an executed letter of intent between the disseminator and the live broadcast rightsholder indicating that the disseminator will be granted the exclusive right to transmit the live broadcast. If the executed letter of intent is provided by a rightsholder other than the track, then a copy of an executed contract or letter of intent between the track and the rightsholder must also be provided;

~~[9. If the proposal includes a rate calculated pursuant to subsection 1 or 2 of section 20.030, an explanation setting forth the reasons why the proposed rate should be charged; and]~~

(i) A copy of the proposed agreement between the disseminator and the live broadcast rightsholder, and a statement from the disseminator that the live broadcast will not be disseminated to users before an executed agreement has been finalized;

~~[10.](j)~~ Identification of the proposed transmission vendors contracted to provide encoding, uplinking, decoding, and transponder services for the racing meet;

(k) A statement that the live broadcast will comply with all the production requirements set forth in section 21.060. If a production requirement cannot be met, a waiver request must be submitted detailing the reason the requirement cannot be met; and

(l) Any additional documentation or information the chairman may request.

2. When only one disseminator has submitted a live broadcast proposal, the disseminator must notify the chairman in writing no later than 3 days before the start of the racing meet to modify the proposal submission it made pursuant to subsection 1.

21.034 Hearing panel.

1. If a hearing is determined to be necessary, the board shall appoint a hearing panel, in accordance with section 21.035 and NRS 463.423, and shall notify each disseminator and user indicating that a hearing panel meeting will be conducted. The hearing panel will determine, using the approval standards set forth in section 21.045, which disseminator will be recommended to the board for approval to be granted the exclusive right to disseminate a live broadcast racing meet to users, and will be conducted pursuant to NRS 463.424.

2. The hearing notice may include:

(a) A time certain within which each proposal for the exclusive right to disseminate a live broadcast must be submitted;

(b) Instructions regarding the manner in which each proposal should be prepared for submittal; and

(c) Any other information deemed necessary by the chairman.

21.035 No Change.

21.045 Standards for approval of a live broadcast proposal ~~to disseminate a live broadcast~~. A proposal shall not be approved pursuant to section 21.046 unless ~~[The hearing panel shall recommend a proposal and the board, or its designee in those cases where the selection of a disseminator is made without a hearing, shall approve a proposal for the exclusive right to disseminate a live broadcast if]:~~

1. It contains all of the information required by section ~~[21.040]~~21.032;
2. No Change.
3. No Change.
4. No Change.

21.046 ~~[Reserved, 10/92]~~ Approval of live broadcast proposals.

1. If only one live broadcast proposal is submitted to the chairman in accordance with section 21.031(2) or more than one live broadcast proposal is submitted and the person holding the live broadcast track rights determines which disseminator will be given the exclusive right to disseminate the racing meet to users in accordance with section 21.031(3), the chairman shall approve the sole disseminator's live broadcast proposal or the live broadcast proposal of the disseminator selected by the person holding the live broadcast track rights if the approval standards set out in section 21.045 are satisfied by the live broadcast proposal. Upon approval of the live broadcast proposal, the chairman shall notify the disseminator and each user of the chairman's approval.

2. If more than one live broadcast proposal is submitted and the person holding the live broadcast track rights does not determine which disseminator will be given the exclusive right to disseminate the racing meet to users at least 45 days prior to the start of the proposed racing meet, the board may determine that a hearing is not necessary for the selection of a disseminator and the board shall choose a disseminator using the approval standards set forth in 21.045. Upon the selection of a disseminator, the board shall notify each disseminator and user of the board's selection.

3. If the board assembled a hearing panel, pursuant to section 21.034, to recommend to the board which disseminator should be granted the exclusive right to disseminate a live broadcast racing meet to users, the board shall consider the hearing panel's recommendation in accordance with NRS 463.424 and shall select a disseminator, using the approval standards set forth in section 21.045, to receive this exclusive approval. The board shall notify each disseminator and user of the board's selection.

21.047 Withdrawal of authorization and action following withdrawal.

1. No Changes.
2. Without limiting the discretion of the board, the following may be grounds for withdrawal of authorization:
 - (a) If, prior to the live broadcast of the first race of the racing meet, the disseminator fails to broadcast and demonstrate for the ~~[enforcement division]~~ chairman ~~[of the board]~~ a video signal meeting the requirements of this regulation

and using the equipment and following the procedures described in the proposal.

(b) If, ~~[in]~~ the ~~[board's]~~ chairman determines ~~[sole discretion]~~, the terms of any agreement submitted with the disseminator's proposal are altered to the economic detriment of a user.

(c) If the ~~[board]~~ chairman has not received an executed rights contract, pursuant to subsection 1 of section 21.050 ~~[for the live broadcast rights from the authorized disseminator 30 days before the racing meet commences]~~.

(d) If the ~~[board]~~ chairman ~~[in its sole discretion]~~ determines the authorized disseminator will be unable to execute a contract for these rights.

(e) If the ~~[board]~~ chairman ~~[in its sole discretion]~~ determines, following execution of the contract for the live broadcast rights, that the authorized disseminator is economically unable to provide the live broadcast.

3. No Changes.

4. No Changes.

21.050 Documents and information to be maintained or submitted following board authorization. Except as may be provided by the chairman, once authorized to disseminate a live broadcast, the disseminator must ~~[submit the following documents and information to the board]~~.

1. Submit to the chairman a [A] copy of any rights contract it executes with the track or racing association ~~[within]~~ before the live broadcast begins ~~[7 days of execution]~~.

2. ~~[The name, address, social security number, birth date, title, job descriptions, sources of compensation, and, if applicable, work card number of each person who is or will be connected directly with the production, transmission, or reception of live broadcasts, or who operates, maintains, services, or otherwise has access in the course of employment to any equipment or device used to produce, transmit, or receive live broadcasts. Without limiting the generality of the foregoing, such persons shall include production technicians, encoder and decoder operators, transmission equipment operators, live broadcast supervisors, and such other persons as the chairman may specify. Disseminators of approved live broadcasts and applicants for such approval shall submit the information required by this subsection not later than 10 days before the racing meet begins and notify the chairman of any change in the information not later than 10 days after the change. The board or its designee may object to the participation of any such person in the production of live broadcasts. Upon objection, the person's association with the live broadcast must be severed immediately pending further proceedings conducted pursuant to NRS 463.335 through 463.337 as though the objection were to the issuance of a work permit.]~~

~~3]—Maintain [C]copies of the executed agreement with each user. [must be submitted before the racing meet begins. However, if a user is added after the racing meet begins, the disseminator must submit an executed user agreement prior to the user receiving the live broadcast.]~~

~~[4]3. Submit a [A] report listing the inclusive dates of the meet, number of race days, number of users who contracted for the live broadcast, the effective percentage rate charged to the books and any other information that the~~

chairman may require to be filed, using such forms as the chairman may prescribe~~[. Such report must be filed with the board]~~ within 60 days following the completion of the racing meet.

~~**21.053 Standard revenue and expense classifications.**~~

- ~~1. The chairman will from time to time prescribe standard revenue and expense classifications in order to assure consistency, similarity and effective disclosure of financial information.~~
- ~~2. All documents prepared pursuant to Regulations 20.060(3) and 20.070(1)(c) must strictly adhere to these standard revenue and expense classifications.]~~

21.055 Unsuitable methods of operation. It is an unsuitable method of operation:

1. For a disseminator to submit a proposal to disseminate a live broadcast which includes misrepresentations or omissions.
2. For either disseminators or users to misrepresent any facts during a hearing before the hearing panel or board.
3. For a disseminator to delay the transmission or a user to delay the public showing of a live broadcast for any period of time.
4. For a disseminator to not meet the filing deadlines specified in this regulation.

21.060 Production.

1. For each race, the video portion of every live broadcast must include:
 - (a) The post parade;
 - (b) At least twice before the start of the race and for at least ~~[60]~~ 30 seconds each time, the track totalizator board or a graphics display, which is interfaced with the tote system, showing the race odds and pool information in United States currency and the time until post at the track;
 - (c) The race;
 - (d) At least twice after the end of the race and for at least ~~[60]~~ 30 seconds each time, the track totalizator board or a graphics display, which is interfaced with the tote system, showing the official order of finish and the resulting payoffs in United States currency;
 - (e) The track totalizator board or a graphics display that accurately reproduces some or all of the information shown on the totalizator board, at all times other required or permitted portions of the program are not shown;
 - (f) At all times, the track's name or logo; and
 - (g) At all times, a digital display, as described in subsection ~~[5]~~ 4, of the date and time of day at the track where the live broadcast races are run.
2. For each race, the audio portion of every live broadcast must include:
 - (a) Post time, as defined in Regulation 22~~[.040(6)(a)]~~;
 - (b) An announcement of the start of the race; and
 - (c) The call of the race.
3. No Change.
4. ~~Neither the audio nor video portion of any live broadcast may include:~~

- ~~(a) Paging announcements;~~
- ~~(b) Commercials, advertisements, or promotional announcements, except announcements related to a promotion sponsored by the track and available only to patrons of the track; and~~
- ~~(c) Touting or similar handicapping information.~~

~~5]~~ The digital display referred to in subparagraph (g) of subsection 1 must be generated at the track, broadcast continuously by the disseminator, and displayed continuously by the user. The time must be displayed to the nearest second, conform as closely as possible to the official time used by the track, and, along with the date, be readily visible to the person in the user's employ who controls the closing of wagering for each race.

~~[6. Information and events not specified in this section may not be included in the video or audio portion of any live broadcast without the prior written approval of the chairman, which the chairman shall have absolute discretion to grant or deny.~~

~~7]~~ 5. Except as the chairman~~[, in his sole and absolute discretion,]~~ may otherwise approve in advance in writing, speakers, television screens, and similar devices used to display the audio and video portions of live broadcasts must be located only within public areas of the user's premises ~~[that contain the user's race book, sports pool, or gambling game at which wagers on live broadcast events are accepted].~~

21.070 Signal transmission, reception, and security.

~~[1.]~~ Before providing a live broadcast to a user, the disseminator must:

1. Verify that the signals to be transmitted will be encrypted and controlled by a conditional access system. ~~[provide for the encoding of the signals to be transmitted, using such equipment as the chairman may approve in advance, and immediately notify the board of any unencrypted transmission. The disseminator shall i]~~

2. Install and maintain at each user's premises such equipment [as the chairman may approve in advance to decode] needed to decrypt the signals transmitted to that user. ~~[Only the board and the disseminator or its agents shall have access to the encoding and decoding equipment, and the disseminator shall take precautions satisfactory to the chairman to prevent unauthorized access. Security codes shall be changed only as determined by the chairman in his sole discretion or, if required by any regulatory agencies in the jurisdictions where the track is located, only after the disseminator has notified the board. The board must be provided with the new codes directly from the manufacturer or authorized distributor of the encoding and decoding equipment.~~

~~2. Within 5 days after a user subscribes to a live broadcast program, the disseminator shall notify the board of the user's identity and of the serial number of each decoder installed at the user's premises.]~~

3. Maintain records of all serial numbers for all decryption equipment located at each user's premises~~[Disseminators of live broadcasts shall not: (a) Use any subcarrier or sideband frequency to transmit audio signals; (b) Use more than 2 decoders in series with a single receiver, or permit parallel~~

~~connections among more than 2 decoders].~~

21.080 Procedures of users.

1. A user may not use a live broadcast before it has executed an agreement with the disseminator. The user must maintain copies of all such executed agreements for five years after the expiration of such executed agreement.

2. A user may not use information included in a live broadcast to determine winners of and payoffs on wagers accepted at the user's race book~~[-, sports pool, or gambling game,]~~ unless the user receives the live broadcast from the disseminator approved to disseminate the live broadcast.

~~[2]~~ 3. Each user shall post at its establishment an explanation of any discrepancies between numbers used at the track and those used at the user's establishment to identify entrants.

21.090 Records and reports.

1. Each user who uses information included in a live broadcast to determine winners of and payoffs on wagers accepted at the user's race book~~[-, sports pool, or gambling game, and each disseminator]~~ shall record simultaneously with the occurrence of the recorded event, for each live broadcast race:

(a) The ~~[time according to the digital display described in Regulation 21.060(5) at which:~~

~~-(1) Post time, as defined in Regulation 22.010(6)(a) occurs]~~ scheduled post time supplied by the disseminator; ~~{and~~

~~(2)}~~(b) The actual post time as defined in Regulation 22; ~~{race begins;~~

~~-(b)}~~(c) The name[s], number, and official finishing position, {announced} as supplied by the track, of each entrant finishing in a position for which a payoff is made or offered; and

~~{(c)}~~(d) The official race track payoff results announced in the live broadcast; and

(e) Such other information as the chairman may require.

2. Every user shall retain copies of the reports filed pursuant to Regulation 20.030(7) ~~[shall record, for each track at which live broadcast races are run, the amount of money accepted by the user as wagers on the races run at that track].~~

3. Each disseminator shall record the audio and video portions of each live broadcast it transmits to users. Disseminators shall use such recording equipment and procedures as the chairman may approve in advance, and shall preserve the recordings for at least 20 days after the occurrence of the events recorded unless the chairman orders preservation for a different length of time. Using such equipment as may be approved in advance by the chairman, each disseminator shall incorporate in the video portion of the recordings the date and, to the nearest second, the correct time of day at which the live broadcast is transmitted to users. The disseminator shall take reasonable steps to prevent discrepancies between the track time displayed as part of the live broadcast and the time generated as part of the recording, and shall maintain and, upon the chairman's request, submit records describing each such discrepancy in detail. In the alternative, a disseminator, upon approval from the chairman and subject

to conditions prescribed by the chairman, is not required to record the audio and video portions of each live broadcast it transmits to users if the disseminator is able to obtain such recordings from the track originating such live broadcast provided that the track maintains the recordings for at least 20 days after the occurrence of the events recorded or for such different time period as approved by the chairman.

4. Disseminators and users shall create and ~~keep~~ maintain the records required by this or any other regulation in such manner and using such forms as the chairman may require or approve. The chairman may require disseminators and users to create and ~~keep~~ maintain such other records and reports as are necessary or convenient for strict regulation of disseminators and users. At the chairman's request, disseminators and users shall submit the records specified in subsection 1. ~~[Users shall submit the records specified in subsection 2 at least every 30 days in a manner prescribed by the chairman.]~~ Users and disseminators shall preserve the records required by this regulation (other than the recordings referred to in subsection 3) for at least 5 years after they are made. The board may at any time examine and copy the records of any user or disseminator.

21.100 Board monitoring and authority.

1. No Change.
2. No Change.
3. ~~[Each disseminator shall provide and maintain, at their expense, such equipment as may be required to decode signals of live broadcasts and permit reception at the state gaming control board offices in Las Vegas, Nevada.~~
- 4]3. The chairman may order the immediate termination of any live broadcast transmission or reception without prior notice or hearing whenever he has reason to believe the disseminator or user has violated any regulation of the Nevada gaming commission, and each disseminator and user shall be considered to have consented to such authority of the chairman as a condition to the approval of the live broadcast. After any such termination, the disseminator or user may, within 3 days of the order, request a hearing before the commission to review the chairman's order. The decision of the commission is binding and conclusive on the affected disseminator and users.
4. The board may recommend to the commission that a person or an entity providing services in connection with the transmission of live broadcasts be required to file an application for a finding of suitability pursuant to NRS 463.168.

21.110 No Change.

21.120 Notification procedures. The method of "notification" used pursuant to this regulation may include, but is not limited to, written notification through United States mail, email, and posting to the state gaming control board's website.