

**RULE 22
OFF-TRACK PARI-MUTUEL WAGERING**

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22.010 Scope. This Rule and Rule 24 govern all off-track pari-mutuel wagering in Arkansas for which a license or approval has been granted by the Commission pursuant to Amendment 100. A casino licensee that is also a franchise holder may elect to have its race book operations relating to pari-mutuel wagering and horse and greyhound racing regulated and governed by the Arkansas Horse Racing Law at Ark. Code Ann. §§ 23-110-101, et seq., or the Arkansas Greyhound Racing Law at Ark. Code Ann. §§ 23-111-101, et seq., respectively, and rules promulgated by the Commission thereunder and not by these Rules.

22.020 Definitions. As used in this Rule:

1. "Affiliate" has the same meaning as defined in these Rules.
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 these Rules; or
 - (c) Those deficiencies arising from the payment of a guaranteed payout pursuant to these Rules.
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 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 this Rule, 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").

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 totalizator 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 this Rule. The term "pari-mutuel book" shall include pari-mutuel only books, unless stated otherwise within this Rule.

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 this Rule, but has elected not to accept nonpari-mutuel race wagers.

16. "Post time" means "post time" as that term is defined in these Rules.

17. "Source market fee" means a track fee paid for accepting wagering account wagers, in accordance with Rule 24, 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.

22.030 Authorization required to accept off-track pari-mutuel wagers; applications.

1. A Licensee, franchise holder or book shall not accept off-track or off-premises pari-mutuel wagers unless the wagers are made pursuant to Ark. Code Ann. § 23-110-405(e)(1) or Ark. Code Ann. § 23-111-508(e)(1).

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

3. Applications for authorization to accept off-track pari-mutuel wagers must enter into agreements and arrangements with other parties, consistent with federal law and approval by the Commission, pursuant to which its patrons may wager on races run at race tracks that are shown live or in any other manner approved by the Commission, by television, or otherwise, at locations on the grounds of the race book.

4. (a) For purposes of this Rule, "horse racing franchisor" means a franchisor licensed to conduct horse racing, and pari-mutuel wagering thereon, in Garland County, Arkansas under the Arkansas Horse Racing Law, Ark. Code Ann. Section 23-110-101 et seq.; and (ii) "greyhound racing franchisor" means a franchisor licensed to conduct greyhound racing, and pari-mutuel wagering thereon, in Crittenden County under the Arkansas Greyhound Racing Law, Ark. Code Ann. Section 23-111-101 et seq.

(b) In the case of a casino (other than one licensed to a horse racing franchisor), the casino (including any race book) shall not accept wagers on horse racing unless the casino licensee has a commercially reasonable agreement, acceptable to the Commission, in place with the horse racing franchisor setting forth the terms and conditions for acceptance of such wagers on horse racing that fairly attempts to ensure that the acceptance of such wagers will not adversely impact horse racing at the horse racing franchisor's racetrack, and related purses, and thoroughbred breeding activities in Arkansas, and related Arkansas thoroughbred breeding purse support programs.

(c) In the case of a casino (other than one licensed to a greyhound racing franchisor), the casino (including any race book) shall not accept wagers on greyhound racing unless the casino licensee has a commercially reasonable agreement, acceptable to the Commission, in place with the greyhound racing franchisor setting forth the terms and conditions for acceptance of such wagers on greyhound racing that fairly attempts to ensure that the acceptance of such wagers will not adversely impact greyhound racing at the greyhound franchisor's racetrack, and related purses, and greyhound breeding activities in Arkansas, and related Arkansas greyhound breeding purse support programs.

(d) The provisions of this Section shall likewise also apply to any wagers on horse or greyhound racing by a race book under these Rules.

22.040 Conduct of off-track pari-mutuel wagering.

1. Off-track / off-premises pari-mutuel wagering may be conducted only under the provisions of Ark. Code Ann. § 23-110-405(e)(1) or Ark. Code Ann. § 23-111-508(e)(1).

2. A pari-mutuel book offering off-track pari-mutuel wagering must comply with the provisions of these Rules, when not in conflict with this Rule.

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 Rule 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 these Rules. The terms of any such agreement must be approved pursuant to the provisions of this Rule.

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 this Rule.

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 Commission 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 Commission, and each pari-mutuel book must be capable of displaying the information in a form acceptable to the Commission, before being approved to participate in that intrastate pari-mutuel pool.

22.050 [Reserved.]

22.060 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 Commission may require or approve.

22.070 Criteria for approval to share in revenue. The Commission may consider the following suitability criteria in determining whether to approve an application by a person to receive a share of the revenue from off-track pari-mutuel wagering:

- (a) A person of good character, honesty and integrity;
- (b) A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this State or to the effective regulation and control of gaming or charitable lotteries, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or charitable lotteries or in the carrying on of the business and financial arrangements incidental thereto; and
- (c) In all other respects qualified to be licensed or found suitable consistently with the declared policy of the State.

22.080 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 these Rules, 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 these Rules 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 Commission in an amount determined by the Commission, which may not exceed \$10,000 without Commission approval, for post-approval investigative costs. A track shall remit the amount requested by the Commission within 15 days of the request.

22.090 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 Commission may require or approve. Each application must include an internal control system prepared and submitted in accordance with these Rules.

22.100 Requirements imposed upon systems operators.

1. Each systems operator shall maintain an office in Arkansas and designate a key employee located in the Arkansas 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 Commission pursuant to Rule 6. Each systems operator shall, if required by the Commission, amend the written system to comply with any requirements consistent with these Rules that the Commission 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 Commission 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 Commission 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 Commission 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 Commission. 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 Commission, 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 Commission 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 Commission in an amount determined by the Commission, which may not exceed \$10,000 without Commission approval, for post-licensing investigative costs. A systems operator shall remit the amount requested by the Commission within 15 days of the request.

22.110 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 these Rules governing associated equipment.

22.120 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 Commission, 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 Commission, 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 Commission, 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 Commission.

22.130 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.

22.140 Approval of agreements.

1. Except as provided in these Rules, 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 Commission.

2. The Commission, after whatever investigation or review the Commission 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 Commission.

4. An agreement between the pari-mutuel books and a track shall not be approved unless the Commission 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 these Rules may be administratively waived by the Commission;

(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 track 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 these Rules, and that the related live broadcast proposal has been approved by the Commission pursuant to these Rules;

(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 Director, as applicable, and will not pose a threat to gaming control in Arkansas;

(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 Arkansas 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 Arkansas 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 Commission 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 Commission 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 Commission 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 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 Arkansas 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.

22.150 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.

22.160 Limits and conditions on approvals. The Commission may impose limits or place conditions upon any license or approval issued pursuant to this Rule.

22.170 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 Commission, for at least 5 years after they are made and shall provide them to the Commission upon the Commission's request; and

2. Allow the members of the Commission, 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.

22.180 Grounds for disciplinary action. Violation of any applicable law or rule by a pari-mutuel book, track, or system operator constitutes reasonable cause for disciplinary action.

22.190 Authority to issue orders for racing meets. The Commission shall issue such orders as the Commission deems appropriate to further the process of off-track pari-mutuel wagering.

22.200 Waivers. The Commission may waive one or more of the requirements of these Rules if the Commission finds that such waiver is consistent with the public policy of the State.

End – Rule 22