

REGULATION 26A

OFF-TRACK PARI-MUTUEL RACE WAGERING

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

(Adopted: 3/90. Amended: 4/91; 1/11; 12/25.)

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

1. "Affiliate" has the same meaning as defined in section 15.482-3 of these regulations.
2. "Breakage" means:
 - (a) The rounding of a payout on a winning pari-mutuel race 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 subsection 6 of section 26A.040; or
 - (c) Those deficiencies arising from the payment of a guaranteed payout pursuant to subsection 7 of section 26A.040.
3. "Chair" means the Chair of the Nevada Gaming Control Board or the Chair's designee.
4. "Commission on wagers" ("takeout") means the amount retained and not returned to patrons by a pari-mutuel race book from the total amount of off-track pari-mutuel race wagers.
5. "Foreign track" means a track located outside of the United States.
6. "Gross revenue" means, for purposes of chapter 464 of NRS, the amount of the commission on wagers received by a licensed book, plus positive breakage and the dollar amount of winning tickets that remain unpaid pursuant to subsection 12 of section 26A.040, less negative breakage and the 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 race 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 race pool" means a pari-mutuel race pool consisting of the pari-mutuel race wagers placed at a track, its intrastate betting locations, other jurisdictions and the off-track pari-mutuel race wagers placed and accepted at pari-mutuel race books.
8. "Intrastate common pari-mutuel race pool" means a pari-mutuel race wagering pool operated by a pari-mutuel system service provider consisting solely of the wagers placed and accepted at two or more pari-mutuel race books on races at tracks.

9. "Licensed book" means a race book licensed to operate, carry on, conduct, or maintain any form of wagering under an off-track pari-mutuel race system of wagering pursuant to NRS 464.005.

10. "Live audio-visual signal" or "simulcast" means the audio and visual transmission of a race, or series of races, as it occurs at a track. It includes a "live broadcast" as defined in paragraph (a) of subsection 2 of NRS 463.426.

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

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

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

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

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

14. "Off-track pari-mutuel race wager" means either:

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

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

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

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

17. "Pari-mutuel system service provider" has the meaning ascribed to it in subsection 2 of section 5.240 of these regulations.

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

19. "Racing meet" means a series of scheduled races held at a track for a specified time period.

20. "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.

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

22. "Track fee" means the amount paid to a track for the right to be part of an interstate or intrastate common pari-mutuel race pool.

23. "User" has the meaning ascribed to it in paragraph (c) of subsection 2 of NRS 463.426.

24. "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 race pool.

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

(Adopted: 3/90. Amended: 4/91; 10/21/99; 6/20/02; 1/27/11; 12/25.)

26A.030 License required to accept off-track pari-mutuel race 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 NRS 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 pursuant to chapter 463 of NRS.

2. Applications for a license to accept off-track pari-mutuel wagers must be made, processed, and determined using such forms as the Chair 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; 12/25.)

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

1. Off-track pari-mutuel race wagering may be conducted only within a race book or any other area approved by the Chair.

2. A pari-mutuel race book offering off-track pari-mutuel race wagering must comply with the provisions of Regulation 22, when not in conflict with this regulation.

3. Except as provided in subsection 4, a pari-mutuel race book shall not use the information received from a live broadcast to determine the winners of or payoffs on off-track pari-mutuel race wagers.

4. A pari-mutuel race book may use the information received from a live broadcast, or from information the pari-mutuel race book can confirm is from a reliable source satisfactory to the Chair or from records created and maintained by the pari-mutuel race book in such a manner as the Chair may approve, to determine the winners of, or payoffs on, off-track pari-mutuel race wagers in the event the pari-mutuel system service provider notifies the pari-mutuel race book that it is unable to relay that information to the pari-mutuel race book through the off-track pari-mutuel race system. A pari-mutuel race book shall comply with the Regulation 6 minimum internal control standards when making such payoffs.

5. A pari-mutuel race book shall pay winning interstate off-track pari-mutuel race wagers in accordance with official results at the track, irrespective of whether the wagering information from the pari-mutuel race book was included in the interstate common pari-mutuel race pool.

6. A pari-mutuel race book shall pay winning intrastate off-track pari-mutuel race wagers in accordance with official results from the approved, off-track pari-mutuel race system and shall return at least one dollar and five cents for each winning dollar wagered, and any other guaranteed payout.

7. The pari-mutuel race books shall be jointly responsible for any deficiencies and shall share in any excesses resulting from the requirements of subsections 5 and 6. The terms of any such agreement must be approved pursuant to the provisions of section 26A.140.

8. A pari-mutuel race book shall not pay a pari-mutuel system service provider or a track any compensation for the right to be part of an interstate or intrastate common pari-mutuel race pool unless the agreement setting forth the terms of the compensation has been approved pursuant to the provisions of section 26A.140.

9. A pari-mutuel race book shall adopt, conspicuously display, and adhere to written house rules governing off-track pari-mutuel race wagering transactions with patrons. Prior to adopting or amending such house rules, a pari-mutuel race book shall submit such rules to the Chair for approval.

10. A pari-mutuel race book shall allow patrons to cash an outstanding off-track pari-mutuel race 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.

11. Pari-mutuel race books may not accept intrastate pari-mutuel race wagers placed by any book, affiliate of the pari-mutuel race book, or a pari-mutuel system service provider providing the intrastate common pari-mutuel race system. Neither the pari-mutuel race book operator nor the pari-mutuel system service provider may place wagers into an intrastate common pari-mutuel race pool.

12. Each pari-mutuel race book that accepts an intrastate pari-mutuel race wager must visually display to patrons, through direct communications with the off-track pari-mutuel race 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 race pool shall not be approved unless the pari-mutuel system service provider has the capability to deliver this visual information to the pari-mutuel race books in a form acceptable to the Chair, and each pari-mutuel race book must be capable of displaying

the information in a form acceptable to the Chair, before being approved to participate in that intrastate pari-mutuel race pool.

(Adopted: 3/90. Amended: 4/91; 10/21/99; 1/27/11; 12/25.)

26A.050 [Reserved.]

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

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

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

(Adopted: 3/90. Amended: 4/91; 10/21/99; 12/25.)

26A.070 Criteria for approval to share in revenue. The Board and the Commission may consider the criteria of section 463.170 of NRS in determining whether to approve an application by a person to receive a share of the revenue from off-track pari-mutuel race wagering.

(Adopted: 3/90. Amended: 4/91; 12/25.)

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 race books for the right to be part of an interstate common pari-mutuel race pool or for permitting pari-mutuel race books to conduct an intrastate pari-mutuel race pool shall:

(a) For each racing meet for which it is offering an interstate common pari-mutuel race pool or permitting pari-mutuel race books to conduct an intrastate pari-mutuel race pool, provide a live broadcast to a user at a fee or percentage rate, provided the track charges the same fee or rate to all users;

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

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

(d) Provide the live audio-visual signal and racing information of a race meet, excluding wagering data, to the user or the pari-mutuel system service provider via an executed agreement.

2. The live audio-visual signal referred to in this section must meet the production requirements of Regulation 21 applicable to live broadcasts.

3. Nothing in this section shall be deemed to require a pari-mutuel race book to display a live audio-visual signal in conjunction with an interstate or intrastate common pari-mutuel race pool.

4. A track approved to share in the revenue from off-track pari-mutuel race wagering shall maintain a revolving fund with the Board in an amount determined by the Chair, 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; 12/25.)

26A.090 Registration of off-track pari-mutuel race systems operator.

1. A pari-mutuel race book shall not use an interstate or intrastate off-track pari-mutuel race system unless the systems operator has been registered with the Board as a pari-mutuel system service provider as set forth in subsection 7 of NRS 464.005 and section 5.240 of these regulations.

2. Applications for registration as a pari-mutuel system service provider must be made, processed, and determined using such forms as the Chair may require or approve as set forth in section 4.200 of these regulations.

3. An applicant for registration as a pari-mutuel system service provider must hold all necessary licenses or approvals to operate an off-track pari-mutuel system in the jurisdictions in which its hubs, hosts, and guests are located. For purposes of this subsection:

(a) "Hub" means a business or facility that acts as an intermediary for processing bets from multiple jurisdictions.

(b) "Host" means an entity that:

(1) Operates and controls the pari-mutuel pool; and

(2) Distributes races associated with the pari-mutuel pool to one or more guests, as defined in paragraph (c).

(c) "Guest" means a track, off-track wagering facility, or other authorized entity that receives a live broadcast or a live audio-visual signal of a race from a host and accepts pari-mutuel wagers from its patrons on that race, which are combined with the host track's pari-mutuel pool to calculate payoff prices.

(Adopted: 3/90. Amended: 4/91; 10/21/99; 12/25.)

26A.100 Requirements imposed upon pari-mutuel system service providers.

1. Each pari-mutuel system service provider shall designate a key employee to supervise and be responsible for the day-to-day operations of the off-track pari-mutuel race system.

2. A pari-mutuel system service provider and off-track pari-mutuel system must comply with the location requirements set forth in subsection 3 of NRS 464.020.

3. Each pari-mutuel system service provider shall provide and maintain a revolving fund with the Board in an amount determined by the Chair, which may not exceed \$10,000 without Commission approval, for post-registration investigative and administrative costs, including, without limit, hub system test review costs. The pari-mutuel system service provider shall remit the amount required by the Board within 15 days of the request.

(Adopted: 3/90. Amended: 4/91; 10/21/99; 1/27/11; 12/25.)

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

(Adopted: 3/90. Amended: 4/91; 12/25.)

26A.120 Minimum technical requirements for off-track pari-mutuel race systems. An off-track pari-mutuel race 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 race pool, receive, aggregate by pool and report to a track at regular intervals to be approved by the Chair, all off-track pari-mutuel race wagering information received separately from the pari-mutuel race books;

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

4. After each race on which pari-mutuel race wagering is conducted is declared official, receive and report to each pari-mutuel race book the results, which include the official order of finish, payoff prices reported by the track in an interstate common pari-mutuel race pool, and payoff prices determined by the off-track pari-mutuel race system in an intrastate common pari-mutuel race pool. Nothing in this section shall be deemed to require the pari-mutuel system service provider or pari-mutuel race book to display a live audio-visual signal in conjunction with an interstate or intrastate common pari-mutuel race pool; and

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

(Adopted: 3/90. Amended: 4/91; 10/21/99; 12/25.)

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

1. A pari-mutuel system service provider operating an interstate common pari-mutuel race pool shall immediately notify the pari-mutuel race 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 race wagers if it is unable to transmit the wagering information to the track either through the system or through a manual merge.

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

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

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

(Adopted: 3/90. Amended: 4/91; 10/21/99; 12/25.)

26A.135 Notification of intent. The person representing the pari-mutuel books intending to submit agreements for the purpose of common pari-mutuel pooling of wagers must submit written notification of this intent to the Chair no later than 30 days prior to the start of the proposed racing meet.

(Adopted: 12/25.)

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 race books, any person representing the pari-mutuel race books, pari-mutuel system service provider, user, track, and person or entity providing services in connection with the transmission of live broadcasts, or any combination thereof, relating in any way to the operation of an off-track pari-mutuel race wagering system, an interstate or intrastate common pari-mutuel race pool, or the transmission or reception of a live audio-visual signal of races on which off-track pari-mutuel race wagering will be conducted must be approved by the Commission upon a recommendation of the Board.

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

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

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

4. An agreement between the pari-mutuel race books and a track shall not be approved unless the Chair 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 pari-mutuel system service provider 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 Chair;

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

(e) The track holds all necessary licenses and approvals in its home state or country to participate in the off-track pari-mutuel race 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 race system, and the transmission or reception 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 entered into an agreement with a user, as required by paragraph (d) of subsection 1 of section 26A.080;

(h) There is assurance that the operation of the off-track pari-mutuel race system and the transmission or reception of the live audio-visual signal will be lawfully conducted after approval by the Commission or Chair, 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 race wagering system and live audio-visual signal transmission and reception 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 race 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 race books and a track shall be submitted to the Chair for approval no later than 10 days before the racing meet begins. Additionally, for a foreign track not previously approved by the Chair or Commission, a draft agreement between the pari-mutuel race books and the track and an executed letter of contractual intent between the pari-mutuel race books and the track must be submitted to the Chair no later than 30 days before the racing meet begins.

6. An agreement between the pari-mutuel race books and a pari-mutuel system service provider relating to an interstate or an intrastate common pari-mutuel race pool shall not be approved unless the Chair or Commission, as applicable, is satisfied that:

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

(b) The agreement specifies the manner in which the common pari-mutuel race 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 race system; and

(e) There is assurance that the right of Nevada to collect license fees from the pari-mutuel race 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; 12/25.)

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

1. For interstate common pari-mutuel race 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 race pools, a percentage not to exceed 25 percent.

(Adopted: 3/90. Amended: 4/91; 10/21/99; 12/25.)

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 race book, each pari-mutuel system service provider, and each track which offers an interstate common pari-mutuel race pool, shall:

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

2. Allow the members of the Commission, the 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 race book, track and pari-mutuel system service provider, on the premises, or elsewhere as practicable.

(Adopted: 3/90. Amended: 4/91; 10/21/99; 1/27/11; 12/25.)

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

(Adopted: 3/90. Amended: 4/91; 12/25.)

26A.190 Authority to issue orders for racing meets. The Commission Chair shall issue such orders as the Commission Chair deems appropriate to further the process of off-track pari-mutuel race wagering.
(Adopted: 3/90. Amended: 4/91; 10/21/99; 1/27/11; 12/25.)

26A.200 Waivers or modifications. The Chair may waive or modify one or more of the requirements of Regulation 26A if the Chair determines, in the Chair's sole and absolute discretion, that such waiver or modification is consistent with the public policy set forth NRS 463.0129 and NRS 464.020. The Chair may condition or limit a waiver or modification granted pursuant to this section in any manner the Chair deems reasonable.

(Adopted: 3/90. Amended: 4/91; 1/11; 12/25.)

End – Regulation 26A