

This is an amendment to 15.2.2 NMAC, Sections 8 and 9, effective 5/24/2022.

**Explanatory paragraph: This is a short-form amendment to 15.2.2 NMAC, Section 8, effective May 24, 2022. For Section 8 of 15.2.2 NMAC, Subsection A and Subsections C thru X were not published as there were no changes.**

**15.2.2.8 ASSOCIATIONS:**

\*\*\*

**B. Financial requirements: insurer of the race meeting:**

(1) Approval of a race meeting by the commission does not establish the commission as the insurer or guarantor of the safety or physical condition of the association's facilities or purse of any race.

(2) An association shall agree to indemnify, save and hold harmless the commission from any liability, if any, arising from unsafe conditions of association grounds and default in payment of purses.

(3) An association shall provide the commission with a certificate of liability insurance as required by the commission.

(4) An association shall maintain one or more trust accounts in financial institutions insured by the FDIC or other federal government agency for the deposit of nominations and futurity monies and those amounts deducted from the pari mutuel handle for distribution to persons other than the association according to the Horse Racing Act and commission rules. An association may invest nominations and futurities monies paid by owners in a U.S. treasury bill or other appropriate U.S. Government financial instrument instead of an account in a financial institution, in which case the provisions of this rule shall apply to such instrument.

(5) An association shall keep its operating funds and other funds that belong exclusively to the association separate and apart from the funds in its trust accounts and from other funds or accounts it maintains for persons other than itself, such as a horsemen's book account.

(6) An association shall employ proper accounting procedures to insure accurate allocation of funds to the respective purses, parties and organizations and detailed records of such accounts shall be made available to the commission or its staff on demand in connection with any commission audit or investigation.

(7) An association shall insure that sufficient funds for the payment of all purses on any race day are on deposit in a trust account at least two business days before the race day and shall provide the commission with documentation of such deposits prior to the race day. Exceptions to this subsection may be made by the commission or the agency director for good cause shown.

(8) An association shall add all interest accrued on funds in a trust account to the balance in the account and distribute the interest [~~proportionally~~] to those for whom the funds are held with the exception of administrative costs pursuant to section 60-2E-47(E) NMSA.

(9) An association and its managing officers are jointly and severally responsible to ensure that the amounts retained from the pari mutuel handle are distributed according to the Horse Racing Act and commission rules and not otherwise.

(10) An association and its managing officers shall ensure that all purse monies, disbursements and appropriate nomination race monies are available to make timely distribution in accordance with the Horse Racing Act, commission rules, association rules and race conditions.

(11) An association is authorized to offset a portion of the jockey and exercise rider insurance premium from gaming monies subject to the approval of the commission.

(12) An association shall insure that funds for the payment of the ten percent track breeder's awards on New Mexico bred winners, that have been requested by the New Mexico horse breeders' association and whose purses have been cleared by the New Mexico racing commission, will be sent via wire transfer to the designated bank account set up for that purpose within five business days after the request.

\*\*\*

[15.2.2.8 NMAC - Rp, 15 NMAC 2.2.8, 3/15/2001; A, 8/30/2001; A, 11/14/2002; A, 8/30/2007; A, 1/1/2013; A, 6/1/2016; A, 12/16/2016; A, 9/26/2018; A, 4/20/2021; A, 5/24/2022]

**15.2.2.9 GAMING:**

**A. Associations' financial requirements:**

(1) An association who is a gaming operator shall pay twenty percent of the net take to purses.

(2) An association shall provide a weekly report of the previous week's daily net take payment to purses every Monday to the commission [~~the New Mexico horsemen's association~~] and the New Mexico horsebreeders' association each week except for legal holidays which will be submitted on the next business day.

(3) All monies remitted by the association to the [~~New Mexico horsemen's association~~] gaming account shall be reconciled and settled within 30 days of the generation of monthly reports from the gaming control board.

(4) An association will be liable for all portions of the gaming funds for purses from such time as the funds are received into the gaming machines until the funds are deposited into the designated interest bearing accounts. The commission may take whatever action is available under the existing rules regarding fines, suspension or revocation of license should the association fail to deposit the funds in accordance with Paragraph (1) of Subsection B of Section 15.2.2.9 NMAC.

(5) The twenty-percent of the net take to purses shall be distributed as follows: Nineteen and three tenths percent of the net daily take deposited by the association will be distributed weekly by the [~~New Mexico horsemen's association~~] associations to the New Mexico horsebreeders' association to the purse fund; eighty and seven tenths percent of the net daily take deposited by the [~~association~~] associations will be distributed to the existing purse structures determined and approved by [~~that race meet's local horsemen's committee, the horsemen's state board, and approved by~~] the commission.

**B. Organizations' financial requirements:**

(1) The [~~New Mexico horsemen's association~~] associations shall establish interest-bearing accounts, designated as gaming funds for purses. [~~An association~~] The associations shall deposit, by 1:00 o'clock p.m. Monday of each week except for legal holidays which will be deposited on the next business day, twenty percent of the daily net take as defined in the gaming control act.

(2) The [~~New Mexico horsemen's association~~] associations and the New Mexico horsebreeders' association shall keep accurate, complete, and legible records with reports to the commission to include:

- (a) monthly reconciliation of amounts collected to account statements;
- (b) copy of account authorizing signatures;
- (c) any changes in authorizing signatures; and
- (d) detail of disbursements from the accounts.

[15.2.2.9 NMAC - Rp, 15 NMAC 2.2.9, 3/15/2001; A, 12/30/2003; A, 5/24/2022]