

Chapter 177 Oregon State Lottery

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DIVISION 10

GENERAL PROVISIONS

177-010-0000

General

(1) **Applicability:** Unless the context requires otherwise, the definitions contained in this division are generally applicable throughout OAR chapter 177. Specific divisions may contain the definitions of words specific to that division. In the event of a conflict, the definition in the specific division controls the usage of the word in that division.

(2) **Headings:** Where headings are used throughout OAR chapter 177, they are for the convenience of the user only and are of no substantive effect.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.020

Hist.: SLC 8-1985, f. & ef. 6-21-85; LC 4-1990, f. & cert. ef. 4-3-90; LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02

177-010-0003

Definitions

(1) **“Business day”** means the period beginning at 5 a.m. of a calendar day and ending at 4:59 a.m. on the morning of the next calendar day.

(2) **“Business week”** means the period beginning at 5 a.m. on a Sunday and ending at 4:59 a.m. the following Sunday morning.

(3) **“Business year”** means the period beginning at 5 a.m. on the Sunday immediately following the last Saturday in June, and ending at the end of the business day of the last Saturday of the following June.

(4) **“Commissioner”** has that definition as defined in ORS 461.010(2).

(5) **“Director”** has that definition as defined in ORS 461.010(3).

(6) **“Drawing coordinator”** means the Lottery employee designated by the Assistant Director for Security, subject to the approval of the Director, to develop and implement procedures for conducting drawings.

(7) **“Immediate family”** and **“family member”** mean a natural person’s spouse, child, brother, sister, or parent by blood or adoption.

(8) **“Lottery”** or **“State Lottery”** has that definition as defined in ORS 461.010(1).

(9) **“Lottery Commission”** or **“Commission”** has that definition as defined in ORS 461.010(4).

(10) **“Lottery contract”** means any contract entered into by the Lottery for the purchase, lease, or sale of goods or services.

(11) **“Lottery contractor”** or **“contractor”** has that definition as defined in ORS 461.010(9).

(12) **“Lottery game”** or **“game”** has that definition as defined in ORS 461.010(5).

(13) **“Lottery game retailer”** or **“retailer”** has that definition as defined in ORS 461.010(7).

(14) **“Lottery vendor”** or **“vendor”** has that definition as defined in ORS 461.010(8).

(15) **“Person”** has that definition as defined in ORS 461.010(6).

(16) **“Prize”** means any award of economic value, monetary or otherwise, that may be distributed to a Lottery player for submitting a valid claim based on a winning Lottery ticket or share.

(17) **“Retailer contract”** means any written contract entered into by the Lottery with a retailer for selling Lottery tickets or shares to the public.

(18) **“Share”** means an opportunity to win a prize in a Lottery game that does not use certificates or tokens, such as in Video LotterySM games.

(19) **“Ticket”** means a certificate or token of the opportunity to win a prize in a Lottery game.

(20) “**Traditional lottery games**” means all lottery games offered by the Oregon State Lottery, other than Video LotterySM games, and includes BreakopensSM, Scratch-itsSM, and On-Line games.

(21) “**Unclaimed prize**” means any prize offered in a Lottery game which has not been submitted to the Lottery for validation and prize payment within the specified prize claim period and for which the Lottery has data or evidence that the ticket or share was sold or distributed to the public.

(22) “**Video LotterySM game retailer**” or “**Video LotterySM retailer**” has that definition as defined in ORS 461.217.

(23) “**Video LotterySM game terminal**” means a type of video device for the playing of Video LotterySM games which is in a console that contains a game platform with a video display and a random number generator, is connected to and monitored by a central system, and accepts cash payments to permit a person to play the Video LotterySM games offered on the terminal for the opportunity to win a prize. Unless the context or a specially applicable definition indicates otherwise, any reference to a “Video LotterySM terminal”, “video lottery terminal”, or “video terminal” in OAR chapter 177, a Lottery retailer contract, or Lottery form in effect or in use on or after the effective date of this rule shall be deemed to refer to a “Video LotterySM game terminal” as defined in this section.

(24) “**Winner claim form**” means a form provided by the Lottery to a player for the purpose of claiming a prize.

Stat. Auth.: ORS 461 & OR Const. Art. XV, § 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.215, 461.217, 461.220 & 461.250
 Hist.: LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert. ef. 5-26-04; LOTT 3-2008, f. 6-30-08, cert. ef. 7-1-08; LOTT 7-2008, f. 10-31-08, cert. ef. 11-1-08

**177-010-0007
 Notice of Proposed Rules**

Prior to the adoption, amendment, or repeal of any rule, other than a temporary rule which is adopted in accordance with ORS 183.335(5), the Lottery Director shall give notice of the intended action:

(1) **SOS Bulletin:** In the Secretary of State’s Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the intended action;

(2) **Mailing:** By mailing, electronic mailing, or delivering a copy of the notice at least 28 days before the effective date of the intended action to persons on the Lottery Director’s mailing list established pursuant to ORS 183.335(8) and at least 49 days before the effective date of the intended action to the persons specified in ORS 183.335(15);

(3) **Press Room:** By delivering sufficient copies of the notice to the Capitol Press Room to provide one copy to each member of the press that maintains a mail receptacle there at least 28 days before the effective date of the intended action; and

(4) **Commission Agenda:** By listing any rule to be adopted, amended, or repealed on the agenda for the Commission’s monthly meeting.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.120(2)
 Hist.: LC 5-1990, f. & cert. ef. 4-3-90; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 3-2008, f. 6-30-08, cert. ef. 7-1-08

**177-010-0009
 Model Rules of Procedure**

Pursuant to the Oregon Administrative Procedures Act, the Oregon State Lottery adopts the following Attorney General Model Rules of Procedure, OAR chapter 137, in effect on June 30, 2008.

- (1) Division 1 Model Rules for Rulemaking.
 - (2) Division 2 Model Rules for Agency Declaratory Rulings.
 - (3) Division 5 Collaborative Dispute Resolution Model Rules.
- [ED. NOTE: The full text of the Attorney General’s Model Rules of Procedure is available from the office of the Attorney General or Lottery Commission.]
 Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.120(2)
 Hist.: LC 5-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 4-2008, f. 6-30-08, cert. ef. 7-1-08

**177-010-0011
 Confidentiality and Inadmissibility of Mediation Communications**

(1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in ORS 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the “mediator” in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) **Mediations Excluded:** Sections (6)–(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency’s employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential;

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation.

(6) **Disclosures by Mediator:** A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial, or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)–(d), (j)–(l) or (o)–(p) of section (9) of this rule.

(7) **Confidentiality and Inadmissibility of Mediation Communications:** Except as provided in sections (8)–(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) **Written Agreement:** Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties’ agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an “Agreement to Mediate.”

Agreement to Participate in a Confidential Mediation

The agency and the parties to the mediation agree to participate in a mediation in which the mediation communications are confidential and/or nondiscoverable and inadmissible to the extent authorized by OAR 177-010-0011(7) and this agreement. This agreement relates to the following mediation:

- a) _____
 (Identify the mediation to which this agreement applies)
- b) To the extent authorized by OAR 177-010-0011(7), mediation communications in this mediation are: (check one or more)
 - ___ Confidential and may not be disclosed to any other person.
 - ___ Not admissible in any subsequent administrative proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent administrative proceeding, or introduced as evidence by the parties or the mediator in any subsequent administrative proceeding.
 - ___ Not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery

conducted as part of a subsequent administrative, judicial or arbitration proceeding, or introduced as evidence by the parties or the mediator in any subsequent administrative, judicial or arbitration proceeding.

c) _____
Name of Agency

Signature of Agency's authorized representative Date _____
(when Agency is a party) or Agency employee acting as the mediator (when Agency is mediating the dispute)

d) _____
Name of party to the mediation

Signature of party's authorized representative Date _____
e) _____

Name of party to the mediation

Signature of party's authorized representative Date _____

(9) Exceptions to Confidentiality and Inadmissibility:

(a) Any statements, memoranda, work products, documents, and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report.

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law.

(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation.

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the

record of the proceeding to prevent further disclosure of the mediation communications or agreements.

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) A request for mediation, or

(B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation, or

(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712, or

(D) A strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial, or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege, or

(B) Attorney work product prepared in anticipation of litigation or for trial, or

(C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency, or

(D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation, or

(E) Settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the Director determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law.

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under 30.402 or state or federal law requires the terms to be confidential.

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training, or educational purposes, subject to the provisions of ORS 36.232(4).

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

Stat. Authority: ORS 36.224

Stat. Implemented: ORS 36.224, 36.228, 36.230 & 36.232

Hist.: LOTT 4-2008, f. 6-30-08, cert. ef. 7-1-08

177-010-0025

Director of the Oregon State Lottery

(1) **General:** The Director shall implement and execute the rules and policies adopted by the Commission, and may adopt such procedures as the Director may deem appropriate, to promote and insure the integrity, security, honesty, fairness, and efficient administration of the Lottery.

(2) **Assistant Directors:** The Commission delegates the authority to the Director to discipline, and/or terminate, with or without

cause, any or all of the assistant directors at any time. The decision of the Director to discipline and/or terminate an assistant director is final.

(3) **Personnel Policies and Procedures:** Except for approving the salaries of the Director and the assistant directors, including cost-of-living adjustments, the Director shall have the authority to establish and implement personnel policies and procedures pertaining to the employment, termination, and compensation of all Lottery staff. Such policies and procedures shall conform to generally accepted personnel practices based upon merit principles.

(4) **Temporary Administrative Rules:** The Director shall have the authority to adopt temporary administrative rules in accordance with the procedures set forth in ORS 183.335(5) and (6) upon the Director's signature.

(5) **Miscellaneous:** The duties and responsibilities of operating a lottery which are not otherwise specified in law, including, but not limited to, statutes and administrative rules, are reserved to the Director subject to review and approval by the Commission.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.150
 Hist.: SLC 13-1986(Temp), f. & ef. 6-13-86; SLC 19-1986, f. & ef. 7-29-86; LC 4-1990, f. & cert. ef. 4-3-90; LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 3-2008, f. 6-30-08, cert. ef. 7-1-08

**177-010-0045
 Contingency Reserve**

The money allotted to the Lottery's contingency reserve fund may include amounts retained to fund specific future expenses or may be for undesignated purposes. The Lottery shall not include contingency reserve expenditures in its calculation of the total annual revenues allocated for administrative expenses.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.510
 Hist.: SLC 8-1985, f. & ef. 6-21-85; LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 3-2008, f. 6-30-08, cert. ef. 7-1-08

**177-010-0050
 Merchandise Prizes**

In the exercise of the Director's discretion, the Director may pay the cash value of any merchandise prize in lieu of that prize. The cash value of a merchandise prize is the amount that the Lottery paid for the merchandise.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.230
 Hist.: SLC 9-1986, f. & ef. 5-28-86; LC 4-1990, f. & cert. ef. 4-3-90; LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 3-2008, f. 6-30-08, cert. ef. 7-1-08

**177-010-0080
 Sale of Tickets and Shares**

(1) **Sales by Retailers:** The Director shall contract with retailers for the sale of Lottery tickets and shares. The contract shall include the terms and conditions and incorporate by reference the rules applicable to the sale of all Lottery tickets and shares sold by the retailer.

(2) **Sales by the Lottery:** The Director may develop procedures for the sale of Lottery tickets and shares directly to the public. The procedures shall contain measures to ensure the accountability and security of all tickets and shares sold to the public by Lottery employees.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.260
 Hist.: LC 12-1990, f. & cert. ef. 10-2-90; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 3-2008, f. 6-30-08, cert. ef. 7-1-08

**177-010-0085
 Unclaimed Prize Money**

(1) A prize not validly claimed within the period specified for claiming a prize in any lottery game shall remain the property of the Commission and shall be allocated to the benefit of the public purpose. The Lottery shall transfer unclaimed prize money when it transfers proceeds allocated to the public purpose.

(2) The Commission delegates to the Director or the Director's designee the authority to set a time period that is shorter than one year to claim prizes in any Lottery game.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.250
 Hist.: LC 2-1995, f. 4-27-95, cert. ef. 5-1-95; LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 3-2008, f. 6-30-08, cert. ef. 7-1-08

**177-010-0090
 Child Support Validation Check**

The Lottery will use the following procedures as part of the validation process before paying any portion of a Lottery prize in excess of \$600:

(1) **Database:** Lottery information systems personnel shall work with the Division of Child Support of the Department of Justice (DOJ) to maintain a current database on the Lottery's central computer system containing the names and social security numbers of obligors who are delinquent in paying child support obligations.

(2) **Searching the Database:** The Lottery shall enter a prize claimant's name, address, date-of-birth, and social security number into the Lottery's central computer system. The computer shall search the database containing the names of the delinquent child support obligors for a possible match.

(3) **30 Day Hold:** When a claimant is listed in the database and a possible match is found, the Lottery will confirm the match with DOJ. If DOJ responds with a confirmation that the claimant is delinquent on child support payments, the Lottery will place a 30-day hold on any payment to the claimant pending initiation of garnishment proceedings. The Lottery will inform the claimant of the hold, immediately notify DOJ by telephone that the Lottery has placed the hold on the prize payment, and transmit a facsimile copy of supporting information to DOJ.

(4) **Garnishment:** If a garnishment proceeding is initiated within the 30-day hold period, the Lottery shall make payment to DOJ when the garnishment is received. If the prize claim exceeds the amount of the garnishment, the Lottery will pay the claimant the balance remaining after deduction of the garnishment and applicable taxes. If the garnishment exceeds the amount of the prize claim, the Lottery will inform the claimant that the entire amount of the prize claim was used to respond to the garnishment.

(5) **Payment of Prize:** If a garnishment proceeding is not initiated within the 30-day hold period, the Lottery will make payment on the prize to the claimant at the end of the 30 day hold period or when DOJ notifies the Lottery that a garnishment proceeding will not be initiated, whichever is sooner.

(6) **Voluntary Release:** Nothing in this section is intended to prevent a prize claimant from voluntarily releasing payment of all or any portion of the claimant's prize towards payment of the claimant's delinquent child support obligations.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.715
 Hist.: LC 6-1992, f. & cert. ef. 6-23-92; LOTT 8-2002(Temp), f. & cert. ef. 7-15-02 thru 1-3-03; LOTT 20-2002, f. & cert. ef. 9-30-02; LOTT 3-2008, f. 6-30-08, cert. ef. 7-1-08

**177-010-0100
 Requests and Fees for Copies of Public Records**

(1) **Procedure:** Any person may request to inspect or obtain a copy of a public record, as defined in ORS 192.410(4), which is in the custody of the Lottery.

(2) **Reasonable Access:** The Lottery will allow reasonable access to any public record in the custody of the Lottery, during the Lottery's regular business hours, unless the record is exempt from disclosure. The Lottery may determine the time and manner of inspection or copying to protect the public record and to prevent interference with the regular activities of the Lottery and its employees. The Lottery will determine reasonable access by taking into account the necessity to maintain the fairness, integrity, security, and honesty of the Lottery.

(3) **Written Requests:** Unless otherwise provided herein, a request for a public record must be made in writing and delivered in person, by mail, facsimile transmission, or electronic mail to the Oregon State Lottery, P.O. Box 12649, 500 Airport Road S.E., Salem, Oregon 97309. At its discretion, the Lottery may accept oral requests. Each request must include:

(a) The name, address, (if needed for mailing), and telephone number, if any, of the requestor.

(b) The identification, description, or type of the public record requested, and the format of the public record, if known to the requestor.

(c) The number of copies and format requested if a copy of the public record is requested.

(4) **Processing Requests:** The Lottery will respond to a public records request within a reasonable period of time. Inspection or copy-

ing of a public record is contingent upon the number of pending requests and staff availability. Requests normally will be processed in the order they are received. The Director or designee may advise the requestor, if necessary, whether the record may be disclosed, the date, time, and place the requestor may inspect the record or obtain a copy, and the estimated cost of inspection, copying, and other fees as described in this rule. If the requested record contains information exempt from disclosure, the requestor will be furnished a copy of the record with the exempt information redacted, if it is reasonably possible to do so. If it is not reasonably possible to redact the exempt information, the record will not be made available for inspection or copying.

(5) **Payment of Costs:** The requestor must pay the costs for making the public record available for inspection or for copying as follows:

(a) **Notification of Costs:** The Lottery will provide the requestor with a written notification of the actual or estimated costs to make the requested public records available for inspection or for providing copies, if the estimated or actual costs exceed \$25. The Lottery will not provide the public records until the requestor confirms that the requestor wants the Lottery to proceed with making the requested public records available. The Lottery may also provide the requestor with a written notification if the costs are \$25 or less. The Lottery may require that all fees and charges, whether estimated or actual, be paid before the public record is made available for inspection or copies provided.

(b) **Estimates:** If the Lottery must estimate the costs of making a public record available either for inspection or copying, the estimated costs must be paid before a public record will be made available for inspection or a copy made. The Lottery does not guarantee the accuracy of any estimate provided. If the total actual costs exceed the estimate, the total actual costs must be paid before the records are made available for inspection or copies are made and provided to the requestor. If the total actual cost is less than the estimate, the Lottery will refund the overcharge to the requestor. The Lottery will not refund amounts less than \$1.

(c) **Requests by Current Lottery Retailers:** With the written or electronic authorization of a Lottery retailer, the Lottery may bill a retailer the cost of fulfilling a public records request made by the retailer through the retailer's electronic funds transfer bank account established for Lottery funds. Such amounts will be deducted from the account during the next regularly scheduled electronic debit of the retailer's account or anytime thereafter.

(6) **Fees — General:** Unless otherwise provided herein or by law, the Lottery shall charge a fee, in accordance with ORS 192.440, reasonably calculated to reimburse the Lottery for its actual costs of providing a copy of a public record or furnishing a reasonable opportunity to inspect the record.

(7) **Fees — Paper Records:** For paper records, the Lottery's charge is 25¢ per page for the first 20 pages and 15¢ per page thereafter to recover the costs of photocopying, or printing from laserfiche, and normal and reasonable staff time to locate, separate, review, redact exempt information, copy, return documents to file, and to otherwise prepare and deliver a public record to a requestor.

(a) **"Page"** refers to the number of copies produced, either on 8 1/2 x 11 or 8 1/2 x 14 or 8 1/2 x 17 inch paper. Lottery staff will not reduce the copy size or otherwise manipulate a record in order to fit additional records on a page, unless staff concludes that it would be the most effective use of staff time. Consistent with ORS 192.240, all copies will be produced on recycled paper in double-sided print format whenever feasible. A double-sided copy constitutes two pages. Because of the increased staff time involved in double-sided copying, there is no reduction in the fee per page.

(b) A **"normal and reasonable"** amount of staff time is fifteen minutes or less for each request.

(8) **Additional Staff Time Charges:** Additional charges for staff time may be made when responding to a public records request that requires more than a "normal and reasonable" amount of staff time for responding to a records request as set forth in this rule.

(a) **Lottery Staff:** Staff time over fifteen minutes will be charged at the hourly rate of the staff member, who responds to the request, as follows:

(A) **Hourly Employees:** The Lottery shall charge the actual hourly rate of the employee including benefits.

(B) **Salaried Employees:** The Lottery shall charge an hourly rate determined by the monthly salary including benefits of the employee divided by the number of hours of work that month based upon an eight hour day.

(b) **Oregon Attorney General Staff:** If the Lottery uses the services of the Oregon Attorney General's Office in reviewing the public records, redacting material from the public records, or segregating the public records into exempt and non-exempt records, the costs billed to the Lottery by the Attorney General's Office shall be charged to the requestor. The Lottery will not include, in a fee charged under this section, the costs for time spent by the Attorney General's staff in determining the application of the provisions of ORS 192.410 to 192.505 to a request for public records.

(c) **Outside Contractors:** If the Lottery uses the services of an outside facility or contractor to respond to a public records request, the actual costs incurred by the Lottery shall be billed to the requestor.

(d) **Miscellaneous:** Unless otherwise provided herein, charges incurred in responding to a public records request include, but are not limited to:

(A) All time spent locating, compiling, sorting, and reviewing records to prepare them for inspection or copying;

(B) All time required to segregate or redact exempt information;

(C) All time required to supervise the inspection of records, including time spent with the requestor while the requestor reviews the public records; and

(D) All time required to copy or format the records.

(9) **Fees — Electronic Reproduction of Records:** In addition to the staff time required to respond to a public records request where electronic reproduction is required or if requested is available, the Lottery may provide reproduction media at the following rates:

(a) **Diskette, 5 1/4 or 3 1/2:** \$1 each.

(b) **CD:** \$1 each.

(c) **DVD:** \$1 each.

(d) **Video Cassette, 2 hours:** \$6 each.

(e) **Audio Cassette, 60 minutes:** \$2 each.

(f) The Lottery will not permit a requestor to provide a diskette, CD, or DVD for electronic reproduction of a computer record.

(10) **Mailing or Shipping Costs:** The Lottery may charge a requestor the actual postage or freight costs for mailing or shipping a copy of a record to the requestor, including, but not limited to, any special charges such as certified mail, express mail, or restricted delivery. Lottery shall determine the manner of shipment.

(11) **Faxing Costs:** In addition to other fees related to the request, the Lottery shall charge the requestor \$1 per public records page when a record is faxed locally or within the state of Oregon. The Lottery shall charge a requestor \$5 for the first public records page for out-of-state faxes and \$1 per page thereafter. The Lottery will not fax more than 30 pages in response to a public records request.

(12) **Certification Costs:** When requested, the Lottery shall provide a certified copy of a public record at an additional cost of \$5.00 for each certification. Certified copy means a copy which is certified to be a true and accurate copy of the public record requested.

(13) **Payment:** Unless otherwise provided herein or as directed by the Director, a requestor must pay all fees in advance before the Lottery will release a requested record for inspection or before a copy is made and provided. The requestor may make payment by cash, check, or money order. The check or money order must be made payable to the Oregon State Lottery.

(14) **No Charge:** The Lottery may provide a single copy of the following items at no charge to a requestor once every 30 days. The Lottery will charge the requestor for an item requested more often than once every 30 days, unless the item has been updated or modified within that timeframe.

(a) **Press Release:** A single copy of any Lottery press release issued within the 30 days immediately preceding the request.

(b) **Minutes and Reports:** A single copy of approved Commission minutes for a Commission meeting that occurred within the previous twelve months, including monthly financial, marketing, and sales reports made to the Commission during that meeting.

(c) **Rules:** A single copy of the Lottery's current administrative rules.

(d) **ORS Chapter 461:** A single copy of the current Oregon Revised Statutes, Chapter 461.

(e) **Lottery Publications:** A single copy of a current Lottery publication, unless a price is set for the publication, including, but not limited to, winning numbers, frequency or odds charts, job announcements, problem gambling informational materials and brochures, and newsletters.

(f) **Electronic Copies:** At the Lottery's discretion, any single record or report readily available electronically from the Lottery which can be provided to the requestor electronically through electronic mail. If a hard copy of such materials is requested, the Lottery shall charge the requestor in accordance with the provisions of this rule. If the request entails preparation of an electronic report using Lottery software which requires more than a normal and reasonable amount of time to prepare, the charges for staff time specified herein apply.

(g) **Marketing Materials:** A single copy of a currently stocked marketing brochure, pamphlet, flyer, or any similar item, which is normally distributed freely to the public, or to retailers to distribute to the public. This includes, but is not limited to, any item that is intended or used by the Lottery to promote the sale of Lottery tickets or shares; advertise or promote the Lottery or its games; foster good public relations; act as an incentive to purchasers, players, or retailers; publicly disclose odds or numbers of winners in Lottery games; or communicate with the general public or specific market segments.

(h) **ADA Format:** The Lottery will not charge any extra fee for providing records in an alternative format when required under the Americans with Disabilities Act.

(i) **Nominal Expense:** The Lottery will not charge a fee if a record can be provided at nominal expense or if the cost to collect the fee would be more than the cost to provide the copy of the record.

(15) **Limitation on Waiver:** Except as provided in this rule, the Lottery may not reduce or waive fees and must charge the actual costs for making a public record available for inspection or copying, and any related services.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 192.440
 Hist.: LC 6-1994, f. 7-22-94, cert. ef. 8-1-94; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 2-2006, f. 2-16-06, cert. ef. 3-1-06

177-010-0110

Lottery Trade or Service Marks

(1) **Public Display, Use, or Publication of Trademarks and Service Marks:** The Lottery's trademarks and service marks include, but are not limited to, the Lottery's name and logo; game names, logos, and taglines; and licensed game names and logos that the Lottery has contractual authority to use. The public display, publication, or other use of the Lottery's trademarks and service marks is permitted only after the Director or the Director's designee:

(a) Provides written approval of a request for the display, publication, or other use; or

(b) Enters into a license agreement with the requestor for the display, publication, or other use.

(2) **Request Requirements:** All requests for display, publication, or other use of the Lottery's trademarks and service marks must be in writing and must include the following:

(a) A sample showing the proposed use of the trademark or service mark in a display, publication, or other use; and

(b) An explanation of how and where the trademark or service mark will be displayed, published, or otherwise used.

(3) **Director's Approval:** The Director or the Director's designee has sole and exclusive discretion whether or not to approve a request and to determine the conditions applying to use of the trademark or service mark. The Director or the Director's designee may require the requestor to enter into a licensing agreement before use of a trademark or service mark is authorized.

(4) **Rights:** This rule shall not be construed to grant or create any right to display, publish, or otherwise use, in any manner, in whole or in part, any of the Lottery's trademarks or service marks. The Lottery may take any action that the Lottery deems necessary to enforce its rights in its trademarks and service marks.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.150
 Hist.: LC 4-1994, f. 3-31-94, cert. ef. 4-1-94; Administrative Correction 4-15-98; LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 3-2008, f. 6-30-08, cert. ef. 7-1-08

177-010-0120

Display and Demonstration of a Trade Show Device at a Trade Show

(1) **Definition:** For the purposes of this rule, "Trade show device" means a gaming device that would otherwise be a gray machine as described in ORS 167.117(9) or a slot machine as described in 167.117(20) except that the device is authorized for display or demonstration purposes at a trade show and the device is displayed and demonstrated by a manufacturer or manufacturer's representative as an example of a model that is currently in production for sale or is scheduled to be in production for sale by the manufacturer.

(2) **Trade Show Display:** A trade show device approved for display and demonstration at a trade show:

(a) Cannot be used for actual wagering. Any device that accepts any consideration is not authorized under this rule.

(b) Cannot be sold directly from the site of the trade show or while in transit to or from the trade show.

(c) Must have the coin or bill acceptor removed or physically restricted from use so that wagering is not possible.

(d) Must have a sign posted in close proximity to the device that contains the phrase, "No one under 21 years of age is allowed to operate this machine." A vendor displaying and demonstrating trade show devices must ensure that minors under the age of 21 are not allowed to operate the device.

(3) **Limitations:** For purposes of this rule, a trade show cannot be held at a location or in a manner in which the Oregon State Police Lottery Security Section is encumbered from ensuring compliance with applicable law. For example, a trade show cannot be held in a mobile demonstration van or be conducted simultaneously at multiple locations.

(4) **Application:** A vendor participating in a trade show must complete, in its entirety, and file an application with the Director for authorization to display, demonstrate, and transport a trade show device at a trade show. The application shall include, but not be limited to:

(a) The full name, address, and telephone number of both the business and the individual initiating the request to display and demonstrate such a device at a trade show;

(b) The title, location, and dates of the trade show;

(c) The full name, address, and telephone number of the sponsor or organizer of the trade show;

(d) The manufacturer of each device;

(e) The serial number of each device;

(f) The model of each device;

(g) The schedule of transport of such a device;

(h) The specific address and location of any intermediary storage sites for the device before or after the trade show; and

(i) The name, address, and telephone number of a person who can be contacted if questions arise regarding any aspect of the authorization, the devices, or the trade show.

(5) **Approval:** The Director may approve, in writing, an application to display, demonstrate, and transport a trade show device submitted under section (4) upon finding that each device identified in the application is a trade show device and that the applicant will use the trade show device solely for display and demonstration purposes at a trade show that is not open to the public and where minors under the age of 21 are prohibited from operating any trade show device.

(6) **Approval to Accompany Machine:** Upon approval by the Director, a copy of the Director's approval to display, demonstrate, and transport a trade show device must accompany the device while in transit to or from the trade show and while the device is at the trade show.

(7) **Transport:** A trade show device scheduled to be displayed or demonstrated at a trade show must be transported as described in the approval to display, demonstrate, and transport the device. Any variation in the number, type, or serial number of devices to be displayed and demonstrated at a trade show, or of the schedule of the transport of the devices to or from a trade show contained in the authorization shall be immediately reported to the Lottery following notification procedures described in the authorization.

(8) **Inspection:** Trade show devices displayed or demonstrated at a trade show must be available for inspection by the Oregon State Police Lottery Security Section to assure compliance with applicable law.

(9) **Confiscation:** A device displayed, demonstrated, transported, or otherwise possessed in violation of this rule or any statute is subject to confiscation by law enforcement officers and may be forfeited and destroyed.

Stat. Auth.: OR Const. Art. XV, Sec. 4 & ORS 461
 Stats. Implemented: OL 1999, Ch. 193 & ORS 461.215
 Hist.: LOTT 12-1999(Temp), f. & cert. ef. 12-27-99 thru 6-20-00; LOTT 3-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 3-2008, f. 6-30-08, cert. ef. 7-1-08

DIVISION 36

LOTTERY PROCUREMENT RULES

177-036-0000

Definitions

The following definitions apply to all Oregon Administrative Rules contained in OAR chapter 177, division 36:

(1) "Addendum" or "Addenda" means an addition or deletion to, a material change in, or general interest explanation of a Solicitation Document.

(2) "Advantageous" means in the Lottery's best interests, as assessed according to the judgment of the Lottery.

(3) "Award" means either the act or occurrence of the Lottery's identification of the Person with whom the Lottery will enter into a Contract.

(4) "Bid" means a response to an Invitation to Bid.

(5) "Bidder" means a Person that submits a Bid in response to an Invitation to Bid.

(6) "Closing" means the date and time announced in a Solicitation Document as the deadline for submitting Offers.

(7) "Contract" means a purchase, lease, rental or other acquisition or sale or other disposal by the Lottery of Goods or Services.

(8) "Contract Price" means, as the context requires;

(a) The maximum payments that the Lottery will make under a Contract if the Contractor fully performs under the Contract;

(b) The maximum not-to-exceed amount of payments specified in the Contract; or

(c) The unit prices for Goods and Services set forth in the Contract.

(9) "Contractor" means the Person with whom the Lottery enters into a Contract.

(10) "Days" means calendar days.

(11) "Director" has that definition as defined in ORS 461.010(3).

(12) "Emergency" means circumstances that:

(a) Could not have been reasonably foreseen; and

(b) Require prompt execution of a Contract to remedy the condition; and

(c) Meet one of the following two conditions:

(A) The circumstances create a substantial risk of loss or revenue, damage or interruption of services or substantial threat to property, public health, welfare or safety when the circumstances could not have been reasonably foreseen; or

(B) The circumstances require immediate and decisive action to protect the security, credibility, or integrity of the Lottery or a Lottery game.

(13) "Goods and Services" or "Goods or Services" means supplies, equipment, materials and services including Personal Services and any personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto, that the Lottery is authorized by law to procure.

(14) "Information Technology Contract" means a Contract for the acquisition, disposal, repair, maintenance or modification of hardware, software or services for computers or telecommunications.

(15) "Invitation to Bid" or "ITB" means all documents, whether attached or incorporated by reference, used for soliciting Bids using a competitive bidding process in which specifications, price and delivery (or project completion) will be the predominant Award criteria.

(16) "Large Procurement" means the Lottery's procurement of Goods or Services exceeding \$150,000 in accordance with the requirements of OAR 177-036-0040(4).

(17) "Lottery" has that definition as defined in ORS 461.010(1).

(18) "Lottery Commission" or "Commission" has that definition as defined in ORS 461.010(4).

(19) "Major Procurement" means a procurement that involves highly sensitive and highly secure Lottery information and includes but is not limited to, the printing of tickets used in Lottery games, Goods or Services involving the receiving or recording of number selection in any Lottery game, or any Goods or Services involving the determination of winners in any Lottery game. Disclosure requirements for this classification of procurements are contained in ORS 461.410, 461.700, and OAR 177-037-0030.

(20) "Offer" means a response to a Solicitation Document.

(21) "Offeror" means a Person who submits an Offer.

(22) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity.

(23) "Personal Services" means the services or type of services performed under a Personal Services Contract.

(24) "Personal Services Contract" means a Contract or member of a class of Contracts whose primary purpose is to acquire specialized skills, knowledge and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment, including, without limitation, a Contract for the services of an accountant, educator, information technology or other consultant, broadcaster or artist (including a photographer, filmmaker, painter, or sculptor.)

(25) "Proposal" means a response to a Request for Proposal.

(26) "Proposer" means a Person that submits a Proposal in response to a Request for Proposal.

(27) "Responsible Offeror" (also "Responsible Bidder" or "Responsible Proposer" as applicable) means a Person that has submitted an Offer and meets the standards set forth in OAR 177-036-0110, and that has not been debarred by the Lottery under OAR 177-036-0210. When used alone, "Responsible" means meeting the aforementioned standards.

(28) "Responsive Offer" (also "Responsive Bid" or "Responsive Proposal" as applicable) means an Offer that substantially complies in all material respects with applicable Solicitation Document requirements. When used alone, "Responsive" means having the characteristics of substantially complying in all material respects with applicable Solicitation Document requirements.

(29) "Request for Proposal" or "RFP" means all documents, whether attached or incorporated by reference, used for soliciting Proposals using a competitive Proposal process in which price is not the sole determining factor for Contract Award.

(30) "Scope" means the range and attributes of the Goods or Services described in the applicable Solicitation Document, or if no Solicitation Document, in the Contract.

(31) "Signed" or "Signature" means any mark, word or symbol attached to or logically associated with a document and executed or adopted by a Person, with the intent to be bound.

(32) "Solicitation Document" means an Invitation to Bid, Request for Proposal or other document issued to invite Offers from prospective Contractors.

(33) "Specification" means any description of the physical or functional characteristics or of the nature of Goods or Services, including any requirement for inspecting, testing or preparing Goods or Services for delivery and the quantities of materials to be furnished under a Contract. Specifications generally will state the result to be obtained and may, on occasion, describe the method and manner of doing the Work to be performed.

(34) "Vendor" has that definition as defined in ORS 461.010(8). For purposes of these division 36 rules, Vendor does not include a Lottery game retailer as defined in ORS 461.010(7).

(35) "Work" means the furnishing of all materials, equipment, labor and incidentals necessary to successfully complete any individual requirement in a Contract and successful completion of all duties and obligations imposed by the Contract.

(36) "Written" or "Writing" means conventional paper documents, whether handwritten, typewritten or printed, in contrast to spoken words. It also includes electronic transmissions or facsimile documents when required by applicable law or permitted by a Solicitation Document or Contract.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0010

General Policy

It is the policy of the Lottery to conduct its procurement efforts to ensure a process that promotes fairness, integrity, security, and honesty to maximize revenue for the public purposes set forth in ORS 461.200. The purpose of these division 36 rules is to provide a framework for the Lottery procurement processes. These division 36 rules apply to the Lottery's procurement of Goods and Services.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0020

Application of the Lottery's Procurement Rules; Exceptions

(1) **General:** It is the policy of the Lottery, to the extent that is reasonable given the objectives of maximizing the net revenues of the Lottery, to conduct its contracting affairs in an open, competitive manner in accordance with ORS 461.440 and these division 36 rules.

(2) **Exceptions:** The Lottery may enter into the following classifications of Contracts without a competitive process:

(a) Contracts between the Lottery and a state agency or local government of this or another state, with the United States or a United States governmental agency, with an American Indian tribe or an agency of an American Indian tribe, or with a nation or a public agency in any nation other than the United States as permitted in ORS Chapter 190;

(b) Sole-source expenditures when rates are set by law or ordinance for purposes of source selection;

(c) Contracts for books, memberships, or subscriptions;

(d) Sponsorship agreements;

(e) Advertising and promotional Contracts, including, but not limited to, Contracts to place media, Contracts for talent, acquisition of prizes, and promotional Goods or Services. This exception does not apply to the selection of the Lottery's primary advertising agency;

(f) Contracts for video Lottery terminals and similar devices and video Lottery games (including the equipment and services necessary to operate and maintain the devices or games);

(g) Equipment repair and overhaul Contracts subject to the following conditions:

(A) Service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; or

(B) Service or parts required are for sophisticated equipment for which specifically trained personnel are required and such personnel are available from only one source;

(h) Investment contracts related to the payoff of major prize winners;

(i) Security studies;

(j) Price regulated items where the rate or price is established by federal, state or local regulatory authority;

(k) Purchase of used personal property; and

(l) Contracts with Lottery game retailers pursuant to ORS 461.300 through 461.335.

(3) **Reservation of Rights:** Although the Lottery is exempt from ORS Chapter 279A and 279B, which govern public contracts and procurement, the Lottery reserves the right to use, as guidelines to govern its procurement actions, relevant provisions of ORS Chapter 279A, and 279B, the Attorney General's Model Public Contract Rules (OAR chapter 137, divisions 46 and 47) and the Public Contracting Rules established by the Oregon Department of Administrative Services (OAR chapter 125, divisions 246 and 247). However, the procedures set forth in these statutes and administrative rules shall be guidance only and shall not obligate the Lottery to follow the procedures set forth in these statutes and administrative rules.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0030

Procurement Authority

(1) **General:** The Director is authorized to initiate procurements and enter into all Contracts and Contract amendments for Goods and Services that have been approved by the Lottery Commission in the annual financial plan (as it may be amended) or are otherwise pre-

approved in concept at a Lottery Commission meeting, on behalf of the Lottery Commission except as follows:

(a) Unbudgeted procurements that will result in a Contract with a Contract Price in excess of \$75,000 over the term of the Contract and Unbudgeted Contracts with a Contract Price in excess of \$75,000 over the term of the Contract must be approved by the Lottery Commission. For purposes of section (1) of this rule, "Unbudgeted" means expenditures that have not been previously approved by the Commission in the Lottery's current financial plan or at a Commission meeting.

(b) The first Unbudgeted Contract amendment that increases the Contract Price to more than \$75,000 and all subsequent Unbudgeted Contract amendments that increase the Contract Price by more than \$75,000 since the last Unbudgeted Contract Amendment approved by the Commission, must be approved by the Commission.

(c) Contracts for Major Procurements must be approved by the Commission.

(2) **Commission Approved Contracts:** Notwithstanding the provisions of section (1) of this rule, the Commission having once approved a Contract or Contract amendment authorizes the Director to execute the Contract or Contract amendment, make all disbursements and payments as provided in the Contract or Contract amendment, without further action by the Commission.

(3) **Emergency Procurements:** Notwithstanding the provisions of section (1) of this rule, the Director is authorized to enter into a Contract awarded as an Emergency procurement as set forth in OAR 177-036-0040(6).

(4) **Rule or Statutory Authorization:** If a contract action is authorized by statute or rule, the Director is authorized to execute the Contract or any Contract amendment, and make all disbursements and payments as required by the Contract terms or the terms of the Contract amendment.

(5) **Price Reduction:** The Director is authorized, without further, specific approval action by the Commission, to execute any Contract amendment that results in a reduction of the price paid by the Lottery per item, unit or other measure of the Goods or Services provided under the Contract, and may exercise any option under a Contract previously approved by the Commission, where the option terms of the approved Contract establish a specific price for the Goods or Services to be acquired under the option.

(6) **Delegation by Director:** Pursuant to ORS 461.180(7), the Director may delegate, in writing, to any of the employees of the Lottery the exercise or discharge of any of the powers, duties or functions of the Director in these division 36 rules.

(7) **Legal Sufficiency Review:** When the Attorney General legal sufficiency review and approval is required under ORS 291.047, the Lottery must seek legal sufficiency review and approval of Contracts pursuant to ORS 291.047 and review of procurement documents pursuant to OAR 137-045-0035.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0040

Source Selection

(1) **General:** The Lottery shall Award Contracts for Goods or Services by one of the source selection methods in this rule. Except as provided in section (2), and sections (5) through (7) of this rule, the Lottery will generally conduct a competitive process for Goods or Services by issuing a Solicitation Document.

(2) **Small Procurements:** Any procurement of Goods or Services not exceeding \$15,000 may be Awarded without a competitive process. The Lottery may Award a Contract in any manner deemed practical or convenient by the Lottery, including by direct selection or Award. A procurement may not be artificially divided or fragmented so as to constitute a small procurement under this rule.

(3) **Intermediate Procurements:** Any procurement of Goods or Services exceeding \$15,000 but not exceeding \$150,000 may be Awarded after seeking three competitive price quotes or Offers. The Lottery shall keep a Written record of the sources of the Offers received. If three Offers are not reasonably available, fewer will suffice, but the Lottery shall make a Written record of the effort made to obtain the Offers. A procurement may not be artificially divided or fragmented so as to constitute an intermediate procurement under this rule.

(4) **Large Procurements:** Any procurement of Goods or Services exceeding \$150,000 may be Awarded after seeking three solicited competitive Offers. The Lottery shall keep a Written record of the sources of the Offers received. If three Offers are not reasonably available, fewer will suffice, but the Lottery shall make a Written record of the effort made to obtain the Offers.

(5) **Sole Source Procurements:** The Lottery may Award a Contract for Goods or Services without a competitive process when the Director, or a person designated in Writing by the Commission, determines in Writing, based on findings of current market research, that the Goods or Services are available from only one seller or source.

(6) **Emergency Procurements:**

(a) **General:** The Director may make Emergency procurements and enter into Contracts Awarded as Emergency procurements in an Emergency. Notwithstanding OAR 177-036-0030, the Director may make Emergency procurements and enter into Contracts Awarded as Emergency procurements regardless of the dollar amount of the Contract without the Commission's approval.

(b) **Major Procurements:**

(A) Notwithstanding subsection 6(a) of this rule, the Director may make an Emergency procurement or enter into an Emergency Contract for a Major Procurement only upon the approval of the Commission. If the Emergency procurement requires immediate approval of the Contract, the Commission may conduct its meeting as provided in ORS 192.670 and 192.640(3).

(B) The Director may establish an extension of an Emergency Contract for a Major Procurement without the approval of the Commission, where the original Contract specifically provides for the extension, the extension does not result in any change in the terms and conditions of the Contract other than an extension in its term, and the Contractor has maintained its status as an approved Major Procurement Vendor pursuant to OAR 177-037-0030 and 177-037-060.

(C) The Director shall make reasonable efforts to report to the Commission in Writing, within five Days of the Contract Award, or by the next scheduled Commission meeting following the Contract Award date, whichever is later, any Emergency Contracts entered into by the Director. However, the Director's inability or failure to report to the Commission within this time shall not affect the validity of any Emergency Contract.

(7) **Alternative Procurement Methods:**

(a) The Lottery reserves the right to use an alternative procurement method if that method will be more likely to:

(A) Maximize the Lottery's net revenue;

(B) Achieve the specific business objective or business objectives of the procurement; or

(C) Aid the Director in fulfilling the statutory mandate to operate and administer the Lottery.

(b) Alternative procurement methods may include, but are not limited to, specialized Vendor prequalifications, multistep Bids or Proposals, single Proposer negotiations, competitive negotiations between two or more Proposers, brand name solicitations, and cooperative procurements. The Lottery shall conduct the alternative procurement method in accordance with the process set forth in the applicable Solicitation Document.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461

Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440

Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0050

Public Notice of Solicitation Documents

The Lottery may provide notice of a Solicitation Document by placing notice on an electronic procurement system, by sending the Solicitation Document to prospective Offerors, or by using any method it determines appropriate to foster and promote competition.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461

Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440

Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0055

Offer Submissions

Offerors may not submit facsimile and electronic Offers unless specifically authorized in the Solicitation Document.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461

Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440

Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0060

Addenda to Solicitation Documents

(1) **Issuance; Receipt:** The Lottery may change a Solicitation Document only by Written Addenda. An Offeror shall provide Written acknowledgement of receipt of all issued Addenda with its Offer, unless the Lottery otherwise specifies in the Addenda.

(2) **Notice and Distribution:** The Lottery shall notify prospective Offerors of Addenda in a manner intended to foster competition and to make prospective Offerors aware of the Addenda. The Solicitation Document shall specify how the Lottery will provide notice of Addenda.

(3) **Timelines; Extensions:** The Lottery shall issue Addenda within a reasonable time to allow prospective Offerors to consider the Addenda in preparing their Offers. The Lottery may extend the Closing if the Lottery determines prospective Offerors need additional time to review and respond to Addenda.

(4) **Request for Change or Protest to an Addendum of a Large Procurement:** Unless a different deadline is set forth in the Addendum, an Offeror may submit a Written request for change or protest to the Addendum of a Large Procurement, as provided in OAR 177-036-0160, by the close of the Lottery's next business day after issuance of the Addendum, or up to the last day allowed to submit a request for change or protest under OAR 177-036-0160, whichever date is later. If the date established in the previous sentence falls after the deadline for receiving protests to the Solicitation Document in accordance with OAR 177-036-0160, then the Lottery may consider an Offeror's request for change or protest to the Addendum only, and the Lottery shall not consider a request for change or protest to matters not added or modified by the Addendum.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461

Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440

Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0070

Pre-Closing Modifications or Withdrawal of Offers

(1) **Modifications:** An Offeror may modify its Offer in Writing prior to Closing. An Offeror shall prepare and submit any modifications to its Offer to the Lottery. The last Offer received by the Lottery prior to Closing will supercede any previous Offers received unless the Offer is identified by the Offeror as an alternate Offer.

(2) **Withdrawals:** An Offeror may withdraw its Offer by Written notice submitted on the Offeror's letterhead, signed by an authorized representative of the Offeror, delivered to the Lottery and received by the Lottery prior to Closing. The Offeror or authorized representative of the Offeror may also withdraw its Offer in person prior to Closing, upon presentation of appropriate identification and evidence of authority satisfactory to the Lottery.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461

Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440

Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0080

Receipt, Opening, and Recording of Offers; Confidentiality of Offers

(1) **Receipt:** The Lottery shall electronically or mechanically time-stamp or hand-mark each Offer and any modification upon receipt. The Lottery shall not open the Offer or modification upon receipt, but shall maintain it as confidential until Closing. If the Lottery inadvertently opens an Offer or a modification prior to Closing, the Lottery shall document the resealing for the procurement file and return the Offer or modification to its confidential state until Closing.

(2) **Opening:** The Lottery does not publicly open Offers.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461

Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440

Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0090

Late Offers, Withdrawals, and Modifications

Any Offer received after Closing is late. An Offeror's request for withdrawal or modification of an Offer received after Closing is late.

The Lottery shall not consider late Offers, withdrawals or modifications except as permitted in OAR 177-036-0100.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

**177-036-0100
 Mistakes**

(1) **General:** To protect the integrity of the competitive procurement process and to assure fair treatment of Offerors, the Lottery shall carefully consider whether to permit waiver, correction, or withdrawal of Offers for certain mistakes.

(2) **Lottery's Treatment of Mistakes:** The Lottery shall not allow an Offeror to correct or withdraw an Offer for an error of judgment. If the Lottery discovers certain mistakes in an Offer after Closing, but before Award of the Contract, the Lottery may take the following action:

(a) **Minor Informality:** The Lottery may waive, or permit an Offeror to correct a minor informality. A minor informality is a matter of form rather than substance when it is evident on the face of the Offer, or an insignificant mistake that can be waived or corrected without prejudice to other Offerors. Examples of minor informalities include, but are not limited to, an Offeror's failure to:

(A) Return the correct number of Signed Offers or the correct number of other documents required by the Solicitation Document;

(B) Sign the Offer in the designated block, provided a Signature appears elsewhere in the Offer, evidencing an intent to be bound; and

(C) Acknowledge receipt of an Addendum to the Solicitation Document, provided that it is clear on the face of the Offer that the Offeror received the Addendum and intended to be bound by its terms; or the Addendum involved did not affect price, quality or delivery.

(b) **Clerical Error:** The Lottery may correct a clerical error if the error is evident on the face of the Offer or other documents submitted with the Offer, and the Offeror confirms the Lottery's correction in Writing. A clerical error is an Offeror's error in transcribing its Offer. Examples include typographical mistakes, errors in extending unit prices, transposition errors, arithmetical errors, and instances in which the intended correct unit or amount is evident by simple arithmetic calculations. In the event of a discrepancy, unit prices shall prevail over extended prices.

(c) **Burden of Proof:** The Lottery may permit an Offeror to withdraw an Offer based on one or more clerical errors in the Offer only if the Offeror shows with objective proof and by clear and convincing evidence:

(A) The nature of the error;

(B) That the error is not a minor informality under this subsection or an error of judgment;

(C) That the error cannot be corrected or waived under subsection (b) of this section;

(D) That the Offeror acted in good faith in submitting an Offer that contained the claimed error and in claiming that alleged error in the Offer exists;

(E) That the Offeror acted without gross negligence in submitting an Offer that contained a claimed error;

(F) That the Offeror will suffer substantial detriment if the Lottery does not grant the Offeror permission to withdraw the Offer;

(G) That the Lottery's status has not changed so significantly that relief from the forfeiture will work a substantial hardship on the Lottery; and

(H) That the Offeror promptly gave notice of the claimed error to the Lottery.

(d) **Withdrawing Offers After Closing:** The criteria in subsection (2)(c) of this rule shall determine whether the Lottery will permit an Offeror to withdraw its Offer after Closing. This criteria also shall apply to the question of whether the Lottery will permit an Offeror to withdraw without forfeiture of its Bid bond (or other Bid or Proposal security), or without liability to the Lottery based on the difference between the amount of the Offeror's Offer and the amount of the Contract actually Awarded by the Lottery, whether by Award to the next lowest Responsive and Responsible Bidder or the most Advantageous and Responsible Proposer, or by resort to a new solicitation.

(3) **Rejection for Mistakes:** The Lottery shall reject an Offer in which a mistake is evident on the face of the Offer and the intended

correct Offer is not evident or cannot be substantiated from documents submitted with the Offer.

(4) **Identification of Mistakes after Award:** The procedures and criteria set forth above are Offeror's only opportunity to correct mistakes or withdraw Offers because of a mistake. Following Award, an Offeror is bound by its Offer, and may only withdraw its Offer or rescind a Contract entered into pursuant to this division 36 only to the extent as permitted by applicable law.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

**177-036-0110
 Responsibility of Offerors**

(1) **General:** Offerors are required to demonstrate their ability to perform satisfactorily under a Contract. The Lottery shall prepare a Written determination of non-Responsibility of an Offeror if the Offeror does not meet the standards of Responsibility.

(2) **Considerations:** In determining whether an Offeror has met the standards of Responsibility, the Lottery shall consider whether the Offeror:

(a) **Business Qualifications:** Has available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the Offeror to meet all contractual responsibilities;

(b) **Record of Performance:** Has a satisfactory record of contract performance. The Lottery shall carefully scrutinize an Offeror's record of contract performance if the Offeror is or recently has been materially deficient in contract performance. In reviewing the Offeror's performance, the Lottery shall determine whether the Offeror's deficient performance was expressly excused under the terms of the contract, or whether the Offeror took appropriate corrective action. The Lottery may review the Offeror's performance on both private and public contracts in determining the Offeror's record of contract performance. The Lottery shall make its basis for determining an Offeror non-Responsible under this subsection part of the procurement file;

(c) **Record of Integrity:** Has a satisfactory record of integrity. An Offeror may lack integrity if the Lottery determines the Offeror demonstrates a lack of business ethics such as violation of state environmental laws or making of false certifications. The Lottery may find an Offeror non-Responsible based on the lack of integrity of any Person having influence or control over the Offeror (such as a key employee of the Offeror that has the authority to significantly influence the Offeror's performance of the Contract or a parent company, predecessor or successor Person). The Lottery shall make its basis for determining an Offeror non-Responsible under this subsection part of the procurement file;

(d) **Legally Qualified:** Is qualified legally to contract with the Lottery; and

(e) **Necessary Information:** Has supplied all necessary information in connection with the inquiry concerning Responsibility. If the Offeror fails to promptly supply information requested by the Lottery concerning Responsibility, the Lottery shall base the determination of Responsibility upon any available information, or may find the Offeror non-Responsible.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

**177-036-0115
 Vendor Disclosure Requirements**

Prospective Offerors shall comply with all disclosure requirements set forth in the Lottery's Vendor Disclosure Rules in OAR chapter 177, division 37.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

**177-036-0120
 Offer Evaluation and Award**

(1) **Lottery Evaluation:** The Lottery shall evaluate Offers only as set forth in the Solicitation Document and in accordance with appli-

cable law. The Lottery shall not evaluate Offers using any other requirement or criterion.

(2) **Clarification of Offers:** After Closing, the Lottery may conduct discussions with apparent Responsive Bidders or Proposers for the purpose of clarification to assure full understanding of the Offer. The Lottery shall document clarification of any Offer in the procurement file.

(3) **Preference for Oregon Goods and Services:** The Lottery shall prefer Goods and Services that have been manufactured or produced in Oregon if price, fitness, availability, and quality are otherwise equal.

(a) **Award When Offers Identical:** When the Lottery receives Offers identical in price, fitness, availability and quality, and chooses to award a Contract, the Lottery shall award the Contract based on the following order of precedence:

(A) The Lottery shall award the Contract to the Offeror among those submitting identical offers that is offering Goods or Services that have been manufactured or produced in Oregon.

(B) If two or more Offerors submit identical Offers, and both offer Goods or Services manufactured or produced in Oregon, the Lottery shall award the Contract by drawing lots among the identical Offers offering Goods or Services that have been manufactured or produced in Oregon. The Offerors that submitted the identical Offers subject to the drawing of lots shall be given notice and an opportunity to be present when the lots are drawn.

(C) If the Lottery receives identical Offers, and none of the identical Offers offer Goods or Services manufactured or produced in Oregon, the Lottery shall award the Contract by drawing lots among the identical Offers. The Offerors that submitted the identical Offers subject to the drawing of lots shall be given notice and an opportunity to be present when the lots are drawn.

(b) **Determining if Offers are Identical:** The Lottery shall consider Offers identical in price, fitness, availability and quality as follows:

(A) Bids received in response to an Invitation to Bid are identical in price, fitness, availability and quality if the Bids are Responsive, and offer the Goods or Services described in the Invitation to Bid at the same price.

(B) Proposals received in response to a Request for Proposals are identical in price, fitness, availability and quality if they are Responsive and achieve equal scores when scored in accordance with the evaluation criteria set forth in the Request for Proposal.

(c) **Determining if Goods or Services are Manufactured or Produced in Oregon:** For the purposes of complying with section (3) of this rule, Lottery may request, either in a Solicitation Document, following Closing, or at any other time determined appropriate by the Lottery, any information the Lottery determines appropriate and necessary to allow the Lottery to determine if the Goods or Services are manufactured or produced in Oregon. The Lottery may use any reasonable criteria to determine if Good or Services are manufactured or produced in Oregon, provided that the criteria reasonably relate to that determination, and provided that the Lottery applies those criteria equally to each Bidder or Proposer.

(d) **Procedure for Drawing Lots:** In any instance when this section calls for the drawing of lots, the Lottery shall draw lots by a procedure that affords each Offeror subject to the drawing a substantially equal probability of being selected, and that does not allow the person making the selection the opportunity to manipulate the drawing of lots to increase the probability of selecting one Offeror over another.

(4) **Negotiations:** Except as permitted by section (2) of this rule, the Lottery shall not negotiate with any Bidder. The Lottery may conduct discussions or negotiate with Proposers in accordance with the process set forth in the Solicitation Document.

(5) **Award:**

(a) **General:** The Lottery shall Award the Contract to the Responsible Bidder submitting the lowest, Responsive Bid or the Responsible Proposer submitting the most Advantageous Responsive Proposal unless otherwise stated in the Solicitation Document. If a Contract is Awarded, the Lottery shall Award the Contract to the Offeror whose Offer will best serve the interests of the Lottery, taking into account price as well as considerations including, but not limited to, experience, expertise, product functionality, suitability for a particular purpose and Contractor responsibility under OAR 177-036-0110. The

Lottery may Award by item, groups of items or the entire Offer provided such Award is consistent with the Solicitation Document and in the best interest of the Lottery as determined by the Lottery.

(b) **Multiple Items:** A Solicitation Document may call for pricing of multiple items of similar or related type with Award based on individual line item, group total of certain items, a "market basket" of items representative of the Lottery's expected purchases, or grand total of all items.

(c) **Multiple Awards:** Notwithstanding subsection 5(a) of this rule, the Lottery may Award multiple Contracts in accordance with the criteria set forth in the Solicitation Document. If a Solicitation Document permits the Award of multiple Contracts, the Lottery shall specify in the Solicitation Document the criteria it will use to choose from the multiple Contracts when purchasing Goods or Services. A notice to prospective Offerors that multiple Contracts may be Awarded for any Solicitation Document shall not preclude the Lottery from Awarding a single Contract for such Solicitation Document.

(d) **Partial Awards:** If after evaluation of Offers, the Lottery determines that an acceptable Offer has been received for only part of the requirements of the Solicitation Document:

(A) The Lottery may Award a Contract for the part of the Solicitation Document for which acceptable Offers have been received; or

(B) The Lottery may reject all Offers and may issue a new Solicitation Document on the same or revised terms, conditions and Specifications.

(e) **All or None Offers:** The Lottery may Award all or none Offers if the evaluation criteria specifies an all or none Award to be the lowest cost for Bids or the most Advantageous for Proposals of those submitted.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0130

Notice of Intent to Award

At least seven Days before the Award of a Contract as a Large Procurement, the Lottery shall provide all Offerors Written notice of the Lottery's intent to Award a Contract, unless the Lottery determines that circumstances require prompt execution of the Contract, in which case the Lottery may provide a shorter notice period.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0140

Availability of Award Decisions

(1) **Contract Documents:** To the extent required by the Solicitation Document, the Lottery shall deliver to the successful Offeror a Contract, Signed purchase order, or other agreements as applicable.

(2) **Availability of Award Decisions:** A Person may obtain tabulations of Awarded Bids or evaluation summaries of Proposals by submitting a form provided by the Lottery. In addition, the Lottery may make available tabulations of Bids and Proposals through an electronic procurement system.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0150

Cancellation, Rejection, and Delay of a Solicitation

(1) **General:** Any procurement described in a Solicitation Document may be cancelled, or any or all Offers may be rejected in whole or in part, when the cancellation or rejection is in the best interest of the Lottery as determined by the Lottery. The reasons for the cancellation or rejection must be made a part of the solicitation file. The Lottery is not liable to any Offeror for any loss or expense caused by or resulting from the cancellation or rejection of a Solicitation Document, Offer, or Award.

(2) **Offer Findings:** The Lottery shall reject an Offer upon the Lottery's finding that the Offer:

(a) Is contingent upon the Lottery's acceptance of terms and conditions (including Specifications) that differ from the Solicitation Document;

(b) Takes exceptions to terms and conditions (including Specifications) set forth in the Solicitation Document;

(c) Attempts to prevent public disclosure of matters in contravention of the terms and conditions of the Solicitation Document or in contravention of applicable law;

(d) Offers Goods or Services that fail to meet the Specifications of the Solicitation Document;

(e) Is late;

(f) Is not in substantial compliance with the Solicitation Document requirements; or

(g) Is not in substantial compliance with all prescribed public procurement procedures.

(3) **Offeror Findings:** The Lottery shall reject an Offer upon the Lottery's finding that the Offeror:

(a) Has been debarred pursuant to OAR 177-036-0210;

(b) Has not properly executed Bid or Proposal security as required by the Solicitation Document; or

(c) Is non-Responsible as defined in OAR 137-036-0110.

(4) **Disposition of Offers:**

(a) **Prior to Closing:** If the Lottery cancels a procurement prior to Closing, the Lottery shall return all Offers it received to Offerors unopened, provided the Offeror submitted its Offer in a hard copy format with a clearly visible return address. If there is no return address on the envelope, the Lottery shall open the Offer to determine the source and then return it to the Offeror.

(b) **After Closing:** If the Lottery cancels a procurement after Closing, the Lottery shall keep the Offers in the procurement file.

(c) **Rejection of All Offers:** If the Lottery rejects all Offers, the Lottery shall keep all Offers in the procurement file.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0160

Request for Change or Clarification of Large Procurements

(1) **Purpose:** A prospective Offeror may request changes or clarifications to the procurement process or the Solicitation Document for Large Procurements.

(2) **Delivery:** Unless otherwise specified in the Solicitation Document, a prospective Offeror must deliver a request for change or clarification in Writing to the Lottery no less than ten Days prior to Closing.

(3) **Content:** A prospective Offeror's request for change or clarification shall include a statement of the desired changes or clarification to the Procurement process or the Solicitation Document that the prospective Offeror believes will remedy the conditions upon which the prospective Offeror has based its request.

(4) **Lottery's Response:** The Lottery shall not consider a Prospective Offeror's request submitted after the deadline established for submitting such request under this rule, or such different time as may be provided in the Solicitation Document. The Lottery shall consider the request if it is timely filed and meets the conditions set forth in this rule. The Lottery shall issue a Written disposition of the request. If the Lottery upholds the request, in whole or in part, the Lottery may in its sole discretion either issue an Addendum reflecting its disposition or cancel the Solicitation Document.

(5) **Extension of Closing:** If the Lottery receives a request from a prospective Offeror in accordance with this rule, the Lottery may extend Closing if the Lottery determines an extension is necessary to consider and respond to the request.

(6) **Clarification:** Prior to the deadline for submitting a request, a prospective Offeror may request that the Lottery clarify any provision of the Solicitation Document. The Lottery's clarification to an Offeror, whether orally or in Writing, does not change the Solicitation Document and is not binding on the Lottery unless the Lottery amends the Solicitation Document by Addendum.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0170

Award Protests of Large Procurements

(1) **Purpose:** An Offeror may protest Lottery's intent to Award of a Contract as a Large Procurement.

(2) **Delivery:** An Offeror must deliver the protest to the Lottery no later than five Days after the date of issuance of intent to Award the Contract, unless otherwise stated in the Solicitation Document.

(3) **Content of Protest:** All protests must be in Writing and signed by the Offeror. The protest must state all facts and arguments on which the Offeror is basing the protest. The protest must claim, and state facts which substantiate a claim, that:

(a) All lower Bids or higher ranked Proposers are ineligible to receive the Contract Award because they are non-Responsive; or

(b) The Lottery committed a material violation of a provision in the Solicitation Document or of an applicable statute or administrative rule, and but for the alleged material violation, Offeror would have been the lowest Bidder or highest ranked Proposer.

(4) **The Lottery's Response:** The Lottery's Procurement and Contract Manager shall review the protest and shall fax and mail the Offeror a Written decision within three Days of receipt of the Written protest to the fax number and address provided in the Offer. Any Written decision from the Lottery may include the Lottery's final opinion of the protest, a notice to the Offeror that the Lottery needs additional time in which to evaluate the protest, or other information to the Offeror.

(5) **Appeal:**

(a) **Appeal to the Director:**

(A) If the Lottery Procurement and Contract Manager's decision is adverse to the Offeror, the Offeror may appeal the Lottery Procurement and Contract Manager's decision by submitting a Written appeal to the Director within three Days after the date of issuance of the Lottery Procurement and Contract Manager's Written decision.

(B) The Director shall review any appeal of the Lottery Procurement and Contract Manager's decision and shall fax and mail a Written decision to the Offeror within three Days of receipt of the Written appeal to the fax number and address provided in the Offer. The Director will not consider grounds or arguments in favor of the protest that were not first presented to the Lottery Procurement and Contract Manager.

(b) **Appeal to Lottery Commission:**

(A) If the decision of the Director is adverse to the Offeror, the Offeror may submit a subsequent Written appeal of the Director's decision to the Lottery Commission by delivering the subsequent Written appeal to the Director within two Days after the date of issuance of the Director's Written decision.

(B) The Lottery Commission, in considering the appeal, shall review the documentation presented to the Lottery Procurement and Contract Manager and the Director, and thereafter, shall base its decision on such material. The Lottery Commission shall respond to the appeal on or before the next regularly scheduled Commission meeting, but in no event shall the Lottery Commission be required to review and respond to the appeal in less than ten Days of receipt of the Written appeal. The Lottery Commission will not consider grounds or arguments in favor of the appeal that were not first presented to the Lottery Procurement and Contract Manager. The Lottery Commission will not review and rescure the evaluation scores.

(6) **Late Submission:** The Lottery shall not consider an Offeror's protest or appeal submitted after the timelines established for submitting such protest or appeal under this rule or such different time period as may be provided in the Solicitation Document. If the Lottery upholds the protest, in whole or in part, it may in its sole discretion either Award the Contract to the successful protestor or cancel the solicitation.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

177-036-0180

Contract Amendments

(1) **Additional Goods or Services:** The Lottery may amend a Contract without additional competition to add additional Goods or Services within the Scope of the Solicitation Document, or if no Solicitation Document, the Contract, subject to the following conditions:

(a) The additional Goods or Services are required by reason of existing or new laws, rules, regulations, or ordinances that affect the performance of the original Contract; or

(b) The prices for the Goods or Services are modified only as follows:

(A) When prices for the Goods or Services are based on unit prices, unit prices that establish the cost basis for the additional Goods or Services were provided in the Offer or original Contract and those prices do not increase except as permitted by an escalation clause in the Contract; or

(B) When prices for the Goods or Services are not based on unit prices, options that establish the cost basis for the additional Goods or Services were provided in the Solicitation Document, Offer, or original Contract.

(2) **Renegotiated Contract:** The Lottery may renegotiate the terms and conditions, including the Contract Price, of a Contract without additional competition and amend a Contract if it is Advantageous to the Lottery subject to the following conditions:

(a) The amended Contract is within the Scope of the Solicitation Document, or if no Solicitation Document, within the Scope the Contract;

(b) The Lottery must determine that, with all things considered, the renegotiated Contract is at least as favorable to the Lottery as the original Contract; and

(c) The renegotiated Contract will not have a total term greater than allowed in the original Solicitation Document or Contract after combining the initial and extended terms.

(d) If a Contractor offers a lower price in exchange for a term or condition that was expressly rejected in the original solicitation, the amended Contract may be structured with this changed term as an optional, but not as a mandatory Contract term.

(e) If the Contract is the result of a cooperative procurement under ORS 279A.200 through 279A.225, the amended Contract may not materially change the terms, conditions, and prices of the original Contract.

(3) **Small or Intermediate Contract:** The Lottery may amend a Contract Awarded as a small or intermediate procurement pursuant to sections (1) or (2) of this rule, but the cumulative amendments shall not increase the total Contract Price to a sum that is greater than twenty-five percent of the original Contract Price, unless the amendment increasing the original Contract Price to more than twenty-five percent of the original Contract Price is approved in Writing by the Director prior to execution of the amendment.

(4) **Emergency Contract:** The Lottery may amend a Contract Awarded as an Emergency procurement if the Emergency justification for entering into the Contract still exists, and the amendment is necessary to address the continuing Emergency.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

**177-036-0190
 Cooperative Procurements**

The Lottery may participate in, sponsor, conduct, or administer cooperative procurements pursuant to ORS 279A.200 through 279A.225.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

**177-036-0200
 Performance Bond**

(1) **General:** A successful Offeror for a Major Procurement, as defined in OAR 177-037-0000(2), shall promptly execute and deliver to the Lottery a performance bond in the amount specified in the Solicitation Document or Contract as provided in ORS 461.430. A successful Offeror shall also promptly execute and deliver to the Lottery a performance bond for other procurements, as required by the Solicitation Document or Contract, when the Lottery determines a performance bond is necessary to protect the interests of the Lottery.

(2) **Authorized Surety:** The performance bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in the State of Oregon. The bonds may not constitute the surety obligation of an individual or individuals. The performance bond must be payable to the Lottery as specified in the Solicitation Document or Contract, and must be in a form approved by the Lottery.

(3) **Emergency Procurement:** In cases of an Emergency procurement, the requirement of furnishing a performance bond for the

performance of a Major Procurement Contract may be excused by the Lottery if a declaration of such Emergency is made in accordance with OAR 177-036-0040(6).

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

**177-036-0210
 Debarment of Prospective Offerors**

(1) **General:** The Lottery may debar a prospective Offeror from consideration for Award of Lottery Contracts for the reasons listed in section (2) of this rule after providing the prospective Offeror with notice and a reasonable opportunity to be heard.

(2) **Factors for Consideration:** A prospective Offeror may be debarred from consideration for Award of Lottery Contracts if:

(a) The prospective Offeror has committed a violation of a material Contract provision. A violation may include but is not limited to a failure to perform the terms of a Contract or an unsatisfactory performance in accordance with the terms of the Contract. However, a failure to perform or unsatisfactory performance caused by acts beyond the control of the Contractor may not be considered to be a basis for debarment.

(b) The prospective Offeror has been convicted of a criminal offense resulting from obtaining or attempting to obtain a public or private contract or subcontract or resulting from the performance of such contract or subcontract.

(c) The prospective Offeror has been convicted under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects the prospective Offeror's responsibility as a contractor or that the Lottery determines may affect the honesty, fairness, integrity or security of the Lottery or any Lottery games.

(d) The prospective Offeror has been convicted under state or federal antitrust statutes.

(e) The prospective Offeror does not carry worker's compensation or unemployment insurance as required by statute.

(3) **Period of Debarment:** The Lottery shall determine the period of debarment of a prospective Offeror, however the period shall not exceed three years.

(4) **Responsibility:** Notwithstanding the limitation on the term for debarment in section (3), the Lottery may determine that a previously debarred Offeror is not Responsible prior to Contract Award.

(5) **Imputed Knowledge:** The Lottery may attribute improper conduct of a Person or its affiliate or affiliates having a contract with a prospective Offeror to the prospective Offeror for purposes of debarment where the impropriety occurred in connection with the Person's duty for on behalf of, or with the knowledge, approval, or acquiescence of, the prospective Offeror.

(6) **Limited Participation:** The Lottery may allow a debarred Person to participate in a competitive process and Contracts on a limited basis during the debarment period upon Written determination by the Director that participation is Advantageous to the Lottery. The determination shall specify the factors on which it is based and define the extent of the limits imposed.

(7) **Decision:**

(a) The Lottery shall issue a Written decision to debar a prospective Offeror under this rule. The decision must:

(A) State the reasons for the debarment; and
 (B) Inform the debarred prospective Offeror of the appeal rights of the prospective Offeror under section (8) of this rule.

(b) The Lottery shall send a copy of the decision immediately to the debarred prospective Offeror by certified mail, return receipt requested, or by personal service.

(8) **Appeal:**

(a) The procedure for appeal from the Lottery's debarment of a prospective Offeror under this rule, shall be in accordance with this section and is not subject to ORS Chapter 183 except when specifically provided by this section.

(b) Upon receipt of a notice from the Lottery of a decision to debar under this rule, a prospective Offeror that wishes to appeal the decision shall, within three business days after receipt of the decision,

notify the Lottery Director that the prospective Offeror appeals the decision and requests a hearing as provided in this section.

(c) Upon receipt of the prospective Offeror's notice of appeal and request for hearing, the Lottery Director shall promptly notify the prospective Offeror appealing of the time and place of the hearing. The Director shall conduct the hearing and decide the appeal within thirty Days after receiving the notice from the prospective Offeror. The Director shall set forth in Writing the reasons for the hearing decision.

(d) At the hearing, the Director shall consider de novo the notice of debarment, the reasons listed in section (2) of this rule on which the Lottery based the debarment, and any evidence provided by the Lottery and the prospective Offeror. In all other respects, a hearing before the Director shall be conducted in the same manner as a contested case under ORS 183.415(3) to (6) and (9), 183.425, 183.440, 183.450, and 183.452. The hearing shall not be considered a contested case hearing under ORS Chapter 183 in any other respects.

(e) The prospective Offeror may seek judicial review of the Director's decision as set forth in ORS 183.484 for orders other than contested cases.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 12-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 16-2005, f. 12-21-05, cert. ef. 12-31-05

DIVISION 37

LOTTERY VENDOR DISCLOSURE RULES

177-037-0000

Definitions

The definitions in OAR 177-036-0000 apply to the terms used in this division. In addition, the following definitions apply:

(1) **“Control Person”** means a person described in ORS 461.410.

(2) **“General Procurement”** means a procurement for those Goods or Services that do not involve sensitive or secure Lottery information, and includes, but is not limited to, office supplies and equipment, media, vehicles, and promotional products. Disclosure requirements governing this classification are contained in OAR 177-037-0050.

(3) **“Major Procurement”** has that definition as defined in OAR 177-036-0000(19).

(4) **“Sensitive Procurement”** means a procurement that involves sensitive and secure information and includes, but is not limited to, Goods or Services involving audits for drawings and security, direct access to gaming computer systems, financial systems, receiving or recording of gaming information, locks and keys for terminals, and also includes the Lottery's primary advertising agency. Disclosure requirements for this classification of procurements are contained in ORS 461.700 and OAR 177-037-0040.

(5) **“Vendor”** means, for the purposes of this chapter, any Person interested in providing Goods or Services to the Lottery, but does not include a Lottery game retailer as defined in ORS 461.010(7).

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 13-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 17-2005, f. 12-21-05, cert. ef. 12-31-05

177-037-0010

General Policy

(1) **General:** It is the policy of the Lottery to conduct security background investigations on Lottery Vendors and Lottery Contractors to ensure the competence, integrity, background, good character, and the nature of the true business ownership and control of a Vendor or Contractor.

(2) **Disclosure:** To assure the security and integrity of the Lottery and Lottery games, the Director may require a Vendor, including any Control Person of the Vendor, or any employee or subcontractor of the Vendor that Lottery determines may have access to sensitive or secure Lottery information, to disclose and provide any information or disclosures deemed necessary to approve the Vendor as a Lottery Contractor. When required by these rules or by the Director, the Vendor must submit an application for approval to be a Lottery Contractor on disclosure forms provided by Lottery and must include all information and disclosures requested.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440

Hist.: LOTT 13-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 17-2005, f. 12-21-05, cert. ef. 12-31-05

177-037-0020

Classification of Lottery Procurements

(1) **General:** A procurement or Contract is classified according to the degree to which a Contractor may have access to secure and sensitive Lottery information, including materials or systems, which in the opinion of the Director affect the honesty, fairness, integrity, or security of the Lottery or any Lottery games. The factors used to classify a procurement or Contract include, but are not limited to: The type of Goods or Services to be provided; access to and the potential risk to Lottery games technology or data, access to and the potential risk to Lottery financial systems; and the type of company involved. There are three classifications of Procurements: Major, Sensitive, and General.

(2) **Classification:** The decision to classify a procurement as a Major, Sensitive, or General Procurement is made by the Director in consultation with the Assistant Director for Security prior to the Lottery's issuance of a Solicitation Document. The classification of a procurement, disclosure requirements, and instructions for disclosure will be stated in the procurement Solicitation Document or in the procurement advertisement.

(3) **Classification Changes:** The Director's decision to classify a particular procurement under sections (1) and (2) of this rule is not binding on the Lottery and in no way limits the authority of the Commission or the Director to change the procurement or Contract classification, or the disclosure requirements at any time prior to the award of a Contract or during the term of a Contract.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 13-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 17-2005, f. 12-21-05, cert. ef. 12-31-05

177-037-0030

Major Procurements

(1) **General:** In all solicitations for a Major Procurement, Lottery shall clearly identify the solicitation as a Major Procurement.

(2) **Disclosure:** All procurements classified as a Major Procurement require an extensive security background investigation and are subject to all disclosure requirements specified in ORS Chapter 461 and OAR chapter 177, division 37, and any other special disclosure requirements deemed necessary by the Director or the Commission. An Offer or Proposal for a Major Procurement must include an application for approval to be a Lottery Contractor, including all required information and disclosures, and must be on forms provided by the Lottery.

(3) **Continuing Disclosure Requirement:** Unless otherwise specified in the Contract for a Major Procurement, during the term of the Contract a Contractor must update any information or disclosures submitted in the application for approval to be a Lottery Contractor within thirty days of any change.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 13-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 17-2005, f. 12-21-05, cert. ef. 12-31-05

177-037-0040

Sensitive Procurements

(1) **General:** In all solicitations for a Sensitive Procurement, Lottery shall clearly identify the solicitation as a Sensitive Procurement

(2) **Disclosure:** All procurements classified as a Sensitive Procurement require a security background investigation and are subject to all disclosure requirements specified in OAR chapter 177, division 37 and the Solicitation Document, and any other special disclosure requirements deemed necessary by the Director or the Commission. An Offer or Proposal for a Sensitive Procurement must include an application for approval to be a Lottery Contractor, including all required information and disclosures, and must be on forms provided by the Lottery.

(3) **Continuing Disclosure Requirement:** Unless otherwise specified in the Contract for a Sensitive Procurement, during the term of the Contract a Contractor must update any information or disclosures submitted in the application for approval to be a Lottery Contractor within thirty days of any change.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440

Hist.: LOTT 13-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 17-2005, f. 12-21-05, cert. ef. 12-31-05

177-037-0050

General Procurements

(1) **General:** In all solicitations for a General Procurement, Lottery shall clearly identify the solicitation as a General Procurement.

(2) **Disclosure:** A procurement classified as a General Procurement does not require a security background investigation, unless deemed necessary by the Director or the Commission.

(3) **Continuing Disclosure Requirement:** If a security background investigation is deemed necessary, the Solicitation Document shall include the instructions for disclosure. An Offer or Proposal must include an application for approval to be a Lottery Contractor, including all required information and disclosures, and must be on forms provided by the Lottery. Unless otherwise specified in the Contract, during the term of the Contract a Contractor must update any information or disclosures submitted in the application for approval to be a Lottery Contractor within thirty days of any change.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 13-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 17-2005, f. 12-21-05, cert. ef. 12-31-05

177-037-0060

Vendor Application and Contract Disclosure Requirements

(1) **General:** The Director may require any degree or type of disclosure deemed necessary to assure the security and integrity of the Lottery and Lottery games.

(2) **Forms and Procedures:** The Director shall approve all the forms and procedures to be used by all Vendors who wish to apply for approval to be a Lottery Contractor.

(3) **Vendor Submission:** A Vendor must complete the required application for approval to be a Lottery Contractor and provide any information and disclosures required, as determined by the Director and the Assistant Director of Security within the guidelines and timelines set forth in the Solicitation Document or as otherwise required by the Director and the Assistant Director for Security.

(4) **Complete Disclosure Required:** The Director may reject an application for approval to be a Lottery Contractor if the Vendor has not provided all the information and disclosures required to be submitted or if any of the information or disclosures submitted is not accurate, current, or truthful.

(5) **Continuing Disclosure Requirement:** If during the evaluation period for an Offer or Proposal there are any changes to the information or disclosures submitted, a Vendor must update the information as soon as possible. After the Award, a Vendor selected must immediately update any changes to the information or disclosures submitted.

(6) **Status Changes:** Unless other standards are established in a Contract, during the term of the Contract any changes in the status of the Contractor, the status of a Control Person, or any employee or subcontractor for which information or disclosures were submitted, or the addition of any other Control Person, or the addition of any employee or subcontractor who may have access to sensitive or secure Lottery information, must be reported to the Director within thirty days of the known change. Those whose status has changed or who have been added as a Control Person or added as an employee or subcontractor who the Lottery determines may have access to sensitive or secure Lottery information will be required to submit the required information and disclosures. If there has been no change in Vendor status or Control Persons, the Vendor is required to certify annually on their vendor Contract anniversary date that there has been no change.

(7) **Burden of Proof:** The burden of proof for satisfying the Lottery's disclosure requirements resides with the Vendor or Contractor.

(8) **Vendor Consent:** Each Vendor who submits an application for approval to be a Lottery Contractor must consent in writing to the examination of all accounts, bank accounts, and Vendor records under the Vendor's possession or control. If required by the Director, a Vendor must permit an inspection of any portion of the Vendor's business premises deemed necessary by the Lottery.

(9) **Investigation Costs:** As authorized under ORS 461.700(2), the Director may charge a Vendor an amount necessary to reimburse the Lottery for the costs associated with conducting the security back-

ground investigation if the Director determines the costs of the investigation exceed the usual costs of such investigation.

(10) **Acceptance of Risk:** Each Vendor or Contractor must accept any risk of adverse public notice, embarrassment, criticism, damages, or financial loss, including any publication or use by a third party, which may result from the disclosure or use by Lottery of any information or document submitted by the Vendor or Contractor. By submitting a Vendor application for approval to be a Lottery Contractor to the Lottery, the Vendor or Contractor expressly waives any claim against the State of Oregon, including the Lottery, the Director, the Commission, the Department of State Police, and their officers and employees for any and all damages resulting from the use or disclosure of any information or documents submitted to Lottery or from the use or disclosure of any information obtained by Lottery as a result of the security background investigation.

(11) **Indemnification:** By submitting an application for approval to be a Lottery Contractor to the Lottery, the Vendor or Contractor agrees to indemnify, defend, and hold harmless the State of Oregon, the Lottery Commission, the Lottery, the Department of State Police, their agents, officers, employees, and representatives, from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses arising out of, or relating to, the use or disclosure of any information or disclosures submitted in the application for approval to be a Lottery Contractor or from the use or disclosure of any information obtained by Lottery as a result of the security background investigation. The Vendor's or the Contractor's obligations include, but are not limited to, any and all losses, damages, liabilities, settlements, judgments, fines, costs, fees, and expenses of any nature whatsoever, including, but not limited to, attorneys and other professional fees at trial and on appeal.

(12) **Chain of Custody:** All required information and disclosures must be submitted in a secure manner and may only be opened for review by the Assistant Director for Security or his designee, or by the Director.

(13) **Submission Constitutes Consent:** By submitting an Offer or Proposal, a Vendor binds itself, its officers, employees, agents, and any subcontractors to comply with all disclosure requirements established by the Director. Failure or refusal to comply with any applicable requirement may result in denial or revocation of a Contract Award. In the event of denial or revocation of the Award due to refusal or failure to comply with any applicable disclosure requirement set forth in these rules, the Vendor is liable under the bid bond or shall forfeit any security posted for the procurement.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461
 Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440
 Hist.: LOTT 13-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 17-2005, f. 12-21-05, cert. ef. 12-31-05

177-037-0070

Criteria for Denying a Vendor or Control Person Application or Contract

(1) **General:** Before a Contract for a Major or Sensitive Procurement is Awarded, a security background investigation must be conducted by the Assistant Director for Security for any Vendor who is selected to be Awarded the Contract. The Assistant Director for Security shall conduct any other security background investigation specified by the Director.

(2) **Director's Determination:** The Director may deny or revoke approval to be a Lottery Contractor to any Vendor or Contractor when a security background investigation determines:

(a) **Business Qualifications:** The Vendor or Contractor does not demonstrate, either individually or through its employees or Control Persons, that the business has the ability and experience to establish, operate, and maintain the business operations necessary to provide the Goods or Services required in the Solicitation Document or under the Contract, or to provide the security necessary to protect sensitive and secure Lottery information, materials, or systems.

(b) **Financing:** The Vendor or Contractor does not demonstrate adequate financing to be able to provide the Goods or Services as required for performance of the Contract.

(c) **Integrity:** The Vendor, a Control Person of the Vendor, or any employee or subcontractor of the Vendor the Lottery determines may have access to sensitive or secure Lottery information, materials or systems:

(A) **Criminal Conviction:** Has been convicted of any crime in any jurisdiction.

(B) **Gambling Offense Conviction:** Has been convicted of any gambling offense in any jurisdiction.

(C) **Conduct Constituting a Crime:** Has been imposed with a civil judgment based in whole or in part upon conduct which constitutes a crime.

(D) **Material Omission:** Has omitted any material fact that was to be disclosed to the Lottery or its authorized agents during an initial or subsequent security background investigation.

(E) **Threat to the Public Interest:** Is an individual or entity whose background, including criminal, civil, and financial records, or whose reputation, or whose personal or business associations, pose a threat to the public interest of the state or to the security and integrity of the Lottery.

(F) **Character:** Is not of good character, honesty, or integrity.

(G) **Material Misstatement:** Has provided a material misstatement or untrue statement of a fact deemed to be material by the Director.

(H) **Other Conduct:** Has engaged in conduct the Director determines may, in any way, adversely affect the integrity, security, honesty or fairness of the Lottery.

(I) **Access:** Refuses to provide access to records or to inspection of any part of the business premises deemed necessary by the Lottery.

(J) **Association:** Has an association with a person or business having a known criminal background, or a person the Lottery Director determines is of disreputable character or conduct, and which may adversely affect the general credibility, security, integrity, honesty, fairness or reputation of the Lottery.

(d) **Ownership Interest:** The Vendor is qualified to be approved as a Lottery Contractor, but there is an ownership interest in the Vendor's business operation by a Person who is unqualified or disqualified to be approved as a Lottery Contractor.

(e) **Tax Violation:** The Vendor is in violation of any tax laws described in ORS 305.380(4).

(3) **Evaluation Factors:** In evaluating whether to deny approval to be a Lottery Contractor to any Vendor or based on subsection (2) of this rule, the Director may consider the following factors:

(a) **Nature and Severity:** The nature and severity of the conduct, incident, or circumstance;

(b) **Time:** The passage of time;

(c) **Intervening Factors:** Any intervening circumstances;

(d) **Multiple Offenses:** The number of offenses, crimes, or incidents;

(e) **Materiality and Relevancy:** The materiality and relevancy to the work to be performed; or

(f) **Extenuating Circumstances:** Any extenuating circumstances that affect or reduce the impact of the conduct, incident, offense or crime on the security, integrity, honesty, and fairness of the Lottery.

(4) **Director's Determination:** The Director's decision to deny approval to be a Lottery Contractor is final.

(5) **Revocation and Termination:** The denial criteria described in this rule may also constitute sufficient grounds for revoking a Contractor's approval to be a Lottery Contractor and for the termination, immediate or otherwise, of an existing Contract.

Stat. Auth.: OR Const., Art. XV, §4(4) & ORS 461

Stats. Implemented: ORS 461.400, 461.410, 461.420, 461.430 & 461.440

Hist.: LOTT 13-2005(Temp), f. & cert. ef. 11-3-05 thru 4-30-06; LOTT 17-2005, f. 12-21-05, cert. ef. 12-31-05

DIVISION 40

RETAILER CONTRACT

177-040-0000

Definitions

For purposes of OAR chapter 177 division 40, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) **"Age-controlled area"** means an area where a natural person who is under 21 years of age is prohibited from entering or remaining as posted by either the Lottery or the Oregon Liquor Control Commission.

(2) **"Applicant"** means a person applying for a contract with the Lottery for the purpose of selling Lottery tickets or shares to the public, and any key person.

(3) **"Application"** means the forms, documents, or other information that the Lottery requires an applicant to submit to the Lottery in order to apply for or maintain a retailer contract.

(4) **"Business"** includes:

(a) A commercial activity engaged in for profit or gain; or

(b) The activity engaged in by a nonprofit organization; or

(c) The activity engaged in by a private club as described in ORS 471.175(8).

(5) **"Complete application"** means an application that is completely filled out, and when required, is signed by the applicant, and includes all the documentation and information requested by the Lottery.

(6) **"Premises"** means the building and grounds occupied by a business (including those areas not normally open to the public), where traditional Lottery game tickets and shares, Video Lottery game shares, or both, are sold. Premises includes an area designated by the Lottery at any single location identified in an application as a proposed site for Oregon Video Lottery terminals.

(7) **"Key person"** means:

(a) Corporations: For any corporation, including a subsidiary of a parent corporation:

(A) Stockholders: Any stockholder of a corporation who owns 10% or more of the outstanding stock in such corporation.

(B) Directors: Any director of a corporation who owns or controls 3% or more of the voting stock in such corporation.

(C) Officers: Any officer of a corporation.

(b) Private Clubs: For a private club as described in ORS 471.175(8):

(A) The treasurer.

(B) Any officers, directors, or trustees who oversee or direct the operation of the food, beverage, Lottery, or other gambling-related activities of the private club; and

(C) Each manager in charge of the food, beverage, Lottery, or other gambling-related activities of the private club. The provisions of paragraphs (7)(a)(A), (B), and (C) of this rule do not apply to private clubs.

(c) Trusts: The trustee and all persons entitled to receive income or benefit from the trust.

(d) Associations: The members, officers, and directors.

(e) Partnerships and Joint Ventures: All of the general partners, limited partners, or joint venturers.

(f) Limited Liability Companies: Any manager of the limited liability company, and any members of the limited liability company whose investment commitment or membership interest is 10% or more in the limited liability company.

(g) Layered Ownership: If the parent company, general partner, limited partner, joint venturer, stockholder, member or manager of a limited liability company is itself a corporation, trust, association, subsidiary, partnership, joint venture or limited liability company, then the Director may require that the applicant provide disclosure for such entity as if such entity were a key person itself.

(h) Family Members: Immediate family members as required in ORS 461.300(2)(b)(G) and (H).

(i) Sole Proprietors: The sole proprietor, if the retailer is a sole proprietor.

(j) Owner's Representative: Any person who acts or who has real or apparent authority to act on behalf of the owner in most matters concerning the operation of the owner's business during all business hours. This definition does not include a "shift manager" or a "convenience store manager" unless qualified under this rule. The following are examples of managers who are key persons under this definition:

(A) General Manager: A person who operates the business for a corporate or absentee owner.

(B) Area Manager: A person who operates multiple locations or supervises multiple store managers.

(C) Manager in Fact: Any person who routinely performs all of the following duties:

(i) The hiring and firing of employees;

(ii) Making purchasing decisions relating to the buying of supplies and inventory; and

(iii) Conducting banking functions for the business.

(k) Landlord: A landlord who receives 40% or more of the retailer's Lottery commissions as a part of lease payments or rent, or any landlord who the Director finds, based on reasonably reliable information, exerts influence over the operation of the retailer's business.

(l) Contractual Relationship: Any person who has a lease, contract, or other agreement with the applicant or retailer or anyone else, to provide food service or to manage or operate any part of the business in a Video Lottery retailer's premises other than as an employee.

(m) Control Person: Any reference to a "control person" of a retailer in OAR Chapter 177, a Lottery retailer contract, or Lottery form in effect or in use on or after the effective date of this rule shall be deemed to refer to a "key person" as defined in this section.

(8) "Personal disclosure" means that part of the application which relates to a natural person's personal, criminal, and financial background.

(9) "Mediation" has the meaning as defined in ORS 36.110(4).

(10) "Mediator" means a person who performs mediation.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.300

Hist.: SLC 3-1985(Temp), f. & ef. 1-15-85; SLC 8-1985, f. & ef. 6-21-85; LC 11-1987, f. 6-22-87, ef. 7-1-87; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert. ef. 5-26-04; LOTT 3-2006, f. 2-16-06, cert. ef. 3-1-06; LOTT 8-2006, f. 12-20-06, cert. ef. 1-1-07

177-040-0001

General Application Requirements

(1) Any person may request an application from the Lottery.

(2) The Director may require any degree or type of disclosure necessary of the applicant or any other person in order to assure the security and integrity of the Lottery. An applicant must disclose to the Lottery all information required by the Director.

(3) An applicant must file a complete application. The application shall include, but not be limited to, a requirement that the applicant provide documents and other information relating to the applicant's personal, financial, and criminal background and an applicant's associations with other persons. The application shall also include, but not be limited to:

(a) An authorization, signed by the applicant, to investigate the applicant;

(b) Written consent to allow the examination of all accounts and records to be considered by the Director to be material to the application;

(c) Disclosure of the source of funds, financing, and business income used for the purchase and operation of the applicant's business.

(d) If the premises are not wholly owned by the applicant, the applicant shall furnish to the Lottery:

(A) A statement of the name and address of the owner or owners of such premises;

(B) A copy of all agreements whereby the applicant is entitled to possession of the premises;

(C) Complete information pertaining to the interest held by any person other than the applicant, including interest held under any mortgage, deed of trust, bond or debenture, pledge of corporate stock, voting trust agreement, or other device; and

(D) Such other information as the Lottery may require.

(4) An applicant's failure to comply with any application or disclosure requirement may be grounds for denial or rejection of the application.

(5) An applicant must immediately report to the Lottery, in writing, any material changes to the application during the application process. Material changes means any change that may affect the Lottery's evaluation of the application based on the requirements contained in division 40 of these rules.

(6) In submitting an application, the applicant expressly waives any claim against the Lottery, the Director, the Commission, the State of Oregon and their officers and employees for damages that may result. Each applicant also accepts any risk of adverse public notice, embarrassment, criticism, damages, or claims which may result from any disclosure or publication by a third party of any public information on file with the Lottery.

(7) When an applicant has submitted a complete personal disclosure to the Lottery within the preceding two years, the applicant need not necessarily submit a new personal disclosure, but if the appli-

cant does not submit a new personal disclosure, the applicant must submit, on forms approved by the Director, a sworn statement regarding any changes which may have occurred regarding the accuracy of the information provided in the previous personal disclosure. The Director may require the applicant to submit a complete personal disclosure if the Director determines substantial changes have occurred.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02

177-040-0003

Application for Temporary Lottery Retailer Contract

(1) **General:** For the purposes of this rule, temporary retailer contract means a contract issued to a retailer for a temporary period. A temporary contract may be formed subject to such special terms, conditions, or limitations as the Director may deem prudent.

(2)(a) **Submission:** To apply for a temporary retailer contract, an applicant must submit a complete application for a retailer contract.

(b) **Purchase of Existing Business:** When an applicant intends to apply for a temporary contract for a business which the applicant is purchasing from an existing Lottery retailer, the applicant may submit to the Lottery a complete application with a copy of the purchase agreement and other relevant sales documents prior to the date the applicant takes possession of the premises pursuant to the purchase agreement. Notwithstanding submission of the application prior to the date of possession, the Lottery shall not enter into a temporary contract with the applicant until on or after the date the applicant takes legal possession of the business.

(3) **Investigation:** When the Lottery accepts the complete application for a temporary retailer contract, the Director will conduct an abbreviated investigation of the applicant and the business. That investigation includes, but is not limited to:

(a) A computerized background check for criminal arrests and convictions;

(b) A credit check using the services of a commercial credit reporting company; and

(c) An inspection of the business for which the applicant seeks a temporary retailer contract.

(4) **Qualifying:** An applicant may qualify for a temporary retailer contract if, based on the abbreviated investigation and on the application, all of the following criteria are met:

(a) The applicant is applying for a retailer contract at a specific location;

(b) The "Criteria Precluding Entering Into a Contract" described in OAR 177-040-0005 do not apply to the applicant;

(c) The applicant has no criminal convictions of any kind within five years of the date application is made;

(d) The applicant has no convictions as described in OAR 177-040-0010(3), "Criminal Behavior";

(e) The applicant has no Class "A" misdemeanor or felony charges pending against the applicant;

(f) The applicant has no outstanding judgments, liens, or collections, except those judgments which the applicant is disputing through a legal process;

(g) The applicant is in compliance with all tax laws;

(h) The applicant has certified that the business location complies with OAR 177-040-0070, "Retailer Wheelchair Accessibility Program";

(i) The applicant has the appropriate Oregon Liquor Control Commission license, as required by ORS Chapter 461, if applying for a contract to offer Video LotterySM games; and

(j) There are no apparent factors regarding the applicant to cause the Director to reasonably conclude that the applicant poses an actual or apparent threat to the fairness, honesty, integrity, or security of the Lottery and its games. Factors that may pose a threat include, but are not limited to, any of the following examples:

(A) The applicant or key person has one or more criminal arrests or convictions, depending on the nature and severity of the crimes involved; or

(B) The applicant or key person has been involved in any civil action in which the final judgment indicates that the applicant or key person is not financially responsible, depending on the nature, severity, and recency of the action.

(5) **Other Requirements:** Prior to the effective date of the temporary retailer contract, the Director may require the applicant to:

- (a) Receive training from the Lottery;
- (b) Establish an electronic funds transfer (EFT) bank account for Lottery funds;
- (c) Pay all necessary fees associated with the installation of telephone lines and telephone service;
- (d) Agree to pay all necessary fees associated with amusement device taxes prior to the effective date of a temporary retailer contract; and

(e) Agree to be responsible for and to pay all fees in connection with the application, including any cancellation fees for telephone lines and service.

(6) **Other Video LotterySM Requirements:** The applicant and the applicant's business must qualify for the type of Lottery sales sought by the applicant. For example, if the applicant seeks a contract to offer Video LotterySM games, the business must have an appropriate liquor license and an age controlled area that meets the Lottery's requirements. In addition, the business must not be operating as a casino as described in OAR 177-040-0061.

(7) **Guarantor:** If the applicant is an entity other than either a sole proprietor who is a natural person or a private club as defined in ORS 471.175(8), at least one natural person who is a principal of the applicant entity and who is a key person may be required to personally guarantee all monies owed to the Lottery.

(8) **Bonding:** The Director may require the applicant to post a bond, letter of credit, or cash deposit in the form of certified funds prior to the effective date of a temporary retailer contract.

(9) **EFT Transfers:** If the Lottery enters into a temporary retailer contract with the applicant, the contract will require the applicant to pay the amount due the Lottery from the sale of Lottery tickets or shares by electronic funds transfer (EFT). In most instances, amounts due the Lottery will be collected via EFT at the end of the fourth day after the close of the Lottery business week. If an applicant operates multiple Lottery retail sites before the effective date of this rule, the routine date of the EFT collection may be set beyond the fourth day after the close of the business week in order to accommodate the needs of the combined sites. The applicant must establish an account for deposit of money from the sale of Lottery tickets and shares with a financial institution that has the capability of making EFT draws.

(10) **Burden of Proof:** The burden for establishing that an applicant qualifies for a temporary retailer contract is on the applicant.

(11) **Termination:** In the Director's sole discretion, the Director may immediately terminate a temporary retailer contract if the Director determines that continuing to contract with the applicant is not in the best interest of the Lottery including, but not limited to, when:

- (a) The applicant provided false or misleading material information, or the applicant made a material omission in the application for a retailer contract;
- (b) The applicant or any key person is arrested or convicted of a Class "A" misdemeanor or felony during the term of the temporary retailer contract;
- (c) An EFT payment is rejected for non-sufficient funds (NSF), or the applicant fails to provide timely information to the Lottery regarding any change of the applicant's EFT bank account;
- (d) Any other reason contained in the contract or administrative rules that provides a basis for termination of a retailer contract; and
- (e) When the Director concludes that continuing to contract with the applicant may pose a threat to the fairness, honesty, integrity, or security of the Lottery and its games.

(12) **Length of Temporary Contract:** A temporary retailer contract shall be valid for a specific time period for up to 120 days. A temporary retailer contract may, in the Director's discretion, be extended for up to 120 additional days.

Stat. Auth.: ORS 461.217, 461.250 & 461.300; Or. Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.217, 461.250 & 461.300
 Hist.: LOTT 5-2000, f. 7-26-00, cert. ef. 11-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert.. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert. ef. 5-26-04; LOTT 2-2008, f. & cert. ef. 6-2-08

**177-040-0005
 Criteria Precluding Entering Into a Contract**

The following criteria shall preclude the Director from entering into a retailer contract with an applicant. The Lottery will not contract with an applicant when the person applying for a contract:

- (1) Is under 18 years of age.

(2) Will be engaged exclusively in the business of selling Lottery tickets or shares.

(3) Is an employee of the Lottery.

(4) Is or will be owned or controlled by any entity or any subsidiary or parent corporation thereof, that is a supplier of instant tickets or a manufacturer of computer equipment used to determine winners in Lottery games.

(5) Is a corporation or other form of business that is not incorporated in Oregon or authorized to do business in Oregon.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461
 Hist.: SLC 3-1985(Temp), f. & ef. 1-15-85; SLC 8-1985, f. & ef. 6-21-85; LC 4-1990, f. & cert. ef. 4-3-90; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert.. ef. 11-25-02

**177-040-0010
 Personal Criteria Which May Be Grounds for Denial of a Lottery Retailer Contract or a Key Person**

(1) **General Personal Criteria:** Before approving or denying an application for a Lottery retailer contract or for a key person, the Director shall consider whether the applicant:

(a) **Character:** Is a person of good character, honesty, and integrity.

(b) **Background:** Is a person whose background, including criminal, civil, and financial records, and reputation, does not jeopardize the public interest of the state or the integrity, security, honesty, fairness, or reputation of the Lottery.

(c) **Associations:** Has an association with persons or businesses of known criminal background, or associates with persons who have direct or indirect involvement in the applicant's business who could jeopardize the public interest of the state or the integrity, security, honesty, fairness, or reputation of the Lottery. The Director may also consider whether the applicant associates with persons who have no involvement in the applicant's business when the applicant's association with such persons could create a real or perceived conflict with the Lottery's security or integrity interests.

(d) **Public Interest:** Is a person whose experience, character, or general fitness is such that approving the applicant would be consistent with the public interest, convenience, and trust in keeping with the sensitive nature of the Lottery.

(e) **Financial:** Demonstrates responsibility and integrity in financial transactions, and is creditworthy and currently in a satisfactory financial condition. The Lottery may use the services of a commercial credit reporting agency in order to evaluate the applicant's creditworthiness, financial responsibility, and financial condition. The Director may deny an application if the applicant has outstanding judgments, collections, liens, or is not in compliance with all state, federal, or local tax laws.

(f) **Omissions:** Has omitted any material facts or has provided any material misstatement or any untrue statement of material facts.

(g) **Compliance History:** Has a history with the Oregon Lottery, or the Oregon Liquor Control Commission, or state and local law enforcement, which shows that the applicant could pose a threat to the security and integrity of the Lottery based upon any significant and material compliance or adjudicated violation history.

(2) **General Financial Criteria:** Any person applying for a Lottery retailer contract must:

(a) **Business Ability:** Adequately demonstrate, either individually or through the person's employees, the business ability and experience necessary to successfully establish, operate, and maintain the business for which application is made.

(b) **Business Funding:** Demonstrate adequate funding and ongoing business income sufficient to open, maintain, and operate the business as proposed by the applicant. The Director shall consider whether funding is from a source that may pose a threat to the integrity, security, honesty, or fairness of the Lottery.

(3) **Criminal Behavior:** The Director shall consider the criminal history or conduct of an applicant as follows:

(a) **Mandatory Denial:** The Director will deny an application when the applicant:

(A) **Felony Conviction:** Has been convicted of any felony within 10 years of the date the Lottery accepts the application.

(B) **Gambling Conviction:** Has been convicted of violating any federal, state, or local gambling law (other than ORS 91.240) within 15 years of the date the Lottery accepts the application.

(C) **Controlled Substances Conviction:** Has been convicted of felony possession of a controlled substance, or any crime involving the manufacture, sale, or delivery of a controlled substance, within 15 years of the date the Lottery accepts the application.

(D) **Gambling Devices:** Owns, manufactures, possesses, operates, has interest in, or gains income or reimbursement from, any unlawful gambling device in any jurisdiction unless the device is approved and certified by another state lottery or federal, state, or local gaming control agency, and such ownership, manufacture, possession, operation, or income is disclosed to and approved by the Lottery.

(b) **Discretionary Denial:** The Director may deny an application when the applicant:

(A) **Felony Conviction:** Has any felony conviction more than 10 years old on the date the Lottery accepts the application;

(B) **Gambling Conviction:** Has a conviction more than 15 years old on the date the Lottery accepts the application for violating any state, federal, or local gambling laws;

(C) **Controlled Substances Conviction:** Has been convicted of felony possession of a controlled substance, or has been convicted of any crime involving the manufacture, sale, or delivery of a controlled substance, more than 15 years old on the date the Lottery accepts the application;

(D) **Gambling Leases:** Has ever engaged in conduct which violates ORS 91.240;

(E) **Criminal Conduct:** Has engaged in conduct which constitutes a violation of any gambling law or any law which defines a felony or misdemeanor based on reasonably reliable information;

(F) **Fraudulent Behavior:** Has been held responsible, by judgment, settlement, consent decree, or otherwise, in any court proceeding, or proceeding before an administrative body which was based in whole or in part on allegations of misleading or dishonest conduct including, but not limited to, fraud, deceit, misrepresentation, embezzlement, breach of fiduciary responsibility. The Director may also deny an application when the Director has reasonably reliable information that the applicant has engaged in misleading or dishonest conduct in any court proceeding or before an administrative body; or

(G) **Offenses:** When the applicant has been convicted of, or otherwise subject to official sanction for, any offense other than an offense described in section (3)(a) of this rule, except traffic infractions, unless the applicant has engaged in conduct which demonstrates the applicant's habitual disregard for the law. The Director may also deny an application when the Director has reasonably reliable information that the applicant has engaged in conduct which constitutes an offense as described under this subsection.

(4) **Ownership and Gaming Interests:** The Director may deny an application when the applicant:

(a) **Ownership Interests:** Is qualified, but there is an ownership interest in the applicant's business or premises by a person who is unqualified to hold a Lottery contract based on the requirements of OAR 177-040-0010 or any retailer contract, regardless of the qualifications of the applicant;

(b) **Denial of Gaming Licenses:** Has been denied any type of gaming license, gaming permit, or gaming contract in any state or jurisdiction for a reason(s) that in the judgment of the Director would jeopardize the security, integrity, honesty, fairness, or reputation of the Lottery;

(c) **Cancellation of Gaming Licenses:** Has had any type of gaming license, gaming permit, or gaming contract canceled, suspended, or revoked in any state or jurisdiction for a reason(s) that in the judgment of the Director would jeopardize the security, integrity, honesty, fairness, or reputation of the Lottery; or

(d) **Termination of Gaming Contract:** Has had any type of gaming contract terminated in any state or jurisdiction for a reason that in the judgment of the Director would jeopardize the security, integrity, honesty, fairness, or reputation of the Lottery.

(5) **Mitigating Circumstances:** Where denial of an application is discretionary with the Director under this rule, the Director may consider the following mitigating factors:

(a) **Nature:** The nature and severity of the conduct, incident, offense, or circumstance;

(b) **Time:** The passage of time since the conduct, incident, offense, or circumstance;

(c) **Intervening Factors:** Any intervening factors since the conduct, incident, offense, or circumstance;

(d) **Number of Offenses:** The number of offenses, crimes, or incidents;

(e) **Relevance:** The relevance of the conduct, incident, offense, or circumstance to the performance of duties under the Lottery retailer contract; or

(f) **Other:** Any extenuating circumstances.

(6) **Application to Existing Contracts:** The criteria described in this rule apply to any existing Lottery retailer contract and may provide grounds for the Director to terminate an existing Lottery retailer contract.

(7) **Finality of Determination:** The denial by the Director of an application is final.

(8) **Re-Application:** If an application is denied by the Director, an applicant, or an applicant that is similar to the previously denied applicant, must wait one year from the date of denial to reapply. In the Director's sole discretion, the Director may waive this requirement based on a showing of good cause by the applicant.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.300

Hist.: SLC 3-1985(Temp), f. & ef. 1-15-85; SLC 8-1985, f. & ef. 6-21-85; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. ef. 7-2-93; LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 17-2001(Temp), f. & cert. ef. 12-20-01 thru 6-7-02; LOTT 4-2002, f. & cert. ef. 3-25-02; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 22-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 2-2007, f. 3-1-07, cert. ef. 3-4-07

**177-040-0017
Additional Video LotterySM Retailer Business Operation
Criteria and Requirements**

(1) **Placement of Video LotterySM Terminals:** The Lottery will not place Video LotterySM terminals in a business or at a premises:

(a) That has operated or will operate primarily as a grocery or convenience store. This subsection shall not apply to any existing Video LotterySM retailer who the Director determines was not in accordance with this subsection as of October 14, 1993;

(b) That operates as a laundromat, movie theater, car dealership, beauty salon, bed and breakfast lodging, hardware store, dry goods store, clothing store, liquor store, or other business not normally associated with the on-premise consumption of food and alcoholic beverages.

(2) **Grocery Store:** For purposes of this rule, a grocery store means a retail business at which food and foodstuffs are regularly and customarily sold in a bona fide manner for consumption off the premises, and shall include supermarkets and one-stop shopping centers which contain a grocery section in addition to offering other wares, goods, and services.

(3) **Convenience Store:** For purposes of this rule, a convenience store means a retail business which offers a relatively limited line of high-volume products, and the majority of the products are for consumption off the premises.

Stat. Auth.: ORS 461

Stats. Implemented: ORS 461.215 & 461.217

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 9-2005(Temp), f. & cert. ef. 9-7-05 thru 3-5-06; LOTT 20-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 1-2007, f. 1-21-07, cert. ef. 2-1-07; LOTT 6-2008(Temp), f. 10-29-08, cert. ef. 11-1-08 thru 4-28-09

**177-040-0025
Retailer Compensation — Traditional Lottery Games**

(1)(a) **Traditional Sales Compensation:** The Lottery shall pay a retailer the following compensation rates for the weekly sales of traditional lottery game tickets or shares offered by the Lottery and sold by the retailer as set forth below:

Amount Sold Per Week — Compensation - % of Gross Sales

Below \$1,000	— 5.00%
\$1,000 to \$1,999.99	— 7.00%
\$2,000 to \$2,999.99	— 7.50%
\$3,000 to \$3,999.99	— 8.00%
\$4,000 to \$4,999.99	— 8.50%
\$5,000 to \$5,999.99	— 9.00%
\$6,000 to \$6,999.99	— 9.50%
\$7,000 and up	— 10.00%

(b) **Calculation of Sales:** A retailer's weekly sales shall be calculated on the combined weekly gross sales of On-Line tickets, Scratch-it tickets, and Breakopen shares made from the retailer's

premises during a business week, less Scratch-it ticket and Breakopen share returns recorded by the Lottery and other sales related adjustments made during the week. For the purpose of calculating weekly sales, Breakopen shares are sold when the Breakopen shares are shipped by the Lottery to a retailer, Scratch-it tickets are sold when the tickets are activated by the retailer, and On-Line tickets or shares are sold when the request for the On-Line ticket or share is electronically received and verified by the Lottery's central computer system.

(2) **Breakopen Compensation:** Notwithstanding the compensation structure established in section (1) of this rule, the minimum compensation rate paid to a Lottery retailer for the sale of Breakopen shares shall be eight percent (8.00%). For example: If a retailer's weekly sales of traditional Lottery game tickets and shares equals \$2,620, with \$1,620 representing Breakopen sales, then the compensation rate for On-Line and Scratch-it sales of \$1,000 is 7.50% and the compensation rate for Breakopen sales of \$1,620 is 8.00%. If a retailer's total weekly sales of traditional Lottery game tickets and shares total \$5,500, with Breakopen sales of \$1,620, then the compensation rate for On-Line ticket and Scratch-it ticket sales, and for Breakopen sales, is 9.00%.

(3)(a) **One Percent Selling Bonus:** For selling any winning and validated Scratch-it or On-Line ticket or share with a prize of \$10,000 or more, a Lottery retailer shall receive a bonus equal to one percent (1.00%) of the offered or advertised prize won by the player up to a maximum bonus of \$100,000 rounded to the nearest dollar. For example: For selling a winning and validated annuitized prize of \$8,000,000, the selling Lottery retailer shall receive a bonus of \$80,000 regardless of the payment option chosen by the winner; for selling a winning and validated Scratch-it prize of \$25,000, the selling Lottery retailer shall receive \$250.

(b) **Bonus for Variable Prizes:** Prior to the implementation of a traditional lottery game that includes one or more prizes with a value that is, in the opinion of the Director, variable or in some other way ambiguous including, but not limited to, circumstances such as non-monetary prizes or annuities of unspecified duration, the Director shall assign a prize value to any such prize for the purposes of determining the retailer selling bonus pursuant to subsection (a) of this section. The Director's determination of the prize value is final.

(4) **One Percent Prize Payment Bonus:** For paying a winning and validated Scratch-it or On-Line ticket or share with a prize of \$600 or less, a Lottery retailer shall receive a bonus from the Lottery equal to one percent (1.00%) of the prize won by the player.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.010
 Hist.: LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LC 12-1996, f. & cert. ef. 12-27-96; LOTT 9-1999, f. 5-27-99, cert. ef. 6-27-99; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert. ef. 5-26-04

**177-040-0026
 Retailer Compensation — Video Lottery Games**

(1) **General:** The compensation amount the Lottery shall pay a retailer for the sale of video lottery game shares is calculated on a percentage of net receipts during a business year. "Net receipts" means the amount of money that is received at a retailer's premises from the sale of video lottery game shares after the payment of prizes. The compensation rates for the sale of video lottery game shares for retailers that offer only video poker games is set forth in OAR 177-040-0027. The compensation rates for the sale of video lottery game shares for retailers that offer both video poker games and video line games is set forth in OAR 177-040-0028.

(2) **Compensation When Net Receipts Exceed Tier Threshold:** During the course of a business year, when a Video Lottery retailer's weekly net receipts exceed the threshold of a tier applicable to the retailer under OAR 177-040-0027 or 177-040-0028, the Video Lottery compensation rate shall remain unchanged for the remainder of the business week in which the threshold is exceeded. The compensation rate for that tier, as set forth in OAR 177-040-0027 and 177-040-0028, shall apply at the start of the next business week. For example, if a retailer has chosen option (a) under OAR 177-040-0028(2)(a) and on a Wednesday the net receipts reach \$175,001, the retailer is compensated at 29% of the net receipts for the remainder of the business week. At 5:00 a.m. on the following Sunday which is the start of the next business week, the compensation rate is reduced to 24% of net receipts.

(3) **Retroactive Application:** Section (2) of this rule shall apply to retailer compensation for video lottery games beginning June 27, 2004.

Stat. Auth.: ORS 461, OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.300
 Hist.: LOTT 4-2004(Temp), f. 4-6-04, cert. ef. 6-27-04 thru 12-23-04; LOTT 8-2004, f. 5-26-04, cert. ef. 5-27-04; LOTT 1-2005, f. 4-11-05, cert. ef. 7-31-05; LOTT 4-2005(Temp), f. & cert. ef. 5-10-05 thru 7-30-05; LOTT 6-2005(Temp), f. 7-27-05, cert. ef. 7-31-05 thru 8-1-05; Administrative correction 8-17-05; LOTT 14-2005(Temp), f. & cert. ef. 11-23-05 thru 5-1-06; LOTT 1-2006, f. & cert. ef. 1-25-06

**177-040-0027
 Compensation Rates — Video Lottery Retailers Offering only Video Poker Games**

(1) **Applicability:** The compensation rates for the sale of video lottery game shares set forth in this rule are limited to compensation for the sale of shares on video lottery terminals at retailers that offer only video poker games as described in OAR 177-200-0070.

(2) **General:** At the time a retailer signs a Retailer Contract, the retailer must choose in writing to receive compensation in accordance with either subsection (2)(a) or subsection (2)(b) of this section. If the retailer fails to choose as required, the Lottery shall compensate the retailer pursuant to subsection (2)(a) of this section for the first business year the Retailer Contract is in effect. For each subsequent business year that the Retailer Contract is in effect, no less than 60 days before the beginning of the upcoming business year, a retailer may submit a written notice to the Lottery that the retailer chooses to be compensated under the alternative compensation method for the upcoming business year. If the retailer does not submit or fails to timely submit a written notice, the Lottery shall compensate the retailer using the retailer's current compensation method for the next business year.

(a) **3-Tier Option:**
Net Receipts per Year — Compensation: Percent of Net Receipts

Up to \$175,000 — 32.5%
 \$175,000 to \$475,000 — 26%
 \$475,000 and up — 17%
 For example, if a retailer's annual net receipts are \$600,000, the retailer would receive over the course of the business year: 32.5% of the first \$175,000 (\$56,875), and 26% of the next \$300,000 (\$78,000), and 17% of the remaining \$125,000 (\$21,250), for a total of \$156,125.
 Or, if a retailer's annual net receipts are \$400,000, the retailer would receive over the course of the business year: 32.5% of the first \$175,000 (\$56,875), and 26% of the next \$225,000 (\$58,500), for a total of \$115,375.

(b) **2-Tier Option:**
Net Receipts per Year — Compensation: Percent of Net Receipts

Up to \$650,000 — 26%
 \$650,000 and up — 19%
 For example, if a retailer's annual net receipts are \$1,000,000, the retailer would receive over the course of the business year: 26% of the first \$650,000 (\$169,000), and 19% of the remaining \$350,000 (\$66,500), for a total of \$235,500.
 Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.310, 461.445
 Hist.: LOTT 1-2005, f. 4-11-05, cert. ef. 7-31-05

**177-040-0028
 Compensation Rates — Video Lottery Retailers Offering Video Poker Games and Video Line Games**

(1) **Applicability:** The compensation rates for the sale of Video LotterySM game shares set forth in this rule are limited to compensation for the sale of shares on Video LotterySM terminals at retailers that offer both video poker games as described in OAR 177-200-0070 and video line games as described in 177-200-0075.

(2) **General:** At the time a retailer signs a Retailer Contract, the retailer must choose in writing to receive compensation in accordance with either subsection (2)(a) or subsection (2)(b) of this section. If the retailer fails to choose as required, the Lottery shall compensate the retailer pursuant to subsection (2)(a) of this section for the first business year the Retailer Contract is in effect. For each subsequent business year that the Retailer Contract is in effect, no less than 60 days before the beginning of the upcoming business year, a retailer may submit a written notice to the Lottery that the retailer chooses to be compensated under the alternative compensation method for the upcoming business year. If the retailer does not submit or fails to timely submit a written notice, the Lottery shall compensate the retailer using the retailer's current compensation method for the next business year.

(a) **4-Tier Option:**
Net Receipts per Year — Compensation: Percent of Net Receipts

Up to \$175,000 — 27.5%
 \$175,000 to \$475,000 — 23%
 \$475,000 to \$800,000 — 14%
 \$800,000 and up — 11%

(b) **3-Tier Option:**

Net Receipts per Year — Compensation: Percent of Net Receipts

Up to \$600,000 — 22%
 \$600,000 to \$1,800,000 — 17.5%
 \$1,800,000 and up — 11%

(3) **Amendment:** If the Lottery and a retailer sign an amendment to a Retailer Contract that authorizes the retailer to sell Video LotterySM game shares on Video LotterySM terminals that offer both video poker games and video line games, then:

(a) At the time the retailer signs the amendment, the retailer must choose in writing to receive compensation in accordance with either subsection (2)(a) or subsection (2)(b) of OAR 177-040-0028 (2). If the retailer fails to choose as required, the Lottery shall compensate the retailer pursuant to subsection (2)(a) of OAR 177-040-0028(2) through the end of the business year. For each subsequent business year that the Retailer Contract is in effect, no less than 60 days before the beginning of the upcoming business year, a retailer may submit a written notice to the Lottery that the retailer chooses to be compensated under the alternative compensation method for the upcoming business year. If the retailer does not submit or fails to timely submit a written notice, the Lottery shall compensate the retailer using the retailer's current compensation method for the next business year.

(b) Beginning on the effective date of the amendment, the Lottery shall compensate the retailer pursuant to OAR 177-040-0028 based on net receipts from the beginning of the current

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.310, 461.445
 Hist.: LOTT 1-2005, f. 4-11-05, cert. ef. 7-31-05; LOTT 3-2007, f. 9-26-07, cert. ef. 10-14-07

177-040-0029

Review of Compensation Rates for Video Lottery Retailers Offering Video Poker Games and Video Line Games

(1) **General:** The Lottery Commission finds that the adoption of the compensation rates set forth in OAR 177-040-0028(2) is based on a projected Video LotterySM game share sales target of \$700,000,000 for the period June 25, 2006 to June 30, 2007 (Business Year '07.) This is a growth increase of 22% from actual sales of Video LotterySM game shares for the period June 27, 2004 to June 25, 2005 (Business Year '05.) This projection includes the sales of video line game shares which have never been offered by the Oregon Lottery. The purpose of this rule is to establish a process for a review of the retailer compensation rates set forth in OAR 177-040-0028(2) on or after July 1, 2007.

(2) **Review:** On or after July 1, 2007, the Lottery shall determine the actual sales of all Video LotterySM game shares from the period June 25, 2006 to June 30, 2007 (Business Year '07.) If the actual sales are less than \$595,000,000, the Lottery Commission will conduct a review of the compensation rates set forth in OAR 177-040-0028(2), and may increase those compensation rates. If the actual sales exceed \$805,000,000, and the Commission determines that the sales increase is not primarily due to an increase in the number of Video LotterySM retailers, the following compensation rates will replace the compensation rates specified in OAR 177-040-0028(2) and will be effective beginning no sooner than the start of the third business week following the Commission's determination that the sales increase is not primarily due to an increase in the number of Video LotterySM retailers:

(a) **4-Tier Option:**

Net Receipts per Year — Compensation: Percent of Net Receipts

Up to \$175,000 — 27.5%
 \$175,000 to \$475,000 — 23%
 \$475,000 to \$800,000 — 14%
 \$800,000 and up — 11%

(b) **3-Tier Option:**

Net Receipts per Year — Compensation: Percent of Net Receipts

Up to \$600,000 — 22%
 \$600,000 to \$1,800,000 — 17.5%
 \$1,800,000 and up — 11%

(3) **Determination of Actual Sales Growth:** The Commission shall only consider the actual sales growth as determined by the Lottery for purposes of section (2) of this rule. The Lottery's determination is final.

(4) **Findings:** On July 25, 2007, the Lottery Commission initiated the review set forth in section (2) of this rule and makes the following determinations. The Lottery Commission finds:

(a) The actual sales of all Video LotterySM game shares from the period June 25, 2006 to June 30, 2007 (Business Year '07) exceeded \$805,000,000;

(b) This represents a sales increase of 50% from actual sales of Video LotterySM game shares for the period June 27, 2004 to June 25, 2005 (Business Year '05); and

(c) This sales increase was not primarily due to an increase in the number of Video LotterySM retailers.

(5) **Compensation Rates:** Effective as of the start of the business week beginning October 14, 2007, the compensation rates set forth in section (2)(a) and (b) of this rule replace the compensation rates set forth in section (2)(a) and (b) of OAR 177-040-0028.

(6) **Commission Authority:** The review process set forth in subsection (2) of this rule is not intended to limit in any way the authority of the Lottery Commission to review or adopt compensation rates for the sale of Lottery game tickets or shares at any time deemed necessary by the Lottery Commission.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.310, 461.445
 Hist.: LOTT 1-2005, f. 4-11-05, cert. ef. 7-31-05; LOTT 21-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 3-2007, f. 9-26-07, cert. ef. 10-14-07

177-040-0030

Retailer Bond or Letter of Credit

The Director may require a Lottery retailer to post a \$5,000 bond or an irrevocable letter of credit issued by a commercial bank satisfactory to the Director.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.300
 Hist.: LC 9-1992, f. & cert. ef. 8-26-92; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03; LOTT 9-2003, f. & cert. ef. 6-30-03

177-040-0040

Traditional Retailer Minimum Sales Requirements

(1) The Lottery is required by portions of ORS 461.300(1) and (2)(a) to specify the terms and conditions for contracting with retailers so as to:

(a) Provide adequate and convenient availability of tickets or shares to prospective buyers of each Lottery game as appropriate for each particular game;

(b) Best serve the public convenience; and

(c) Promote the sale of tickets or shares.

(2) The purpose of this rule is to establish a process by which the Director shall determine if a traditional retailer applicant or, subsequently, an existing traditional Lottery retailer accomplishes the statutory objectives set forth in ORS 461.300(1) and (2)(a) as described in section (1) of this rule.

(3) The Commission has determined that, generally, the most effective and equitable way to determine whether an applicant will achieve the objectives described in section (1) of this rule is through a review of actual Lottery retail sales produced by a Lottery retailer over time. Therefore, the Director may enter into a Lottery retailer contract with an applicant in order to form the conclusions required by ORS 461.300(1) and (2)(a) as described in sections (1) and (2) of this rule.

(4) Notwithstanding section (3) of this rule, when it is reasonable to conclude an applicant will not, as determined by the Director, achieve the objectives of ORS 461.300(1) and (2)(a) as described in sections (1) and (2) of this rule, the Director may deny a retailer application without having previously entered into a Lottery retailer contract.

(5) The Commission has determined there is a point where a Lottery retailer's low sales of Lottery tickets or shares calls into question the value of maintaining the Lottery's contractual relationship with that retailer at that location. It is the policy of the Lottery that the minimum weekly sales average for a traditional Lottery retailer for the combined sale of all Scratch-It tickets, On-Line tickets or shares, or Breakopens shall be \$500. The purpose of the minimum weekly sales average is to provide an actual measure by which the Lottery can evaluate whether a Lottery retailer meets the objectives set forth in ORS 461.300(1) and (2)(a). When a Lottery retailer's weekly sales average is below \$500, this fact shall be evidence that the Lottery retailer has not met the objectives set forth in ORS 461.300(1) and (2)(a). For the purposes of this rule, weekly sales average means the total sales of all traditional Lottery tickets and shares sold from a retailer's location over a specified, consecutive 52 week period divided by 52.

(6) The Lottery shall annually conduct a sales performance review of each traditional Lottery retailer to identify those retailers whose weekly sales average is below \$500. The review shall be of the

retailer's traditional sales for the 52 week period ending the last Saturday in December.

(7)(a) When a traditional Lottery retailer's weekly sales average is below \$500, that fact shall be grounds for termination of the retailer contract.

(b) A retailer that is subject to termination for failure to meet the objectives set forth in ORS 461.300 as described in this rule may, by following ORS 461.300(5), avoid termination by paying an expense offset charge (EOC) that is a reasonable representation of the amount needed to offset administrative expenses incurred by the Lottery based on the retailer's weekly sales average. The amount needed by the Lottery to offset expenses is as follows:

Weekly Sales Average — Quarterly/Yearly EOC

\$251-500 — \$406.25 x 4 = \$1,625

\$0-250 — \$568.75 x 4 = \$2,275

To avoid termination, a retailer must pay the yearly expense offset charges calculated for the preceding year.

(8) Notwithstanding section (7)(a) of this rule, the Director may decide not to terminate a retailer contract in a community with a population of less than 3,000:

(a) To maintain adequate and convenient availability of tickets or shares to prospective buyers of each Lottery game as appropriate for each particular game; or

(b) To maintain sufficient Lottery retailers for any particular Lottery game to serve the public convenience and the projected volume of sales for the Lottery game involved; or

(c) When terminating the retailer contract would disrupt the competitive balance within a community.

(9) Notwithstanding section (7)(a) of this rule, the Director may decide not to terminate a retailer contract when there are unusual circumstances affecting a Lottery retailer's selling potential.

(10) This rule shall not apply to retailers who sell Breakopen shares but no other traditional Lottery tickets and shares.

(11) Any retailer whose contract has been terminated under this rule must wait one year from the date of termination before reapplying for a contract to sell traditional Lottery tickets and shares at the terminated Lottery retail site. In the Director's sole discretion, the Director may waive this requirement based on a showing of good cause by the applicant.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.300

Hist.: LC 6-1993, f. & cert. ef. 7-2-93; LC 5-1994, f. 6-15-94, cert. ef. 7-1-94; LC 10-1995, f. & cert. ef. 9-29-95; LC 4-1996, f. & cert. ef. 4-1-96; LOTT 5-1999(Temp), f. & cert. ef. 5-26-99 thru 6-26-99, Administrative correction 11-17-99; LOTT 2-2001(Temp) f. & cert. ef. 1-19-01 thru 7-18-01; LOTT 6-2001, f. 4-25-01, cert. ef. 4-26-01; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02

177-040-0050

Retailer Duties

(1) This rule contains duties to be performed by a Lottery retailer beyond those duties described in the Lottery retailer contract. The duties listed herein are not meant to be exclusive. Other duties and requirements for retailers may be contained elsewhere in the OAR division 177, ORS Chapter 461, or in the retailer contract as negotiated individually with each Lottery retailer.

(2) All Lottery retailers shall:

(a) Replace ribbons, ticket stock and clear paper jams as may be required for any of the equipment provided by the Lottery for the sale of Lottery tickets or shares.

(b) Install and use only approved Lottery paper stock which has been specifically assigned to the selling retailer when selling Lottery tickets and shares.

(c) Be required to arrange for and obtain all necessary permits required by state and local governments for electrical installation, electrical power, telephone service, fiber optic lines and connections, and coaxial cable and connections required to sell Lottery tickets or shares at the retail site.

(d) Pay the amount due to the Lottery for the sale of Lottery tickets or shares by the use of an electronic funds transfer (EFT). In most instances, this EFT shall occur at the end of the fourth day after the close of each the Lottery business week. When an applicant operates multiple Lottery retail sites before the effective date of this rule, the routine date of the EFT collection may be set beyond the fourth day after the close of the business week in order to accommodate the needs of the combined sites.

(3) A traditional game Lottery retailer shall:

(a) Validate a Scratch-It ticket prize through the Instant Ticket System (ITS) and destroy it after validation and payment of the prize. Any traditional Lottery retailer who does not destroy the ticket after validation and payment of a winning ticket shall be liable for a prize paid by another Lottery retailer who subsequently sight validates the ticket.

(b) Validate On-Line game prizes through the On-Line terminal before paying an On-Line prize.

(4) A Breakopen game Lottery retailer shall, after validation and payment of the prize, destroy the Breakopen share.

(5) A video Lottery game retailer shall:

(a) Validate cash slips through the video management terminal (VMT) before paying a prize.

(b) Restrict video lottery terminals from visibility from areas outside of the business and from view of dining areas or other areas where minors are permitted to linger.

(c) Maintain video lottery terminals in an area of the business that is prohibited to minors. The area must be posted as such by the Oregon Lottery or the Oregon Liquor Control Commission. This restriction against minors shall not apply to minors who qualify under the exceptions permitted by the Oregon Liquor Control Commission for access to areas normally prohibited to minors.

(6) The Director may sanction a Lottery retailer for the loss, damage, or destruction of any winning game ticket or share including, but not limited to, imposing a requirement for remedial training for the retailer or the retailer's employees, and any other actions that the Lottery may take in response to a retailer's failure to perform contract duties or requirements as described in the Lottery retailer contract or OAR chapter 177.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461

Hist.: LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LOTT 5-1999(Temp), f. & cert. ef. 5-26-99 thru 6-26-99, Administrative correction 11-17-99; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert. ef. 5-26-04

177-040-0051

Designated Employees and Payment of Prizes

(1) **Designated Employees:** A traditional retailer must designate employees authorized to redeem winning Lottery tickets and shares. A Video LotterySM retailer must designate employees authorized to redeem Video LotterySM cash slips as defined in OAR 177-200-0005(1).

(2) **Traditional Lottery Retailers:** A traditional Lottery retailer must redeem winning Lottery tickets and shares during all of the retailer's designated hours of redemption.

(3) **Video LotterySM Retailers:** A Video LotterySM retailer must redeem Video LotterySM cash slips during all of the retailer's business hours of operations, except as follows:

(a) In the event of exceptional circumstances, a retailer may delay payment of a cash slip for a period of time not to exceed 24 hours from the time the player initially submits the cash slip to the retailer for payment. "**Exceptional circumstances**" means rare and unforeseen circumstances beyond the reasonable control of the retailer.

(b) Within 48 hours from the time the player initially submitted the cash slip to the retailer for payment, the retailer must submit to the Lottery a written report of the delay of payment and the exceptional circumstances that required the delay.

(c) The Director may review claims of exceptional circumstances and whether delayed payment was appropriate under the circumstances. Upon the Director's request, the retailer must provide the Director with evidence supporting a claim of exceptional circumstances. If a retailer fails to comply with a request or fails to adequately support a claim of exceptional circumstances, the Director shall find that the delay was not appropriate.

(d) If the Director finds that the delay was not appropriate, the retailer's delay of payment shall be considered a failure to perform contract duties or requirements, and the Lottery may take appropriate action including termination of the retailer contract. The Director's decision is final.

(4) **Payment:** Except as provided in sections (2) and (3) of this rule, a retailer must immediately pay prizes in cash or by check, or any combination thereof, when a player presents a winning Lottery ticket or share, including a Video LotterySM cash slip, for payment

meeting the requirements of these rules. A retailer must not pay prizes in tokens, chips, or merchandise or charge a fee for paying a prize or for issuing payment.

(5) **Validation:** Notwithstanding sections (2) and (3) of this rule, once a Lottery retailer validates a winning ticket or share, including a Video LotterySM cash slip, the retailer must immediately pay it.

Stat. Auth.: ORS 461.461.217, 461.250 & 461.300 & Or. Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.217, 461.250 & 461.300
 Hist.: LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03; LOTT 9-2003, f. & cert. ef. 6-30-03; LOTT 2-2008, f. & cert. ef. 6-2-08

177-040-0052

Non-Sufficient Funds

(1) **Definitions:** For purposes of this rule: “Working day” means a weekday (Monday through Friday) from 8 a.m. to 5 p.m. when the Lottery Headquarters in Salem is open for business.

(2) **Retailers with Temporary Contract or Letter of Authority:** If an electronic funds transfer (EFT) from a retailer with a temporary contract or a letter of authority issued under ORS 461.335, is not made due to non-sufficient funds (NSF) in the retailer’s EFT account, and non-payment is not excused under this rule, the Lottery shall terminate the retailer’s temporary contract or letter of authority, and disable or remove Lottery equipment from the retailer’s premises. Processing of the retailer’s application for a retailer contract otherwise may proceed.

(3) **First NSF:** The first time that a Lottery retailer’s EFT payment to the Lottery is not made due to non-sufficient funds in the retailer’s EFT account, the Lottery shall:

(a) **Notify the Retailer:** Make a reasonable effort to notify the Lottery retailer of the NSF.

(b) **Disable Equipment:** Disable the Lottery’s equipment on the retailer’s premises for up to five working days, in which time the retailer must pay by certified funds, the EFT transfer amount plus an additional \$50 fee for the Lottery’s administrative expenses in processing the NSF.

(c) **Withhold Bonus:** Withhold any bonus and incentive payments the retailer may have earned for the business week in which the NSF occurs. If the retailer does not make the required payments within five working days of the date the equipment was disabled, the retailer shall forfeit the bonus and incentive payments.

(d) **Terminate Contract:** Terminate the retailer’s contract and remove the Lottery’s equipment if the retailer fails to pay by certified funds, the EFT transfer amount plus the \$50 fee within five working days of the date the equipment was disabled.

(4) **Second NSF:** When a retailer’s EFT payment is not made to the Lottery due to non-sufficient funds in the retailer’s EFT account for a second time within one year of the retailer’s first NSF, the Lottery shall:

(a) **Notify the Retailer:** Make a reasonable effort to notify the Lottery retailer of the NSF.

(b) **Disable Equipment:** Disable the Lottery’s equipment on the retailer’s premises for up to five working days, in which time the retailer must pay by certified funds, the EFT transfer amount plus an additional \$50 fee for the Lottery’s administrative expenses in processing the NSF and post a bond or make a cash deposit if allowed by the Director under paragraph (A) of subsection (d) of this section.

(c) **Withhold Bonus:** Withhold any bonus and incentive payments the retailer may have earned for the business week in which the NSF occurs. If the retailer does not make the required payments within five working days of the date the equipment was disabled, the retailer shall forfeit the bonus and incentive payments.

(d) **Terminate Contract:** The Lottery shall terminate the retailer’s contract and remove the Lottery’s equipment:

(A) Unless the Director allows the retailer to post a bond, or make a cash deposit by certified funds with the Lottery. The Director shall determine the amount, the term, and any other applicable conditions. The amount of the bond or cash deposit will be no less than twice the retailer’s weekly average EFT transfers, calculated using the immediately preceding three calendar months; or

(B) If the retailer fails to pay, by certified funds, the EFT transfer amount plus the \$50 fee within five working days of the date the equipment was disabled, or fails to post a bond or make a cash deposit within five working days of the date the equipment was disabled when allowed under paragraph (A) of this subsection.

(5) **Third NSF:** When a Lottery retailer’s EFT payment is not made to the Lottery due to non-sufficient funds in the retailer’s EFT account for a third time within one year of the retailer’s first NSF, the Lottery shall:

(a) **Notify the Retailer:** Make a reasonable effort to notify the Lottery retailer of the NSF.

(b) **Disable Equipment:** Disable the Lottery’s equipment on the retailer’s premises until the contract is terminated and the equipment is removed.

(c) **Payment:** Require the retailer to pay, by certified funds, the amount of money that was to be paid by EFT plus the \$50 fee within five working days of the date the Lottery equipment on the retailer’s premises was disabled.

(d) **Forfeit Bonus:** Require the retailer to forfeit any bonus and incentive payments the retailer may have earned for the business week in which the NSF occurs.

(e) **Terminate Contract:** Terminate the retailer’s lottery contract and remove the Lottery’s equipment.

(6) **NSF Due to Financial Institution Error:** Any NSF that is due to an error committed by the retailer’s financial institution does not count toward the three NSF limit in this rule as long as the error is corrected and Lottery receives documentation from the retailer’s financial institution. The financial institution must substantiate to the Director’s satisfaction the financial institution’s responsibility for causing the NSF, and that but for the financial institution’s error, sufficient funds would have been available in the retailer’s account to cover the EFT payment.

(7) **Financial Institution Closures:** Any NSF that is due to an unexpected temporary closure of the retailer’s financial institution does not count toward the three NSF limit in this rule as long as the NSF is corrected and Lottery receives documentation from the retailer’s financial institution that substantiates to the Director’s satisfaction the reason for the financial institution’s unexpected closure. The retailer shall make the deposit before 5 p.m. of the next day the financial institution is open or available for deposits to be made. If the deposit is not made as described, the Lottery shall treat it as an NSF under these rules.

(8) **Retailer’s Obligations Survive Contract Termination:** Termination of the retailer’s contract does not release the retailer from any obligation to pay all amounts due the Lottery under this rule and the retailer’s Lottery contract. The Lottery may make a claim upon any bond, or cash deposit posted under this rule, and apply the money to any of the retailer’s obligations owed to the Lottery. The Lottery may initiate collection action on behalf of the State to collect all amounts due.

(9) **Director’s Discretion:** The Director may make exceptions to these requirements based upon the facts and circumstances of any particular payment by a retailer which is rejected for non-sufficient funds.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461
 Hist.: LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert. ef. 5-26-04

177-040-0055

Advertising Lottery Games and Inducements to Play

(1) **Prohibitions:** A retailer must not conduct false or misleading advertising, in any form, regarding the Lottery or Lottery games including, but not limited to, claiming the odds of winning a Lottery game are different at the retailer’s business than at any other retailer’s business.

(2) **Requests for Use:** The Director or the Director’s designee must approve all requests from a retailer for the use of trade or service marks registered by the Lottery. Trade or service marks registered by the Lottery include, but are not limited to, the Lottery’s name, logo, and promotional names.

(3) **Requirements:** All requests from a retailer must be in writing and must include a sample of the proposed use of the trade or service mark. The request must also explain how and where the trade or service mark will be used.

(4) **Permission:** Permission for use of a trade or service mark may be granted in the exercise of the sole and exclusive discretion of the Lottery, taking into account the particularly sensitive nature of the Lottery and insuring the integrity of its operations and image. Approval

for use of a trade or service mark shall not be given for display of the mark in an inappropriate manner or format.

(5) **Rights:** Nothing in this rule shall be construed to grant, or create any expectation or right to display, publish or use, in any manner, in whole or in part, any trade or service mark registered by the Lottery. Any display, publication or use by a retailer of any trade or service mark registered by the Lottery without the express, written prior consent and agreement of the Lottery is unauthorized and unlawful, and the Lottery expressly reserves the right to take any action to enforce its rights in such trade and service marks.

(6) **Inducements:** For purposes of this section, a retailer shall not extend credit to persons to play Lottery games. This does not include the use of a credit or debit card by a player for the purchase of Lottery tickets or shares. An example of the use of a credit or debit card for the purchase of Lottery tickets or shares includes, but is not limited to, the purchase of Scratch-It tickets with a grocery purchase. A retailer shall not provide alcoholic beverages as an inducement to play Lottery games. Additionally, a retailer shall not provide any form of financial assistance to a video lottery player. An example of financial assistance to a video lottery player includes, but is not limited to, a loan of money for any amount of time.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.150
 Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02

**177-040-0061
 Casino Prohibition**

(1) **General:** The operation of a casino is constitutionally prohibited in the state of Oregon. It is the policy of the Oregon State Lottery to place Video LotterySM terminals only in an establishment that does not operate as a casino. The purpose of this rule is to provide a framework and a process for determining when an establishment is operating or may operate as a casino. This framework and process are in addition to other methods the Oregon State Lottery uses to prevent Video LotterySM retailers from operating an establishment as a casino. Other methods include, but are not limited to:

- (a) A limit on the number of Video LotterySM terminals in any establishment;
- (b) Limiting public view of Video LotterySM terminals;
- (c) A limitation on certain advertising and promotional activities by retailers; and
- (d) Considering the sale of Lottery tickets and shares by retailers an adjunct to their businesses.

(2) **Definitions:** For purposes of this rule:

(a) **“Establishment”** means any single location in which Video LotterySM games are operated or which is identified in a Video LotterySM Retailer Application as the proposed site for such activity. An establishment must be owned or operated by a person licensed to sell alcoholic beverages for consumption in a specific age-controlled area of the establishment. The final determination of what constitutes an establishment shall be made by the Director.

(b) **“Total Annual Lottery Compensation”** means the actual, or in the case of an applicant, the reasonably projected total annual compensation received from the Lottery for the sale of all Lottery tickets and shares at the establishment over a selected twelve-month period, including, but not limited to, compensation resulting from participation in Lottery incentive and bonus programs, as described in the Retailer Contract, other than those programs awarding bonuses on the basis of the sale of winning and validated Scratch-itSM or On-Line tickets for which a prize of \$10,000 or more is paid.

(c) **“Annual Non-Lottery Sales”** means the actual, or in the case of an applicant, the reasonably projected revenue from the sale of products or services other than Lottery tickets and shares to retail customers at the establishment over a selected twelve-month period. Projected sales will only be deemed reasonable if they are based on a detailed business plan which is fact and evidence based or meets industry standards for business plans. Only the sale of products or services to retail customers in return for which the establishment receives cash or any instrument evidencing cash consideration shall be included in the calculation of annual non-Lottery sales. Examples of products and services not considered for annual non-Lottery sales for purposes of this rule include, but are not limited to:

(A) The sale of products or services which are not usually sold by or associated with the type of retail establishment being reviewed. For example, the sale of a car by a tavern would not be included;

(B) The wholesale sale of products. **“Wholesale”** means the sale of goods in quantity, as to retailers or jobbers, for resale to the public. This includes the sale or transfer of cigarettes or other products between two or more establishments operated by the same retailer;

(C) The gifting of complimentary or promotional products; or the value of promotional discounts/coupons;

(D) The retail sale of products or services sold or rendered outside of the establishment (such as catering) unless the work is substantially completed at the establishment and the services are provided substantially by employees of the establishment;

(E) The sale of products or services for which the retailer receives a commission, except that the amount of the commission received may be considered; and

(F) Income from other than the sale of a product or service (such as a cover charge) will not be included in the calculation of annual non-Lottery sales.

(3) **Director’s Casino Determination:** The Director shall determine whether an establishment is operating or may operate as a casino before entering into a Video LotterySM contract for that establishment. The Director may also initiate a review of an existing Video LotterySM retailer whenever the Director has reason to believe that an establishment is operating as a casino, or may operate as a casino. The Director may rely on whatever resources and information are available in deciding to initiate a review of an existing Video LotterySM retailer. A Video LotterySM retailer, or person applying to become a Video LotterySM retailer, has the burden of proof to show to the satisfaction of the Director that an establishment is not operating, or will not be operating, as a casino. The Director’s determination is final.

(4) **Conclusive Evidence that an Establishment Is Not a Casino:** The following establishments are not casinos for purposes of this rule:

(a) An establishment whose annual non-Lottery sales are at least 50% of the establishment’s total income as defined in section (5) of this rule. This subsection does not apply if the Director determines that the establishment is a convenience store or a business not normally associated with the on-premise consumption of food and alcoholic beverages as described in OAR 177-040-0017.

(b) A private club as described in ORS 471.175 so long as the private club is not engaged exclusively in the business of selling Lottery tickets and shares.

(5) **Income Analysis:** In determining whether an establishment meets the criteria set forth in section (4)(a) of this rule, the Director shall conduct an income analysis as set forth below.

(a) **General:** The Director shall conduct a review of the establishment’s total income which, for the purpose of this rule, shall equal the sum of the establishment’s total annual Lottery compensation and the establishment’s annual non-Lottery sales. For a person applying to become a Video LotterySM retailer, the Director shall conduct a review of the establishment’s projected total income which, for the purposes of this rule, shall equal the sum of the establishment’s projected total annual Lottery compensation and the establishment’s reasonably projected annual non-Lottery sales. If the review of an establishment’s total income shows that the establishment’s annual non-Lottery sales are less than 50% of total income or projected total income, and there is no conclusive evidence that the establishment is not a casino as explained in section (4) above, the Director shall consider other factors as set forth in section (6) below in determining whether the establishment is operating or may operate as a casino. The twelve-month period selected for the review will be chosen by Lottery staff. The ratio of an establishment’s total annual Lottery compensation to its total income shall be determined by dividing the establishment’s total annual Lottery compensation by the sum of:

(A) The establishment’s actual, or in the case of an applicant, reasonably projected annual non-Lottery sales; and

(B) The establishment’s actual or projected total annual Lottery compensation.

(b) **CPA Review:** The retailer or applicant may request that a Certified Public Accountant (CPA), engaged and paid for by the retailer or the applicant, verify the accuracy of the Lottery’s calculation of the retailer’s annual non-Lottery sales or the applicant’s reasonably projected annual non-Lottery sales. The CPA must use procedures

specified by the Lottery and document his or her analysis as required by the Lottery. The Director may consider the CPA's analysis in making the final determination.

(c) **Director's Determination:** The final determination of the ratio of an establishment's actual or projected total annual Lottery compensation to the establishment's actual or projected total income shall be made by the Director.

(d) **Business Records:** For the purposes of this rule, a Lottery retailer must acquire, compile, retain, and make readily available to the Lottery all business sales and expense records that are pertinent to the calculation and determination of the establishment's total income for a period of 24 months. Required records of the gross non-Lottery sales must be detailed and correct including, but not limited to, records of the cost, price and amount of goods sold, bank statements, records of daily sales, and other relevant sales records. Lottery staff shall be allowed to perform examinations of these records, and make any copies necessary to complete the review. Records and accounting information must be provided, at the retailer's expense, in any form or format reasonably requested by Lottery staff. Retailers operating multiple establishments must maintain separate and complete records as specified in this paragraph for each establishment they operate. In the absence of adequate records, Lottery staff will make a reasonable estimate of annual non-Lottery sales based on available records and information. In making a reasonable estimate, the Lottery will only rely on records and information that the Director concludes are credible and accurate.

(6) **Factors to Consider:** If the income analysis indicates that the establishment's annual non-Lottery sales are less than 50% of total income or projected total income, and there is no conclusive evidence that the establishment is not a casino as explained in section (4) above, the Director shall consider additional relevant factors such as those described below to make a final determination whether the establishment, taken as a whole, is operating as a casino or may operate as a casino. Such factors include, but are not limited to:

(a) **History:** The history of the establishment's operation, or lack of history. If, for example, an establishment has a longstanding history as a neighborhood pub or a family restaurant, this factor may demonstrate that the establishment is not operating as a casino.

(b) **Appearance:** The appearance of the premises, as perceived by a reasonable person and determined by the Director, as it relates to the type of establishment. If, for example, a reasonable person, as determined by the Director, would perceive the establishment to be a place to eat, drink, socialize, and engage in a variety of activities or forms of entertainment, this factor may demonstrate that the establishment is not operating as a casino.

(c) **Floor Space:** The ratio of floor space dedicated for the use of Video LotterySM games to the total floor space of the establishment. Any space or portion of an establishment which is designated as a common area, is shared with other establishments or businesses, or is not contiguous with the area(s) where the Video LotterySM terminals are located or are proposed to be located, shall not be considered as part of an establishment's total floor space. Any areas of the establishment not normally open to patrons shall not be considered as part of an establishment's total floor space. For purposes of this rule, 24 square feet per Video LotterySM terminal shall be used to compute such a ratio. If the amount of floor space dedicated for the use of Video LotterySM games is 20% or less of the establishment's total floor space, this factor may demonstrate that the establishment is not operating as a casino.

(d) **Food Service Accoutrements:** The availability of menus, dining tables and chairs, tableware for the consumption of food and beverages, and other accoutrements intended specifically for use by patrons for eating and drinking. For example, an ample number of tables and chairs, proportionate to the size of the area, that are set up with napkins, salt and pepper, etc., and are available to patrons for eating and drinking, combined with the availability of food and beverages, the staff and means to cook, prepare and serve food and beverages, the availability of tableware, a menu or reader board, may demonstrate that the establishment is not operating as a casino.

(e) **Meals and Menus:** The number and variety of meals and menu items available on a daily basis. For example, serving two meals per day, such as lunch and dinner, and a variety of entrees and side dishes for each meal, as opposed to serving only one or two items, or

only a variety of sandwiches, throughout the day, may demonstrate that the establishment is not operating as a casino.

(f) **Non-Lottery Products and Entertainment:** The number and variety of non-Lottery products and forms of entertainment available. If, for example, an establishment offers snacks, gum, and cigarettes for sale, and has pool, darts, and live music and dancing, as opposed to only one or two products or services, this factor may demonstrate that the establishment does not operate as a casino. This factor acknowledges that a retailer's efforts to sell or serve non-Lottery products or services are not always successful. The mere fact that the non-Lottery products or services are readily available, as evidenced by observation and records, is a factor.

(g) **Business Name:** The name of the business. For example, if the business name does not contain words, references or allusions to gambling or gambling related objects or activities, good luck or good fortune, or winning, directly or indirectly, this factor may demonstrate that the establishment does not operate as a casino.

(h) **Advertising:** Advertising and promotional activities. If, for example, the retailer advertises food and other non-Lottery products, services or forms of entertainment at least equivalent to advertising for Lottery products; and, if the retailer offers promotions, such as discount coupons for food and other non-Lottery products at least equivalent to promotional activities related to Lottery products, this factor may demonstrate that the establishment does not operate as a casino.

(i) **Records:** The retailer's financial records. If the retailer's financial records, including expenses, show that the volume of non-Lottery products and services sold, and the number and variety of non-Lottery forms of entertainment made available to patrons is greater than indicated by the establishment's annual non-Lottery sales, this factor may demonstrate that the establishment does not operate as a casino.

(j) **Atmosphere:** The general atmosphere of the establishment and the attitude and approach of the retailer. If the retailer, and the retailer's employees encourage and promote food and beverage service; if the general environment is clean and inviting to patrons for purposes of dining or engaging in entertainment activities; if the retailer and the retailer's employees are equally courteous and accommodating to non-Lottery playing patrons as they are to those playing Lottery games; and if the retailer demonstrates cooperation with the Lottery and approaches this matter with a demonstrated willingness to keep the establishment in compliance, this factor may demonstrate that the establishment does not operate as a casino.

(7) **Compliance Plan:**

(a) **General:** For purposes of selling Video LotterySM tickets and shares, the Lottery Director shall determine whether a Lottery retailer is operating an establishment as a casino, or in the case of an applicant, will be operating as a casino in violation of this rule. When the Director determines that an existing Video LotterySM establishment is operating as a casino pursuant to review under section (6) of this rule, the Director shall notify the retailer of the determination in writing, and set forth the reasons for the determination. The Director shall provide the retailer the opportunity to develop and implement a plan to bring the establishment into compliance with this rule within six months from the date of this written notification. The plan must be submitted within 30 days from the date the notification is issued by the Lottery. The plan shall include an analysis of the retailer's business operation to show that the retailer has made a reasonable determination of what changes need to be made and the steps the retailer intends to take to bring the establishment into compliance. A retailer may not restrict access to any Lottery game to achieve compliance with this rule without prior written approval from the Director. The retailer's submission of the plan is for the purpose of demonstrating to the Lottery that the retailer seeks to bring the establishment into compliance. The Lottery will review the retailer's plan and may offer guidance to help the retailer bring the establishment into compliance. The retailer is solely responsible for implementing the plan and for its success or failure during the six month period.

(b) **Four Month Review:** At the end of the first four months of the six-month period, the Lottery will review the retailer's progress toward compliance, and may provide the retailer with factual information, analysis, or recommendations if it appears to Lottery staff that doing so will assist the retailer in bringing the establishment into compliance.

(c) **Determination at End of Six-Month Period:** At the end of the six-month period, the Director shall determine whether the estab-

ishment is in compliance. A retailer shall be deemed to be in compliance if either:

(A) The establishment's total Lottery compensation was not more than 50% of the establishment's total income, as set forth in section (5) of this rule, over the entire six-month period; or

(B) Based upon an analysis of some or all of the factors set forth in section (6) of this rule, or other additional factors, the Director determines that the establishment is not operating as a casino.

(d) **Sixth Month:** If the establishment's total Lottery compensation was not more than 50% of the establishment's total income, as set forth in section (5) of this rule, for the sixth month of the plan (but not the entire six months), the Director may extend the original six month period of the compliance plan up to three additional months if, in the opinion of the Director, the retailer will become compliant within that time. At the end of the additional time period, the Director shall determine whether the establishment is in compliance based upon subsection (7)(c) of this rule.

(e) **Termination:** If, at the end of the compliance period, the Director determines that the establishment continues to operate as a casino, the retailer's contract to sell Video LotterySM tickets and shares shall be immediately terminated.

(f) **One Year Review:** If, at the end of the compliance period, the Director determines that the establishment is no longer operating as a casino, the Director shall send a notice of compliance to the retailer. At the end of one year commencing on the first day of the month following notification of compliance, the Lottery will conduct another compliance review as set forth in this rule. If the Director determines that the establishment is again operating as a casino, the retailer's contract to sell Video LotterySM tickets and shares shall be immediately terminated. The retailer shall not be given the opportunity to implement a compliance plan as described in subsections (7)(a), (b), (c), and (d) of this rule in these circumstances. Nothing in this subsection prohibits the Director from initiating another review at any time as set forth in section (3) of this rule.

(g) **Application Denial:** If a person applying to become a Video LotterySM retailer is projected by the Lottery not to be in compliance with the requirements of this rule, the Director shall deny the application.

(8) **Re-Application:** Any Video LotterySM retailer whose contract to sell Video LotterySM tickets and shares is terminated, or any person applying to become a Video LotterySM retailer whose application is denied, shall not be eligible to reapply for a Lottery contract for the terminated or denied establishment for one year from the date of termination or application denial. After one year, the application shall only be accepted upon a showing by the applicant that a substantial change in conditions at the establishment has taken place. Upon acceptance of an application, the Director shall determine whether the establishment will be operated as a casino as set forth in this rule. In the case of a person applying to become a Video LotterySM retailer whose application is denied, the Director may, in the Director's sole discretion, waive up to six months of the one-year waiting period based upon a showing of good cause by the applicant.

Stat. Auth.: ORS 461

Stats. Implemented: OR Const. Art. XV, § 4(4), ORS 461.215 & 461.217

Hist.: LC 10-1994, f. 11-23-94, cert. ef. 12-1-94; LC 2-1997, f. 2-27-97, cert. ef. 3-1-97, Renumbered from 177-100-0015; LOTT 4-1998, f. & cert. ef. 6-26-98, Renumbered from 177-040-0060; LOTT 5-1998(Temp), f. & cert. ef. 7-7-98 thru 12-31-98; LOTT 1-1999, f. & cert. ef. 2-1-99; LOTT 8-1999, f. 5-27-99, cert. ef. 5-30-99; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00, Renumbered from 177-100-0155; LOTT 1-2007, f. 1-21-07, cert. ef. 2-1-07; LOTT 6-2008(Temp), f. 10-29-08, cert. ef. 11-1-08 thru 4-28-09

177-040-0070

Retailer Wheelchair Accessibility Program

(1) **Purpose:** The purpose of this rule is to require that all new and existing Lottery retailers provide and maintain access to Oregon lottery games and related services to persons who use wheelchairs. Access to video lottery games may be achieved by providing access to at least one video lottery game terminal, regardless of slight variations in game theme or play between the different types of video lottery terminals.

(2) **General Requirements:** All Lottery retailers shall provide and maintain access to all persons who use wheelchairs to enable their full and equal enjoyment of Lottery games and related services. Retailers shall comply with the Retailer Wheelchair Accessibility Program by installing required accessibility features, by removing identified bar-

riers through structural modifications, or by creating alternative methods of providing access to Lottery games and related services.

(a) **Barrier Removal and Accessibility Features:** All barriers must be removed that impede wheelchair access to Lottery games and related services. Examples of barrier removal or accessibility features include, but are not limited to:

- (A) Installing ramps;
- (B) Making curb cuts in sidewalks and entrances;
- (C) Creating designated accessible parking spaces;
- (D) Widening doors;
- (E) Rearranging tables, chairs, vending machines, display racks, and other furniture;
- (F) Installing offset hinges to widen doorways;
- (G) Installing accessible door hardware;
- (H) Installing elevators; and
- (I) Relocating Lottery games and related services within the retailer's premises to accommodate persons who use wheelchairs.

(b) **Alternative Methods:** Alternative methods of providing access to Lottery games and related services must be appropriate or reasonable for the person using a wheelchair, and will apply only when accessibility to the Lottery game or related service does not require physical access by the person using a wheelchair to a specific area of the premises. (For example, playing Keno does not require physical access to a Lottery terminal if the retailer provides table service to persons who use wheelchairs. Conversely, playing video lottery games does require physical access to the video lottery terminal.) All alternative methods of providing access must be approved by the Director and will only be permitted when the retailer demonstrates to the satisfaction of the Director the necessity of offering alternative methods of access instead of removing barriers or installing accessibility features. The Director's decision is final.

(c) **Costs of Modifications:** The retailer is responsible for all costs related to removing barriers, installing accessibility features, or offering alternative methods of access for the purpose of making a retailer's premises wheelchair accessible.

(3) **Retailer Wheelchair Accessibility Affidavit:** All applicants shall submit with the application, a signed Wheelchair Accessibility affidavit stating that the retail location is wheelchair accessible. The affidavit form shall be provided by the Lottery and shall contain the Lottery's wheelchair accessibility standards. The affidavit must be completed, signed by the applicant, and notarized.

(4) **Permitted Exemptions:**

(a) The Director may grant the following exemptions to the requirements of this rule. The Director shall review the circumstances and supporting documentation provided by a retailer to determine if a retailer's request for an exemption should be granted. The Director shall determine the type and scope of documentation to be required for each exemption classification. All decisions made by the Director are final. A retailer or applicant whose request for an exemption is denied by the Director is required to satisfy the requirements of this rule as a condition for maintaining its eligibility for a Lottery retailer contract.

(A) **Historic Properties:** To the extent a historic building or facility is exempt under federal law, this rule does not apply to a qualified historic building or facility that is listed in or eligible for listing in the National Register of Historic Places under the National Historic Preservation Act or is designated as historic under state or local law. Qualified means exempt from accessibility requirements under the federal historic preservation laws.

(B) **Legal Impediment to Barrier Removal:** Any law, act, ordinance, state regulation, ruling or decision which prohibits a Lottery retailer from removing a structural impediment or for making a required improvement may be the basis for an exemption to this rule. A Lottery retailer requesting an exemption under this subsection will not be required to seek a zoning variance to establish the legal basis for the impediment, but is required to document and attest to the legal impediment.

(C) **Landlord Refusal:** An exemption granted to an existing Lottery retailer based on the refusal of a landlord to grant permission to a Lottery retailer to make the structural improvements required by the Lottery under this rule shall only apply to the retailer's current lease term. No new landlord refusal exemptions are authorized after August 1, 2000. All existing exemptions granted before August 1, 2000 may be continued until the retailer's contract expires.

(D) Undue Financial Hardship: Undue financial hardship exemptions are not authorized. Any existing exemptions granted before August 1, 2000 may be continued until the retailer's contract expires.

(5) Complaints Relating to Non-Accessibility: The Director will receive and process all accessibility complaints concerning a Lottery retailer as follows:

(a) Initial Complaint and Investigation: When possible, complaints must be in writing and submitted to the Lottery on a Lottery retailer wheelchair accessibility complaint form. The Lottery will investigate the complaint. If the retailer is found to be in compliance with this rule, a letter will be mailed to the retailer and complainant.

(b) Letter of Impending Rule Violation: If the Lottery determines that there are any violations of this rule, the Lottery shall issue a letter of impending rule violation to the retailer. The retailer shall submit a response no later than 30 days after mailing of the letter of impending rule violation. The Director shall determine if the retailer's response is acceptable under this rule. If the retailer is found to be in compliance with this rule, a letter will be mailed to the retailer and the complainant.

(c) Letter of Rule Violation: If the retailer's response to the Lottery's letter of impending rule violation is unacceptable under this rule, or if the retailer does not provide an explanation in the 30 day response period, the Lottery shall issue a letter of rule violation. The letter of rule violation shall describe the violations found at the retailer's location under the terms of this rule.

(d) Corrective Action Plan: The Lottery retailer shall submit a corrective action plan to the Lottery within 30 days of the issuance of the letter of rule violation. The Director may extend the response time for reasons beyond the reasonable control of the retailer. The plan shall describe in detail how the retailer will comply with this rule. The Lottery shall notify the retailer of the Lottery's acceptance or rejection of the plan. If the plan is rejected, the notification shall contain the reasons for rejection of the plan and the corrections needed to make the plan acceptable to the Lottery. If the retailer agrees to make the required corrections, the Lottery shall accept the plan as modified. If a retailer fails to submit a plan within 30 days of issuance of the letter of rule violation and has not requested an extension of time to submit a plan, or if a retailer has requested an extension but the request is denied by the Lottery, the Lottery may initiate termination proceedings.

(e) Time Line for Implementation of Corrective Actions: The retailer must complete corrective actions within 90 days of the date the Lottery accepts the retailer's corrective action plan. If the retailer has not eliminated the violations cited in the letter of rule violation within 90 days of mailing, but has requested an extension of time, the Lottery may grant an extension of no more than 90 days. The Lottery will send a notice of the extension to the retailer and the complainant. Any extension commences immediately upon expiration of the original 90 day period. In no event shall the total amount of time exceed 180 days from the date the Lottery accepts the retailer's corrective action plan.

(f) Notice of Rule Compliance: If the retailer corrects the violations specified in the letter of rule violation, and the retailer has provided an updated wheelchair affidavit showing full compliance, the Lottery will issue a notice of rule compliance. Until this notice is issued, a complaint is considered pending.

(g) Termination: Failure of the retailer to make timely corrections in agreement with this rule and the retailer's corrective action plan may result in proceedings to terminate the retailer's Lottery contract.

(6) Inspections and Audits: The Director may inspect and audit any Lottery retailer's premises for compliance with this rule at any time including random compliance audits. The Lottery will conduct the audit and inspection during the retailer's regular business hours or at such other time as agreed upon by the retailer and the Lottery. The burden of proof to establish that a retailer's premises are in compliance with this rule is on the Lottery retailer.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.300

Hist.: LC 5-1997, f. 6-13-97, cert. ef. 7-1-97; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 8-2003, f. & cert. ef. 6-30-03

**177-040-0105
Change Location**

(1) Any time a Lottery retailer moves its existing business to new premises, the retailer must receive approval from the Lottery before moving the sale of Lottery tickets or shares to the new location.

(2) For a change in location to be approved, the new premises must meet all requirements necessary for operation as a Lottery retailer.

(3) If the Lottery retailer is changing the nature of the business, the Director may terminate the existing retailer contract and require the retailer to apply for a new retailer contract.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 22-2005, f. 12-21-05, cert. ef. 12-31-05

**177-040-0110
Contract Non-Transferable**

A Lottery retailer contract does not have value, and cannot be sold, transferred, or assigned.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.300

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03; LOTT 9-2003, f. & cert. ef. 6-30-03

**177-040-0115
Underage Seller**

No one under the age of 18 may sell Lottery tickets or shares.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.300

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03; LOTT 9-2003, f. & cert. ef. 6-30-03

**177-040-0120
Subsequent Application**

When a retailer contract is terminated for any reason, the retailer, or an applicant that is similar to the retailer whose contract was terminated, will be required to wait one year to reapply for a retailer contract. In the Director's sole discretion, the Director may waive all or a portion of the one-year requirement based upon a showing of good cause by the applicant.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.300

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03; LOTT 9-2003, f. & cert. ef. 6-30-03

**177-040-0125
Termination of Retailer Contract When An Applicant Does Not Qualify As A Key Person**

When the Director determines that an applicant does not qualify as a key person, that is grounds for termination of the retailer contract associated with the applicant.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.300

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03; LOTT 9-2003, f. & cert. ef. 6-30-03

**177-040-0130
Adding a Location**

An existing traditional retailer may apply for and may receive approval for a contract for an additional location prior to that site being open to the public.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.300

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03; LOTT 9-2003, f. & cert. ef. 6-30-03

**177-040-0160
Suspension of OLCC License**

(1) **General:** Any Lottery retailer whose liquor license has been suspended by the Oregon Liquor Control Commission (OLCC) must immediately notify the Lottery of the suspension.

(2) **Disabling Equipment:** The Director shall disable all video lottery terminals in a retailer's establishment during the period that the OLCC has suspended the retailer's liquor license. Notwithstanding the term of the OLCC suspension, the Director may keep the video lottery terminals disabled during the Lottery Security investigation required by section (3) of this rule. The Director may also suspend the sale of all non-video Lottery tickets and shares and suspend all transactions on the retailer's computer link to the Lottery, disabling the retailer's ability to validate tickets and shares.

(3) **Lottery Investigation:** The Director shall initiate an investigation by Lottery Security of the suspension of a video Lottery retailer's liquor license. The Director may initiate an investigation by

Lottery Security of the suspension of a traditional Lottery retailer's liquor license. Lottery Security will report the results of the investigation to the Director. The Director will review the findings of that investigation and the circumstances underlying the suspension by the OLCC. The Director will make a determination whether the findings of the investigation and the circumstances underlying the suspension will result in sanctions under the retailer contract, up to and including immediate termination of the contract.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.300
 Hist.: LC 6-1993, f. & cert. ef. 7-2-93; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00, Renumbered from 177-100-0103; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03; LOTT 9-2003, f. & cert. ef. 6-30-03; LOTT 5-2006, f. 4-26-06, cert. ef. 4-27-06

177-040-0180

Notice Requirement

Lottery retailers who offer video Lottery games must post in a conspicuous place on the retailer's premises at least one copy of a notice containing information concerning compulsive gambling.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.300
 Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00, Renumbered from 177-100-0125; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03; LOTT 9-2003, f. & cert. ef. 6-30-03

177-040-0200

Lottery Retailer Second Chance Drawings

(1) For purposes of this rule, "Second chance drawing" means a drawing for prize(s) operated by a Lottery retailer in which entrants may either use a non-winning Oregon Lottery ticket or share as an entry in the drawing or may enter the drawing using an alternative method for which a purchase is not necessary. This rule is not applicable to any second chance drawings that the Oregon Lottery itself may operate.

(2) The purpose of this rule is to authorize a Lottery retailer to operate a second chance drawing using Oregon Lottery tickets or shares as entry forms as a means of promoting the sale of Oregon Lottery tickets and shares if the drawing is conducted in accordance with this rule and any additional drawing regulations adopted by the retailer that do not conflict with this rule.

(3) Lottery retailers may operate second chance drawings. Lottery retailers are not required to offer second chance drawings to the public. A Lottery retailer who operates a second chance drawing must comply with this rule. A Lottery retailer who violates any provision of this rule is subject to termination of the Lottery Retailer Contract. When a Lottery retailer operates a second chance drawing, the Lottery retailer shall determine how often it will operate any subsequent drawings.

(4) The Lottery retailer shall determine the type and number of prizes to be awarded in a second chance drawing subject to the following limitations: Contraband and alcoholic beverages shall not be offered nor awarded as prizes. Prizes offered by a Lottery retailer must be in keeping with the particularly sensitive nature of the Oregon Lottery and cannot impugn the security, integrity, honesty, or fairness of the Oregon Lottery.

(a) The Oregon Lottery may provide item(s) directly to a Lottery retailer as Lottery ticket sales incentives. The Lottery retailer may choose to use these items as prize(s) in a second chance drawing.

(b) A Lottery retailer may elect to offer more than one prize per drawing, such as, for example, offering a grand prize, a first prize, and a second prize.

(5) A non-winning Lottery ticket or share from the following Oregon Lottery games may be used as an entry in a second chance drawing:

- (a) Keno.
- (b) Megabucks.
- (c) Scratch-It.
- (d) Win for Life.
- (e) Breakopens.
- (f) Pick 4.
- (g) PowerBall.
- (h) Any other similar games operated by the Oregon Lottery.

(6) Notwithstanding section (5) of this rule, tickets or shares from the following Oregon Lottery games shall not be used in connection with second chance drawings:

- (a) Video Lottery games of any kind.

(b) Sports Action.

(c) Any particular Scratch-It or Breakopen game that the Lottery informs Lottery retailers by any reasonable means is not authorized for use in second chance drawings.

(7) A Lottery retailer that operates a second chance drawing must operate the drawing at a location where the Lottery retailer is authorized to sell traditional Lottery games. A Lottery retailer with more than one sales location may operate a second chance drawing at each location.

(8) While operating a second chance drawing, the Lottery retailer must post a conspicuous sign at each location where entries are accepted that meets the specifications of this section. Any advertisements concerning the second chance drawing must also contain this same information.

(a) This sign and all advertisements must clearly and conspicuously inform the Lottery retailer's customers of all the following information:

(A) The second chance drawing is being operated by the Lottery retailer and the Oregon Lottery is not an operator or sponsor of the second chance drawing.

(B) A purchase of a Lottery ticket or share, or any other purchase, is not necessary to enter the second chance drawing.

(C) The odds of winning a prize in the drawing depend on the number of entries that the Lottery retailer receives.

(D) The date and time when the drawing to determine prize winner(s) will be held.

(E) Any deadlines for entering the second chance drawing.

(F) A description and the number of prizes that will be awarded and whether one individual may win more than one prize in a single drawing, and

(G) The date or time by which a winner must claim a prize from the Lottery retailer.

(9) The Oregon Lottery is not responsible for the operation of any second chance drawing and shall not award any of the prizes offered in a second chance drawing. A Lottery retailer may not in any way imply, state, or suggest that a Lottery retailer's second chance drawing is sponsored or operated by the Oregon Lottery.

(10) A Lottery retailer that operates a second chance drawing shall not allow the following persons to enter its drawing and shall deem each such person ineligible to receive a prize in any second chance drawing:

(a) The Lottery retailer.

(b) Any employees of the Lottery retailer.

(c) The Lottery retailer's spouse, domestic partner, parents, and children (adopted or otherwise).

(d) Any person under 18 years of age, or in the case of a drawing operated in an area restricted to persons over 21 years of age, any person under 21 years of age, and

(e) Any other person the Lottery retailer identifies as ineligible in order to protect the security, integrity, honesty, and fairness of a drawing.

(11) A Lottery retailer shall not conduct false or misleading advertising in any form concerning a second chance drawing, including, but not limited to, advertising that claims a purchase will increase a participant's chances of winning. Advertising that uses any of the Lottery's trade or service marks is subject to the requirements of OAR 177-040-0055.

(12) The second chance drawing must be a legitimate drawing in which all participants are on equal footing including any participant who enters the drawing without using a Lottery ticket or share or making any other purchase. A lottery retailer can not charge a fee or any other consideration to prospective participants as a condition of entry in the lottery retailer's second chance drawing. Consideration is the payment of money or anything of value.

(a) A Lottery retailer operating a second chance drawing shall allow participants to enter the drawing by depositing a non-winning ticket or share into a reasonably secure container at the location where entries in the drawing are accepted by the Lottery retailer. A participant must write any information required by the Lottery retailer in order to identify a winner on the ticket. A Lottery retailer must provide at least one alternative method of entry for participants such as allowing the deposit of a business card, or the inscription of a participant's name, telephone number, and address on any piece of paper similar in size to a Scratch-It ticket. A Lottery retailer shall not require

any participant using an alternative method of entry to purchase anything. More than one person may be listed on an entry.

(b) A Lottery retailer operating a second chance drawing must conduct the drawing with security, integrity, honesty, and fairness. The drawing must be random. The Lottery retailer shall draw the winning entries in an area open to the public and at a time during regular business hours. The Lottery retailer must select the winning entries at the time and place posted and advertised. The Lottery retailer or any person designated by the Lottery retailer may draw the winning entries.

(c) No Lottery employee shall select a winning entry or otherwise participate in a second chance drawing operated by a Lottery retailer.

(d) If a participant in a second chance drawing uses a winning Lottery ticket or share as an entry, the ticket or share is a valid entry in the drawing, and if it is returned to the participant, it may be validated with the Lottery as a winning ticket. Notwithstanding section (f) below, if a participant asks the Lottery retailer to locate and return the winning ticket or share, the Lottery retailer shall make a reasonable effort to locate it after the drawing. Neither the Lottery retailer nor the Lottery is responsible for paying a Lottery prize for a winning ticket or share that a participant uses as a second chance drawing entry if the ticket or share cannot be identified among the other entries and returned to the participant who entered it.

(e) When the Lottery retailer draws the winning entries, the Lottery retailer shall announce the name of each winner and award each prize advertised for that drawing. The Lottery retailer shall post the name of each winner at the drawing location. If a winner does not claim a prize within the posted claim period, the Lottery retailer may select an alternate winner from the participants or the prize may be carried forward to the next drawing. An alternate winning entry must be selected from the remaining entries in the same manner as the original winning entry. A Lottery retailer shall not require a winner to be present to win or to collect a prize.

(f) After a drawing is completed and the Lottery retailer has awarded each prize for that drawing, the Lottery retailer shall destroy any Lottery ticket or share used as an entry in the drawing by shredding or mutilating the ticket or share to a sufficient degree that it cannot be used in any other drawing or for any other purpose.

(13) A Lottery retailer that operates a second chance drawing is responsible for conducting each second chance drawing in accordance with this rule, any other regulations adopted by the Lottery retailer, and any other applicable laws. This rule applies to existing Lottery retailer contracts, and violations may provide grounds for the Director to terminate a retailer's contract.

(14) A Lottery retailer is not entitled to any bonus or additional compensation from the Oregon Lottery because it offers a second chance drawing or because it sold a ticket or share drawn as a winning entry in any Lottery retailer's second chance drawing.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.200
 Hist.: LOTT 12-2001(Temp) f. & cert. ef. 9-12-01 thru 3-7-02; LOTT 14-2001, f. & cert. ef. 12-3-01

**177-040-0300
 Request for Reconsideration for Contract Denials, Key Person Denials, and Contract Terminations**

(1) **General:** When the Lottery issues a contract denial, a key person denial, or a contract termination order, the denied contract applicant, the retailer who submitted the denied key person application, or the terminated Lottery retailer may request that the Lottery reconsider the denial or contract termination order.

(2) **Form of Request:** Each denial or contract termination order issued by the Lottery will inform the applicant or the retailer of the right to request reconsideration of the denial or contract termination order. Each request for reconsideration must meet the following requirements:

(a) The request for reconsideration must be submitted in writing within 60 days of the date of the denial or termination;

(b) The request for reconsideration must allege either a change in circumstances or it must provide additional information sufficient to show that the circumstances which are the basis for the order should not result in denial or termination or are fully corrected or resolved.

(3) **Lottery's Response:** The Lottery will take one of the following actions on a request for reconsideration:

(a) **Approval of the Request:** If the Director determines the change in circumstances or information submitted in the request for

reconsideration adequately addresses, corrects, or resolves the issues which were the basis for the denial or termination order, the request for reconsideration will be granted, and the denial or termination order will be rescinded.

(b) **Denial of the Request:** If the Director determines that the change in circumstances or information submitted in the request for reconsideration does not adequately address, correct, or resolve the issues which were the basis for the denial or termination order, the Director will deny the request for reconsideration.

(c) Order on Reconsideration:

(A) If the Director determines that the information submitted only partially addresses, corrects, or resolves the issues which were the basis for the denial or termination order, the Director will issue a new order denying the application or terminating the contract. The new order, as appropriate, will delete from or add to the bases for denial or termination in the original order.

(B) If, at any time, the Director determines that there is an additional basis for denial of a contract or key person application, or termination of the contract, the Director may issue a new or amended denial or termination order.

(d) **Director's Determinations:** The Director's determinations are final for purposes of responding to requests for reconsideration.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4), HB 2237 (2005)
 Stats. Implemented: ORS 461.300
 Hist.: LOTT 3-2006, f. 2-16-06, cert. ef. 3-1-06

**177-040-0310
 Alternative Dispute Resolution Policy**

The Lottery encourages the use of an alternative dispute resolution process, such as mediation, in disputes arising between a retailer and the Lottery, when such process is appropriate and provides for a more efficient and effective dispute resolution.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4), HB 2237 (2005)
 Stats. Implemented: ORS 461.300
 Hist.: LOTT 3-2006, f. 2-16-06, cert. ef. 3-1-06

**177-040-0320
 Alternative Dispute Resolution Process**

(1) **Application and Limitations:** The Lottery, in its discretion, may agree to an alternative dispute resolution process to resolve a dispute between a retailer and the Lottery subject to the following limitations:

(a) **No Surrender of Authority:** The Lottery will not agree to any process in which its ultimate settlement or decision making authority is given to a third party.

(b) **Voluntary Process:** All participants must voluntarily agree to the use of an alternative dispute resolution process. The process is voluntary and the Lottery and any other participant may withdraw from the process at any time and for any reason.

(c) **Mediator:** A mediator does not represent the interests of any of the participants including the Lottery, may not offer legal advice, and has no decision making power to determine facts or impose a resolution, settlement, or other decision on the participants.

(d) **Settlement:** Nothing in this rule obligates the Lottery to agree to an alternative dispute resolution process to resolve a dispute, to offer funds to settle any dispute or controversy, to accept a particular settlement or resolution, to alter its standards for accepting settlements, to submit to binding arbitration, or to alter any existing delegation of settlement or litigation authority.

(e) **Alternative Dispute Resolution Precluded:** An alternative dispute resolution process may not be used if a contract termination is issued under the circumstances described in section (3)(b) of this rule.

(f) **Legal Action Filed:** An alternative dispute resolution process as described in this rule may not be used if a legal action has been filed in court covering the same subject matter.

(2) **Prerequisites:** Before Lottery will consider the use of an alternative dispute resolution process as described in this rule for a dispute resulting from a contract denial, a key person denial, or a contract termination, the contract applicant or the retailer must first have requested reconsideration under the process provided in OAR 177-040-0300. If the Lottery agrees to an alternative dispute resolution process, the Lottery, in its sole and absolute discretion, may stay the denial or the termination order pending completion of the process.

(3) **Mediation:** When a retailer has complied with section (2) of this rule, a retailer may request mediation. The request is subject to section (1) of this rule and the following:

(a) **Factors to Consider:** The Lottery may consider the factors set forth in OAR 137-005-0020 before agreeing to mediation.

(b) **Contract Termination Actions Where Mediation Precluded:** The Lottery will not agree to mediation if a contract termination is issued under the following circumstances:

(A) **Third NSF:** When a Lottery retailer's EFT payment is not made to the Lottery due to non-sufficient funds in the retailer's EFT account for a third time within one year of the retailer's first NSF.

(B) **OLCC Suspension or Termination:** The OLCC has terminated a video lottery retailer's liquor license.

(c) **Written Agreement:** If the Lottery agrees to mediation, the Lottery and the retailer must enter into a written agreement to mediate as described in OAR 137-005-0030.

(d) **Time Limit:** For a dispute resulting from a contract denial, a key person denial, or a contract termination, a request for mediation must be made within 10 days of issuance of the order upon reconsideration or a denial of reconsideration under OAR 177-040-0300. The Lottery will respond to the request within 7 business days. A request for mediation does not toll the 60 day period for requesting judicial review under ORS 183.484, unless the Lottery agrees to mediation and the contract termination order is withdrawn. The mediation process must be concluded within 60 days of the request.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4), HB 2237 (2005)
 Stats. Implemented: ORS 461.200
 Hist.: LOTT 3-2006, f. 2-16-06, cert. ef. 3-1-06

DIVISION 45

RETAIL SALES EQUIPMENT AND GAME MANAGEMENT

177-045-0000

Definitions

For purposes of OAR chapter 177, division 45, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) "Equipment" means all equipment placed by the Lottery or a Lottery vendor on a retailer's premises including, but not limited to, video lottery terminals and all equipment necessary for their operation, instant ticket vending machines, validation terminals, on-line sales terminals, display equipment, and interior and exterior signage.

(2) "Instant ticket vending machine" or "ITVM" means an electrical, electronic, or electro-mechanical device that dispenses Scratch-it or Breakopen tickets directly to a consumer upon payment of the appropriate purchase price.

(3) "Occurrence" means an accident, incident, or a series of accidents or incidents arising out of a single event or originating cause and includes all resultant or concomitant losses. Each loss by earthquake, flood, freeze, or windstorm will constitute a single occurrence. If more than one earthquake or flood occurs within any 72-hour period, the State of Oregon will determine the moment when the time period began.

(4) "Premises" has that definition as used in OAR 177-040-0000(6).

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.200
 Hist.: LOTT 16-2001(Temp), f. & cert. ef. 12-3-01 thru 5-24-02; LOTT 5-2002, f. & cert. ef. 3-25-02; LOTT 1-2004(Temp), f. & cert. ef. 1-5-04 thru 6-25-04; LOTT 9-2004, f. & cert. ef. 5-26-04

177-045-0010

Equipment Management Generally

(1) **General Equipment Management:** The Director of the Lottery shall manage Lottery equipment pursuant to ORS 461.200. The Lottery may discontinue or remove existing equipment, or may implement new or replacement equipment at any time.

(2) **Retailer's Sales:** A retailer's sales, or in the case of an applicant, estimated sales, of Lottery tickets and shares are the prime factor considered by the Director in managing Lottery equipment.

(3) **Equipment Inspection:** The Lottery may access, inspect, furnish, repair, place, replace, upgrade, modify, add, or remove Lottery

equipment at a retailer's premises at any time during regular business hours.

(4) **Obsolete and Defective Equipment:** The Lottery may replace obsolete or defective equipment with new, used, or refurbished replacement equipment.

(5) **Test Equipment:** With the consent of the retailer, the Lottery may deploy test equipment on a retailer's premises.

(6) **Other Laws:** This rule does not preclude the Lottery from removing any or all of its equipment pursuant to any other applicable law, rule, or contract provision.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.200
 Hist.: LOTT 16-2001(Temp), f. & cert. ef. 12-3-01 thru 5-24-02; LOTT 5-2002, f. & cert. ef. 3-25-02; LOTT 1-2004(Temp), f. & cert. ef. 1-5-04 thru 6-25-04; LOTT 9-2004, f. & cert. ef. 5-26-04

177-045-0030

Video Lottery Terminals

(1) **Allocation of Terminals:** In the exercise of the Director's discretion and subject to all other requirements, the Director may allocate and reallocate the Lottery's video lottery terminals among Lottery video retailers at any time and in any manner. The Director shall consider:

(a) **Availability:** The availability of the terminals and related equipment.

(b) **Public Access:** Adequate and convenient public access to video lottery games statewide.

(c) **Retailer Sales:** The actual or projected net video sales generated from the play of video lottery games at each video lottery retail location.

(A) **Minimum Sales Requirement:** A new or existing video lottery retailer shall generate a minimum of \$200 in average net video sales per week per terminal. The Lottery shall calculate the average using any 90-day or greater time period determined by the Lottery. Net video sales are calculated by subtracting prizes awarded on a video lottery terminal from wagers placed on the terminal. The Director may remove one or more terminals from a retail location when the retailer is unable to meet the minimum sales requirement.

(B) **Comparative Sales Analysis:** Based on a per terminal average, the Director may give higher priority for the placement of video lottery terminals to a retailer that has higher actual or projected net video sales, and may remove video lottery terminals from a retailer that has lower actual net video sales.

(d) **Floor Space:** The Lottery requires each video lottery retailer to have a minimum amount of floor space per each video lottery terminal. A retailer with less than 360 square feet of retail floor space is not eligible to receive any video lottery terminals for that business. A retailer with 360 square feet of retail floor space may receive up to three video lottery terminals. For each 120 square feet of retail floor space over the required minimum square footage of 360 square feet, a retailer may be eligible for one additional video lottery terminal up to the maximum number of terminals permitted under Oregon law.

(A) **Retail Floor Space:** Total retail floor space includes all areas open to the public in the business including, but not limited to, restrooms and hallways, but does not include offices, kitchens, storage rooms, and any other areas not generally open to the public. Total retail floor space does not include any space or portion of the business that is a common area or is shared with other businesses, or that is not contiguous with the areas where the video lottery terminals are located or proposed to be located.

(B) **Removal of Terminals:** The Director may remove or limit the number of terminals in a business to bring it into compliance with the floor space standards.

(C) **Existing Retailers:** This section, unless otherwise provided, does not apply to existing video lottery retailers whose space requirements were determined under a previous version of this rule.

(2) **Miscellaneous Requirements:**

(a) **Restricted Visibility:** The Lottery will only place video lottery terminals in those areas of a business with restricted visibility from areas outside of the business, and from the view of dining or other areas where minors are permitted to linger. Under certain circumstances, Oregon Liquor Control Commission rules may permit minors in the same areas as properly placed video lottery terminals. This rule is not intended to override any OLCC exception.

(b) **Adjacent Businesses:** When two or more adjacent businesses appear to the Director to be a single business, or are operated by the same or commingled ownership, then the Lottery may limit such businesses to the maximum number of video lottery terminals permitted under Oregon law for one business as the total number of terminals authorized for both or more such businesses.

(3) **Reconsideration:** Upon written request by a video lottery retailer, the Director may reconsider any video lottery terminal allocation decision made under this rule pertaining to that retailer.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.200

Hist.: LOTT 16-2001(Temp), f. & cert. ef. 12-3-01 thru 5-24-02; LOTT 5-2002, f. & cert. ef. 3-25-02; LOTT 1-2004(Temp), f. & cert. ef. 1-5-04 thru 6-25-04; LOTT 9-2004, f. & cert. ef. 5-26-04

177-045-0040

Instant Ticket Vending Machines (ITVMs) Placement and Sales Requirements

(1) **Location Specifications:** The Director of the Lottery may give preference for placement of an ITVM on a retailer’s premises if the retailer has:

(a) A minimum of 5,000 square feet of retail space and a minimum of four operating check-out lanes that accommodate shopping carts; or

(b) An arrival or departure waiting area for customers of commercial transportation; or

(c) A minimum of twelve operating bowling lanes; or

(d) A minimum of four operating diesel fuel pumps; or

(e) A location on an interstate highway interchange, a state highway, or on a direct access road to an interstate or state highway; or

(f) An interior location in a shopping mall with a minimum average traffic count of 50,000 people per week through the mall, and

(g) Average Scratch-it sales in excess of \$200 per week for one ITVM or \$400 for a maximum of two. A retailer’s average Scratch-it sales shall be measured over a twelve-month period as determined by the Lottery

(2) **Director’s Discretion Regarding Other Locations:** The Director may place an ITVM at any other location identified by the Director as serving the best interests of the Lottery.

(3) **Test Placement:** With the consent of the retailer, the Director may place an ITVM at any retail location as a test. The Director or the Director’s designee shall determine the length and conditions of the test.

(4) **Stocking Machine:** A retailer must keep any ITVM on its premises fully stocked with a variety of Oregon Lottery games. If a retailer fails to replenish the ITVM as games are sold out, the Lottery may remove the machine. The Lottery may exempt a test machine from these stocking and replenishment requirements.

(5) **Removal of Machine:** At the discretion of the Director, an ITVM may be removed from a retailer’s premises.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.200

Hist.: LOTT 16-2001(Temp), f. & cert. ef. 12-3-01 thru 5-24-02; LOTT 5-2002, f. & cert. ef. 3-25-02; LOTT 1-2004(Temp), f. & cert. ef. 1-5-04 thru 6-25-04; LOTT 9-2004, f. & cert. ef. 5-26-04

177-045-0060

Equipment Loss or Damage

(1) **Loss Claim Under \$2,500:**

(a) A retailer is responsible for the actual cost of replacing, repairing, or removing lost, damaged, or destroyed Lottery equipment when the loss per occurrence is under \$2,500 and the retailer:

(A) Failed to exercise reasonable care to protect the equipment from damage, destruction, or theft;

(B) Intentionally damaged, destroyed, or stole the equipment, or allowed others to damage, destroy, or steal Lottery equipment; or

(C) Unless waived by the Director, previously had a loss claim (whether charged to the retailer or not) within the preceding twelve months.

(b) The Lottery will investigate whether a retailer failed to exercise reasonable care to prevent loss, damage, or destruction of Lottery equipment in the possession of the retailer, or whether the retailer intentionally damaged, destroyed, or stole, or allowed others to damage, destroy, or steal Lottery equipment. The Lottery Director shall determine if the retailer is responsible for the actual costs of replacing, repairing, or removing the Lottery equipment under subsection (a)

of this section. If the retailer is determined to be responsible, the Lottery will bill the retailer and may electronically debit the retailer’s account for the amount billed.

(2) **Ordinary Wear and Tear Excepted:** A retailer is not responsible for costs of replacing, repairing, or removing Lottery equipment resulting from ordinary wear and tear due to normal use of the equipment.

(3) **Loss Claim of \$2,500 or More:** Notwithstanding section (1) of this rule, a Lottery retailer is responsible for any loss, damage, or destruction to Lottery equipment when the loss is \$2,500 or more per occurrence. In the event of such loss, damage, or destruction, the Lottery will report it to the State of Oregon Department of Administrative Services Risk Management Division in accordance with ORS Chapter 278. Any claim that the Lottery may have against a retailer arising from the loss, damage, or destruction of such property is subrogated to the Risk Management Division upon payment of the claim by Risk Management to the Lottery. When requested, the retailer must reimburse Risk Management the amount paid to the Lottery for replacement or repair of the lost, damaged, or destroyed equipment.

(4) **Loss Management:** At its option, the Lottery may repair, replace, or remove any lost, damaged, or destroyed Lottery equipment, none of which has any effect on a retailer’s liability to the State of Oregon, if any, for the loss, damage, or destruction of such equipment.

(5) **Contract Termination:** In addition to requiring payment for the loss, damage, or destruction of Lottery equipment, the Director may terminate the retailer contract of any Lottery retailer who failed to exercise reasonable care to protect Lottery’s equipment. The Director shall terminate the retailer contract of any Lottery retailer who intentionally damages, destroys, or steals, or allows others to damage, destroy, or steal Lottery equipment.

(6) **Threats:** The Director may terminate the retailer contract of any Lottery retailer who threatens to damage or destroy Lottery equipment.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.200, 461.217 & 461.300

Hist.: LOTT 1-2004(Temp), f. & cert. ef. 1-5-04 thru 6-25-04; LOTT 5-2004(Temp), f. & cert. ef. 4-6-04 thru 6-25-04; LOTT 9-2004, f. & cert. ef. 5-26-04

177-045-0080

Finality of Decisions

The decisions and determinations of the Director under this Division are final.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.200, 461.217 & 461.300

Hist.: LOTT 1-2004(Temp), f. & cert. ef. 1-5-04 thru 6-25-04; LOTT 5-2004(Temp), f. & cert. ef. 4-6-04 thru 6-25-04; LOTT 9-2004, f. & cert. ef. 5-26-04

DIVISION 46

LOTTERY GAMES GENERAL OPERATING RULES

177-046-0010

Purpose

The purpose of Division 46 is to set forth standardized rule provisions that are applicable to Lottery games (excluding Video LotterySM games) offered by the Lottery. Each type of game is set forth in a specific division containing rules unique to that type of game. In the event of a conflict between a provision contained in this Division and the specific rule Division, the provision in the specific rule Division controls.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260

Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0015

Definitions

For the purposes of Division 46, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) **“Drawing”** means the procedure whereby the Lottery selects the winner or the winning combination in accordance with the rules of the game.

(2) **“Electronic drawing”** means any drawing that involves the use of a random number generator or other computer-driven or

computer-assisted device to determine winners or winning combinations, and manual interaction is incidental to the selection process.

(3) **“Electronic equipment”** includes any computer-driven or computer-assisted device used by the Lottery for the purpose of determining winners or winning combinations, including, but not limited to, devices used by the Lottery’s central gaming system for the Lottery’s On-Line games, or for the Lottery’s periodic internet entry, raffle, or promotional games.

(4) **“Manual drawing”** means any drawing that does not involve the use of a random number generator or any other computer-driven or computer-assisted device to determine winners or winning combinations, and manual interaction is primary to the selection process.

(5) **“Manual equipment”** includes any mechanical equipment or non-electronic method used by the Lottery for the purpose of determining winners or winning combinations, including, but not limited, to Lottery’s periodic raffle games.

(6) **“Random number generator”** means a computer-driven electronic device capable of producing numbers at random.

Stat. Auth.: ORS 461
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0020

Sale of Lottery Tickets and Shares

(1) **General:** The Director may contract with retailers for the sale of Lottery tickets and shares. Only a retailer under contract with the Lottery may sell Lottery tickets or shares. Nothing in this section shall be construed to prevent a person who lawfully purchases or possesses a Lottery ticket or share from making a gift of such ticket or share to another.

(2) **Retailer Sales Locations:** Unless authorized by the Lottery, Lottery tickets or shares may only be sold by a Lottery retailer at the location listed in the retailer contract.

(3) **Lottery Sales:** The Lottery may designate its agents or employees to sell Lottery tickets or shares directly to the public, either in person or through electronic means.

(4) **Sales Are Final:** Unless otherwise provided in OAR Chapter 177, the sale of all Lottery tickets and shares is final. A player may not return a Lottery ticket or share for a refund of the purchase price or exchange unless the specific game rule provides otherwise. The Lottery is not liable for Lottery tickets or shares that are purchased in error.

(5) **Distribution:** The Director is authorized to arrange for the direct distribution of on-line terminals, ticket stock, and supplies shipped directly from the manufacturer or supplier to an authorized retailer.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0030

Stolen, Destroyed, or Damaged Lottery Tickets or Shares

A Lottery retailer may receive credit for stolen, defective, damaged, or destroyed Lottery tickets or shares only as specified in the specific game rule or in the Lottery retailer contract.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0040

Retail Price Discounts and Retailer Promotions

(1) **General:** The Lottery may offer discounts from the retail sale price of Lottery tickets or shares to the public by any method approved by the Director. The Director will communicate or distribute information regarding discounts by using methods designed to reach the public. These methods may include, but are not limited to, the use of direct mail, newspaper advertising, or by offering coupons at Lottery offices or retail locations.

(2) **Retailer Promotions:** The Director may provide written authorization for a Lottery retailer to engage in a promotion in which the retailer gives one or more Lottery tickets or shares to the retailer’s customers in exchange for the purchase of goods or services.

(a) A Lottery retailer seeking authorization to conduct such a promotion shall identify, to the degree required by the Director, the goods or services to be purchased by a customer in exchange for a Lottery ticket or share and the number and type of tickets or shares to be given to the customer in exchange.

(b) A Lottery retailer is not permitted to increase the price of goods or services offered for sale as a part of the promotion to recoup costs associated with the promotion.

(c) It is the policy of the Lottery to authorize a promotion described in this section only when the proposed promotion maintains the integrity, security, honesty, and fairness of the Lottery.

(d) Lottery tickets or shares given during an authorized promotion are considered and counted as a sale for the retail price established by the Lottery in the rules for each Lottery game.

(e) No promotion is authorized unless it complies with this rule.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0050

Accuracy of Tickets and Shares

It is the sole responsibility of a player to verify the accuracy of a Lottery ticket or share purchased by the player. The Lottery is not liable for any Lottery ticket or share purchased or printed in error. Specific Lottery game rules may provide for cancellation of a Lottery ticket or share under certain circumstances.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0060

Cancellation of Lottery Tickets and Shares

(1) **General:** Where a specific rule provides that the purchaser of a Lottery ticket or share may cancel the purchase, the following is the procedure for cancellation:

(a) To cancel a purchase of a Lottery ticket or share, the player must return it to the selling retailer on the day of purchase before wagers are disabled prior to the first drawing or other winner determination time as applicable.

(b) The player shall receive a refund from the retailer equal to the purchase amount of the Lottery ticket or share.

(c) If a Lottery ticket or share cannot be cancelled because the Lottery’s central computer system does not record the cancellation in a timely manner due to a mechanical or electronic transmission malfunction, credit may still be given to the retailer provided the following steps are taken:

(A) The retailer attempts to cancel the Lottery ticket or share before wagers are suspended and a computer record of the attempt is created.

(B) The retailer calls the Retailer Services Hotline and gives the Lottery ticket or share’s identifying number to the operator, and

(C) The retailer mails the Lottery ticket or share to the Lottery within two weeks from the date of purchase.

(2) **Exchange Tickets or Shares:** Notwithstanding any other rule, exchange tickets or shares cannot be cancelled under any circumstances.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0070

Official Start of Each Lottery Game

The Director may publicly announce the game launch and start date of each new Lottery game to Lottery retailers by posting the information on the Lottery’s official website, or by any other appropriate means. The Director may also announce the description of the game, the number and value of the prizes in the game, and the odds of winning those prizes.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0080

Drawings

(1) **Drawing Coordinator and Procedures:** Subject to the approval of the Director, the Lottery's Assistant Director for Security shall designate a Drawing Coordinator. Lottery drawings shall be conducted pursuant to the procedures developed by the Drawing Coordinator in consultation with the Assistant Director for Security and as approved by the Director. Drawing procedures shall include provisions for the substitution of back up drawing equipment or methods in the event primary drawing equipment malfunctions or fails for any reason and procedures for completing a drawing that is interrupted due to equipment malfunction or operator error.

(2) **Drawing Equipment:** The Lottery may use any type of equipment or method, including electronic or manual equipment and any variety of existing or future methods or equipment, for determining the winner or winning combination in any Lottery game that involves a drawing.

(3) **Electronic Equipment:** The Lottery shall ensure the security and integrity of any electronic drawing equipment used to determine a winner or winning combinations. Any electronic connections to this equipment must be made by a secure method. The Lottery shall test the equipment periodically or as needed to ensure proper operation and lack of tampering or fraud. The Lottery shall have its random number generators, or any other computer-driven or computer-assisted device used for a drawing, statistically analyzed, tested, and certified by an independent, qualified statistician for integrity.

(4) **Manual Equipment:** The Lottery shall ensure the security and integrity of any manual equipment used to determine a winner or winning combinations. Any manual equipment used by the Lottery to determine a winner or winning combinations must be inspected by an independent certified public accountant or the professional representative of an independent certified public accountancy organization and an employee or agent of the Lottery before and after the drawing. The drawing and such inspections must be recorded on video and audio tape. Any drawing using manual equipment must be witnessed by an independent certified public accountant or a professional representative of an independent certified public accountancy organization.

(5) **Random Number Generators:** The Lottery may use random number generators to determine winning numbers for Lottery games.

(6) **Security:** Subject to the approval of the Director, the Lottery's Assistant Director for Security shall establish procedures to ensure the physical security of the Lottery's drawing equipment and shall specify the individuals who shall have physical access to that equipment. Any random number generator, or any other computer-driven or computer-assisted device, used by the Lottery to determine winners or winning combinations shall be kept in a sealed enclosure within a secure area. Any person who enters the sealed enclosure must have permission from Lottery Security and be escorted by a Lottery Security Section officer or employee.

(7) **Drawing Errors:** If, during a game drawing, an equipment failure or operator error causes an interruption in the selection of numbers or symbols, the Drawing Coordinator will declare a technical difficulty. Any number drawn prior to the declaration of a technical difficulty will stand and be deemed official when verified by the Drawing Coordinator. The drawing will be completed as set forth in the Drawing Coordinator procedures.

(8) **Delay in Payment and Resolution:** The Director will delay payment of all prizes if any evidence exists or there are grounds for suspicion of equipment malfunction, tampering, or fraud. In such event, the Lottery will not pay any prize until the Lottery completes an investigation and the Director approves the drawing and authorizes payment. If the Director does not approve the drawing, it will be void and the Lottery will conduct another drawing to determine the winner or the winning combinations.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0090

Validation Requirements

(1) **General:** Each type of Lottery game rule may specify unique or additional requirements necessary for validation for that specific game.

(2) **Requirements:** In general, to be a valid Lottery ticket or share:

(a) The ticket or share must not be counterfeit or a forgery in whole or in part.

(b) The Lottery must have issued the ticket or share in an authorized manner.

(c) The ticket or share must not be altered, unreadable, reconstituted, or tampered with in any manner and must meet all of the Lottery's security requirements.

(d) The ticket or share must not appear on any list of omitted, inactive, missing, previously paid, or stolen tickets on file at the Lottery, and the Lottery's Instant Ticket System (ITS) must accept and validate the ticket or share as a winner.

(e) The ticket or share must not be blank or partially blank, misregistered, non-scratchable, or printed or produced in error.

(f) The ticket or share is subject to all additional confidential validation tests of the Lottery including validation through the Lottery's computer system.

(3) **Proof of Play:** A Lottery ticket or share is the only proof of a game play or plays and the submission of a winning ticket or share to the Lottery or an authorized retailer is the sole method of claiming a prize or prizes unless otherwise provided in OAR chapter 177. A play slip or a copy of a ticket or share has no pecuniary or prize value and does not constitute evidence of ticket or share purchase or otherwise represent an opportunity to win a prize.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0100

Ownership of Lottery Tickets and Shares

(1) **Bearer Instrument:** Except for a Lottery ticket or share claimed jointly in accordance with the provisions of OAR 177-046-0110(6) of this rule, until such time as a name of an individual or individuals is imprinted or placed upon a Lottery ticket or share in the area designated for "Name," the ticket or share is a bearer instrument and is owned by the bearer of the ticket or share. When a name or names is placed on the ticket or share in the designated place, the ticket or share ceases to be a bearer instrument and the individual whose name appears in that area is the owner of the ticket or share. Only a natural person may own a ticket or share and claim a prize.

(2) **Multiple Names:** Multiple individuals may jointly own, possess, and claim a prize as owners of a winning ticket. Multiple individuals hold the ticket as tenants in common. Multiple individuals may specify the percentage of ownership each person holds. Each person must hold \$1.00 of the prize at a minimum.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0110

Payment of Prizes

(1) **General:** All winning Lottery tickets or shares may be presented to the Oregon State Lottery for payment. Winning tickets or shares for prizes of \$600 or less may also be presented for payment to the appropriate Lottery retailer specified in the applicable game rule.

(2) **Mailing Address:** Winners who mail a winning Lottery ticket or share to the Lottery must sign the Lottery ticket or share in the designated area on the ticket or share, write the claimant's mailing address in the place indicated on the ticket or share, and mail it to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended.

(3) **Headquarter's Address:** Winners who present a claim in person at the Lottery may do so by bringing the winning Lottery ticket or share to the Oregon State Lottery, Player Services, 500 Airport Road SE, Salem, Oregon 97301 during Lottery business hours.

(4) **Retailer Validation and Payment of Prizes of \$600 or Less:** To determine whether a Lottery ticket or share presented for payment entitles the holder to a prize, a retailer must validate the claim with the Lottery by scanning the bar code or manually entering the bar code number printed on each Lottery ticket or share into equipment

provided by the Lottery, and, if authorized by the Lottery, pay the player the prize amount due.

(a) **Retailer Payment:** A retailer is authorized to pay a prize of \$600 or less and shall pay that prize in cash or check, or any combination thereof.

(b) **Lottery Payment:** If a retailer's prize payment check is dishonored, the player may seek payment from the Lottery by presenting a copy of the dishonored check to the Oregon State Lottery, Player Services Office, 500 Airport Road SE, Salem, Oregon during Lottery business hours, or by mailing a copy of the dishonored check with a winner claim form to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. If the Lottery determines that payment of the prize is authorized, the retailer has not paid the prize, and it is unlikely that the retailer will pay the prize, the Lottery may then issue a check to the player in the amount of the prize due less any applicable tax withholding.

(c) **Retailer Sanction:** A retailer that pays a prize with a check that is dishonored may be subject to termination of the Lottery Retailer Contract.

(5) **Lottery Validation and Prize Payment:** Upon validation of a winning Lottery ticket or share presented to the Lottery for payment, the Director may pay the amount of the prize to the player less any applicable tax withholding. If the ticket or share is determined to be invalid, or a non-winning ticket or share, or the claim is invalid, the Director shall deny the claim and inform the player.

(a) **Lottery Prize Payment of \$600 or Less:** Payment may be made by check or in cash, or any combination thereof. Cash prize payments are limited to \$50 per person per day. Payment may be made in person or by mail, except that the Lottery will not mail cash.

(b) **Lottery High Tier Prize Payments:** For prize payments valued greater than \$600, the Lottery will pay a winning ticket or share by check, or subject to OAR 177-010-0050, may pay the prize in merchandise if the prize is merchandise.

(6) **Claiming Lottery Tickets or Shares Jointly:** If more than one name appears in the designated area on a Lottery ticket or share, or if a Lottery ticket or share is owned by two or more persons, the prize must be claimed in accordance with the following:

(a) **General:** All persons claiming ownership of the winning Lottery ticket or share must complete and sign the Lottery's request and release form. Each of the persons signing the form must indicate each person's proportionate share of the prize. Each person must receive at least \$1.00. At least one of the persons claiming ownership of the ticket or share must sign the ticket or share. That person's signature must also appear on the request and release form. If a winning ticket or share is mailed to the Lottery with multiple signatures on it, the Director will mail the request and release form to the claimants.

(b) **Deceased Signatories:** A deceased signatory who dies before signing the request and release form will be presumed to have an ownership interest equal to that of the other signatories. In the event there is a deceased signatory, the Director may withhold payment for 60 days from the date of validation to allow co-owners the opportunity to seek a declaratory ruling from a court.

(c) **Relinquishment of Interest:** When a person who has signed a Lottery ticket or share wishes to relinquish the person's ownership interest in the Lottery ticket or share, that person must sign the Lottery's release of ownership form relinquishing the person's ownership interest. In no event will a person be permitted to relinquish ownership interest once it is determined that the person owes money for child support or other legal attachment has taken place. Once the Lottery receives the release of ownership form, it is irrevocable.

(d) **Issuance of Prize Checks to Multiple Owners:** If a validated winning Lottery ticket or share is claimed by multiple owners who are sharing a single prize, the Director will issue to each person claiming a share of the prize amount, a check for the portion of the prize amount claimed by each multiple owner, the total not to exceed the total prize amount. No cash payments will be made to multiple owners. However, the Director reserves the right to issue a single prize check to an individual whose name appears on the ticket or share instead of multiple prize checks to the owners of the ticket or share if the value of each individual prize check would be less than \$50 or if the number of persons claiming a share of the prize exceeds 100 people. The Lottery shall pay multiple winners of a Lottery prize only at the Lottery Headquarters in Salem. Lottery retailers are not authorized to pay multiple winners who share a single prize.

(e) **Conflicting Information or Discrepancies:** If there is conflicting information or discrepancies between the names on a winning Lottery ticket or share and the names on a claim form, the Lottery may withhold prize payment until the owners resolve the conflicting information. Discrepancies include, but are not limited to: Names or addresses scratched out or erased, or unreadable or altered names or addresses.

(f) **Investigations:** At the discretion of the Director, the Lottery may conduct an investigation to aid in the determination of the rightful owners prior to payment of any prize.

(g) **Determinations:** The Director's decisions regarding the determination of a winning Lottery ticket or share, or the determination of the rightful owner or owners of a prize, or of any other dispute or matter arising from payment or awarding of prizes are final and binding on all parties.

(7) Payment of Prizes Donated Anonymously to Non-Profit Groups and Others:

(a) **General:** The Director may pay a prize according to written anonymous instructions received with a winning Lottery ticket or share. The recipient must be a natural person or a non-profit group as described in Section 501(c)(3) of the Internal Revenue Code.

(b) **Adult Recipient:** If the intended recipient is a natural person of majority, the Director will contact the person and make payment to the person in accordance with the anonymous written instructions.

(c) **Minor Recipient:** If the intended donation benefits a natural person who is a minor, the Director will make payment in accordance with the Oregon Uniform Transfers to Minors Act, Oregon Revised Statutes (ORS) 126.805 to 126.886.

(d) **Non-Profit Group as Recipient:** If the intended recipient qualifies as a non-profit group as described in Section 501(c)(3) of the Internal Revenue Code, the Director will make payment only as follows:

(A) **Identification of Recipient:** The Director will attempt to identify and contact the intended recipient. The intended recipient shall designate in writing an agent, (a natural person) to act on its behalf and to receive the prize payment on behalf of the recipient. The Director shall confirm both the written authorization and the agent. An intended recipient is encouraged to select a bonded agent.

(B) **Appearance:** The agent shall appear in person at the Lottery Headquarters in Salem to claim the prize payment on behalf of the intended recipient. The Director may confirm to the Director's satisfaction that the agent is authorized to accept the donation in the agent's own name on behalf of the intended recipient.

(C) **Signature and Payment:** Subsequent to receipt of acceptable identification, along with a completed claim form from the agent, and the Director's review and approval, the agent, in the presence of a duly authorized Lottery official, shall sign the agent's own name on the winning Lottery ticket or share in the place indicated on the ticket or share and immediately return it to the Lottery. The Director shall then make payment to the agent less any applicable tax withholding.

(D) **Identification of Donor:** If the Director can reasonably identify the donor, the Director shall not make payment as specified above, but shall instead contact the donor and notify the donor to retrieve the Lottery ticket or share upon presenting acceptable proof of identification. The donor may retrieve the winning ticket or share in person at the Lottery's Headquarters in Salem upon the presentation of acceptable proof of identification. The prize, less any applicable tax withholding, will be paid to the donor upon validation of the winning ticket or share.

(e) **Win for Life Prize:** If the winning Lottery ticket received is a Win for Life top prize of \$1,000 a week for life, the prize paid will be the lump sum guaranteed five year payment under the Win for Life game rules.

(f) **Forfeiture of Unclaimed Prize:** In the event that the Director is unable to locate the intended recipient or the anonymous donor, the winning Lottery ticket or share shall be retained until the end of the prize claim period. After the end of the prize claim period, the ticket or share shall constitute an unclaimed prize as described in OAR 177-010-0085 and shall be forfeited to the public purpose.

(g) **Discharge of Lottery from Liability:** The State of Oregon, its agents, officers, employees, and representatives, including but not limited to, the Oregon Lottery, its Director, agents, officers, employees, and representatives, are discharged of all liability upon payment of an anonymously donated prize in accordance with this rule and any

applicable game rules to the extent that they do not conflict with this rule. The Lottery is not responsible in any way for the fulfillment or completion of the agreement between the intended recipient and the agent. The Lottery's decisions regarding the determination that a Lottery ticket or share donated anonymously is, or is not, a winning ticket or share or any question or dispute arising from the payment of such a prize is final and binding on all parties. In the event a question or issue arises regarding payment of a prize donated anonymously, the Director may withhold payment until the question or issue is resolved. The Lottery, the intended recipient or custodian, if the intended recipient is a minor, or the designated agent if the intended recipient is a non-profit group, may petition a court of competent jurisdiction for judicial resolution of the matter.

(8) **Social Security Numbers:** Each United States resident who is to receive a payment of winnings greater than \$600 shall furnish to the Lottery the information required on the Internal Revenue Service Form W-2G (or any other form required by the IRS.) including but not limited to the winner's name, address, and social security number. This disclosure is mandatory and the authority for such disclosure is 42 USC 405(c)(2)(C), 26 CFR 31.3402(q)-1(e), and ORS 461.715(1)(a). A winner's social security number will be used for the purpose of identifying child support obligors and submitting required documents to state and federal tax authorities.

(9) **Payment Decisions:** The Director shall make the final decision on whether any prize is paid or any annual prize payment is made. All prizes shall be paid within a reasonable time after they are awarded, unless the Director delays a prize payment. The Director may, at any time, delay any prize payment in order to review the validity of a prize claim, or review a change of circumstances relative to the prize awarded, the payee, or the claim, or review any other relevant matter that may come to the Director's attention. For any prize requiring annual payments, all payments after the first payment shall be made on the anniversary date of the first payment in accordance with the type of prize awarded. Any delayed annual payment will be brought up to date immediately when payment is authorized by the Director.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08

177-046-0120 Prizes Payable after Death

(1) **General:** A person is a deceased prize winner if that person dies after the Lottery validates a prize claim for that person but has not disbursed a prize or a portion of a prize to that person. The Director may rely on the presentment of certified copies of the court's appointment of a personal representative or other evidence of a person entitled to the payment of prize winnings when due and may make payment to the winner's estate once the Director is satisfied that such payment is lawful and proper.

(2) **Release Form:** For a deceased prize winner, the personal representative of the winner's estate, or all the parties listed on a beneficiary designation form if one is on file, must sign the Lottery's release form before payment of the prize or any remaining portions of the prize.

(3) **Court Petition:** The Director reserves the right to petition any court of competent jurisdiction to determine the proper payment of any prize winnings due to a deceased prize winner.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0130 Disclosure of Winners

(1) **General:** The Lottery may use the name, address, and likeness of a winner in any Lottery promotional campaign, advertisement, or press release. A winner consents to the use of the winner's name, address, and likeness for promotional campaigns, advertising, and publicity purposes by the Lottery and Lottery retailers. A winner who receives a prize or prize payment from the Lottery grants the Lottery, its agents, officers, employees, and representatives the right to use, publish in print or by means of the Internet, and reproduce the win-

ner's name, address, physical likeness, photograph, portraits, statements made by the winner, and use audio sound clips and video or film footage of the winner for the purpose of promoting the Lottery and its games.

(2) **Person's Likeness:** If the Lottery, its agents, officers, employees, and representatives deem it suitable for advertising, promotional or publicity use, or press use, a winner further grants the Lottery the right to use and reproduce the winner's likeness in print either alone or in any combination with other persons. Examples of permitted uses include but are not limited to: Radio, television, newspapers, posters, billboards, commercials, magazines, print advertisements, and the Lottery web site.

(3) **Release:** Each winner releases the State of Oregon, its agents, officers, employees, and representatives, the Oregon Lottery, its Director, agents, officers, employees, and representatives from any liability arising out of any blurring, distortion, alteration, or use in composite form whether intentional or otherwise, that may occur, or be produced in the printing and production process towards the completion of any finished product. A winner waives any right to inspect or approve the finished products, whether it is for a promotional campaign, advertising, or publicity.

(4) **Limitation:** If Lottery uses the address of a winner, the address shall not contain the street or house number of the winner.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0140 Suspension of Play

(1) **Suspension of Drawings:** At the discretion of the Director, a Lottery drawing may be suspended.

(2) **Refund Options:** If the Director suspends a drawing after Lottery tickets or shares have been sold for that drawing, a player may receive a refund of the player's ticket or share price, or a replacement Lottery ticket or share from another Lottery game, or the Director may hold a replacement drawing at the Director's discretion.

(3) **Termination of Games:** A Lottery game may be discontinued at any time.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0150 Official End of Games and Last day to Claim a Prize or to Receive Credit for Unsold Tickets or Shares

(1) **General:** The Director shall announce the official ending date of a Lottery game and last day to claim a prize by use of any appropriate means, including, but not limited to, providing notice on the Lottery's official website or through Lottery retail sales sites unless specific game rules provide otherwise. The Director will calculate the last day to claim a prize by adding one calendar year to the ending date of the game. Prizes must be claimed by the close of business on the last day to claim prizes. In the event the final day of the one-year claim period falls on a weekend or an official Lottery holiday, the claim period will be extended to end at the close of the next Lottery business day.

(2) **Unsold Returns:** Where applicable, a retailer must return to the Lottery unsold tickets or shares for each game within one year of the official ending date of that game in order to receive credit from the Lottery as provided for in the retailer's contract. Upon the retailer's request and with the recommendation of the Assistant Director of Retail Operations, the Director may extend the one year time limit.

(3) **Limited Availability Merchandise:** From time to time, the Director may offer games or drawings having top tier prizes consisting of merchandise of limited availability. Since such prizes are randomly available among the game tickets or shares, it is not possible to tell when the final top tier prize is won and will be claimed until it actually is validated and claimed. For this reason, the Lottery may continue to sell such tickets or shares until the last such top tier prize is validated. Once the last such prize is validated, the Director will then end the game, end orders for that game, and end activations 30 days from that date of validation by following the announcement procedure in section (1) above. The Director will notify retailers as soon as

reasonably possible after the last top tier prize is claimed so that the retailers may notify customers purchasing such tickets or shares that the top tier prizes have all been claimed and that the game is ending on the 30th day from the date of the last top tier prize validation. Customers may still purchase such tickets during that 30 day time period for the other prizes offered in the particular game.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0160

Discharge of Lottery from Liability

(1) **General:** The State of Oregon, its agents, officers, employees and representatives, the Lottery, its Director, agents, officers, employees, and representatives are discharged of all liability upon payment of a prize or any one installment thereof to the holder of any winning Lottery ticket or share or in accordance with the information set forth on any winning Lottery ticket or share, any claim form, including but not limited to a winner claim form, request to divide prize form, beneficiary designation form, and relinquishment of ownership interest form, supplied by the Lottery.

(2) **Finality of Decision:** The Director’s decision regarding payment or awarding of a prize is final and binding. In the event a question arises relative to any winning Lottery ticket or share, any claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an interest bearing escrow fund until it resolves the controversy, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. All interest that may accrue while the prize winnings are on deposit in an interest bearing fund is and remains the property of the Lottery.

(3) **Sole Remedy:** In the event a dispute occurs between the Lottery and a player as to the amount of a prize, whether a Lottery ticket or share is a winner, whether it is valid, or whether it was purchased in error, the Director shall provide the player with one unplayed replacement Lottery ticket or share from any current Lottery game, and also in the Director’s discretion, may provide up to one hundred new Lottery tickets or shares from any current game. This is the player’s sole and exclusive remedy.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

177-046-0170

Governing Law

(1) **General:** All players or persons purchasing or possessing any Lottery ticket or share must comply with and are bound by all applicable laws, rules, and procedures and any additional terms and conditions found on the ticket or share itself. In the event of a conflict between the additional terms and conditions found on the back of a ticket or share with the Lottery’s rules, the rules control.

(2) **Lottery Materials:** All materials distributed by the Lottery for playing Lottery games must be used solely for playing the game described by these rules. Any use or reproduction of the materials for purposes other than those permitted by these rules may constitute a violation of the gambling laws of the State of Oregon.

(3) **Director’s Decisions:** All decisions of the Director regarding Lottery games are final.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
 Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08

DIVISION 50

SCRATCH-IT TICKET GAME OPERATING RULES

177-050-0002

Definitions

For the purposes of Division 50, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) **“Pack”** means a book of shrink-wrapped Scratch-itSM game tickets which may or may not be attached to each other by perforations.

(2) **“Pack-Ticket Number”** means the uncovered number printed on a Scratch-itSM ticket which consists of a game number, a unique pack identification number, and a ticket number.

(3) **“Play Symbols”** mean the figures printed under each of the rub-off spots on the playing surface of a Scratch-itSM ticket.

(4) **“Play Symbol Caption”** means the material printed below each play symbol on a Scratch-itSM ticket which repeats or explains the play symbol. Only one play symbol caption is printed under each play symbol.

(5) **“Retailer Validation Code”** means the small letters found under the removable rub-off latex that covers the play symbols on the playing surface of a Scratch-itSM ticket. The letters appear in varying locations beneath the removable rub-off latex and among the play symbols.

(6) **“Scratch-itSM”** means a game in which winning tickets are produced at the time of manufacture with the aid of equipment, and the winning tickets are identified after purchase by scanning the bar code or manually entering the bar code number printed on each ticket with equipment provided by the Lottery. A Scratch-itSM game ticket offers a player the opportunity to remove a latex covering on the playing surface of a ticket and play the Scratch-itSM ticket for entertainment purposes.

(7) **“Ticket Validation Number”** means the unique number covered by latex on the playing surface of a Scratch-itSM ticket.

(8) **“Void if Removed Number”** (VIRN) means the series of digits on a Scratch-itSM ticket covered with latex which is used in the validation process.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.010
 Hist.: LC 7-1987, f. & ef. 4-29-87; LC 13-1987(Temp), f. & ef. 7-27-87; LC 15-1987, f. 8-24-87, ef. 9-1-87; LC 4-1988, f. & cert. ef. 1-26-88; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08

177-050-0020

Scratch-It Ticket Price

The price of a Scratch-itSM ticket shall be at least \$1, except to the extent of any discounts authorized by the Commission.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.240
 Hist.: SLC 4-1985(Temp), f. & ef. 1-29-85; SLC 8-1985, f. & ef. 6-21-85; LC 7-1987, f. & ef. 4-29-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08

177-050-0024

Method of Determining Winners

(1) **General:** Winning tickets in a Scratch-itSM game are determined at the time of manufacture when winning tickets are produced at random with the aid of equipment in accordance with the payout percentage and prize structure established for the game.

(2) **Determination of a Winning Ticket:** To determine a winning ticket, the official bar code or bar code number printed on the ticket must be scanned or manually entered either at the Lottery’s Headquarters in Salem or at a retail site by a Lottery retailer into equipment connected to the Lottery’s central computer system. If the ticket is a winner, Lottery’s computer system will identify it as such based upon the official bar code or bar code number. Removing the latex covering on the playing surface of the ticket does not identify a winning ticket. The latex covering feature is offered for entertainment purposes only. The ticket holder must notify the Lottery or a retailer of the apparent winning ticket and submit it for validation as specified in these rules in order to claim a prize. The ticket must be validated in accordance with Lottery’s administrative rules as may be amended from time to time before a prize may be paid.

(3) **Highest Prize:** Only the highest prize amount will be paid on a given Scratch-itSM ticket, except for games which are designed to offer multiple prizes. In all events, the determination of prize winners is subject to the general ticket validation requirements set forth in OAR 177-050-0027 and any additional requirements set forth on each Scratch-itSM ticket. If the terms on a ticket conflict with the Lottery’s administrative rules, then the rules are the controlling authority.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.250
 Hist.: LC 7-1987, f. & ef. 4-29-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 8-1990(Temp), f. & cert. ef. 6-26-90; LC 11-1990, f. & cert. ef. 8-21-90; LC 6-1993, f. & cert. ef. 7-1-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08

177-050-0025

Payment of Prizes

(1) **Prizes of \$600 or Less:** Scratch-itSM ticket prizes of \$600 or less shall be claimed by one of the following methods:

(a) **Retailer Prize Payment:** The player may present the Scratch-itSM ticket to a Lottery retailer. The retailer shall determine whether a ticket entitles the holder to a prize, validate the claim with the Lottery by scanning the bar code or manually entering the bar code number printed on the ticket into equipment provided by the Lottery, and, if authorized by the Lottery, pay the player the prize amount due. A retailer that is authorized to pay a prize of \$600 or less shall pay that prize in cash or by check, or any combination thereof.

(b) **Lottery Prize Payment:** The player may submit a winning ticket in person to the Oregon State Lottery, Player Services Office, 500 Airport Road SE, Salem, Oregon. A winning ticket may be submitted to the Lottery by mail. If mailed, the player must sign the ticket in the designated area on the ticket, write the player's mailing address in the place indicated on the ticket, and mail it to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended. Upon validation of a winning ticket under OAR 177-050-0027, the Lottery will pay the amount of the prize to the player, less any applicable tax withholding. Payment may be made by check or in cash, or a combination thereof. Cash prize payments are limited to \$50 per person per day. Payment may be made in person or by mail, except that the Lottery will not mail cash. If the ticket is determined to be invalid or a non-winning ticket or the claim is invalid, the claim shall be denied and the player notified.

(2) **Prizes Greater than \$600:** A player must claim a Scratch-itSM ticket prize of more than \$600 by:

(a) **Claiming in Person:** Bringing the ticket to the Oregon State Lottery, Player Services Office, 500 Airport Road SE, Salem, Oregon during Lottery business hours and presenting the ticket to the Lottery; or

(b) **Claiming by Mail:** Signing the ticket in the designated area on the ticket, writing the player's mailing address on the ticket in the place indicated on the ticket, completing a winner claim form, and mailing it together with the winning ticket to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended. The winner claim form may be obtained from any Lottery retailer offering traditional games or from the Lottery at the addresses listed above.

(c) **Lottery Prize Payment:** Upon validation of a winning ticket under OAR 177-050-0027, the Lottery will pay by check the amount of the prize to the player, less any applicable tax withholding. If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the player notified.

(3) **Validation and Payment of Lost, Damaged, or Destroyed Tickets for Prizes Greater than \$600:** If a player of a Scratch-itSM prize of more than \$600 cannot submit an intact winning ticket because a Scratch-itSM game retailer lost, damaged, or destroyed the ticket while attempting to perform validation procedures on the game ticket, a prize claim based on the lost, damaged, or destroyed ticket may still be validated provided the claim is made before the end of the one year claim period after the end of the game as described in OAR 177-046-0150(1).

(a) **Player Form and Affidavit:** To claim a prize based on a lost, damaged, or destroyed ticket, the player must obtain, complete, and sign a winner claim form and a claim affidavit furnished by the Lottery. The player shall submit the two completed forms along with any other evidence of the validation attempt that is in the player's possession (including, but not limited to, the "This is not a Ticket" slip produced by the terminal at the time of the validation attempt) to the Lottery at the addresses listed in section (1)(b) of this rule, either by mail (registered mail recommended) or in person at the Lottery's Headquarters in Salem during Lottery business hours.

(b) **Evidence:** The evidence submitted by the player must corroborate the validation attempt including, but not limited to, identification of the Lottery game retailer or clerk who attempted to validate

the prize, the time and date of the validation attempt, the ticket validation number, the terminal number, and the prize amount.

(c) **Investigation:** The Assistant Director for Security will conduct an investigation to determine if the claim and winning game ticket are valid.

(d) **Retailer Affidavit:** A retailer who is the subject of an investigation conducted under this section must complete and provide to the Lottery a retailer affidavit form explaining the events in question.

(e) **Director's Determination:** Based upon all the facts and information available, the Director shall make a determination whether prize payment is warranted and authorized.

(f) **Payment of Prize:** Upon the Director's determination that the ticket submitted under this section is a valid, winning ticket, and that the player is the proper person to whom a prize is payable, the Lottery shall present or mail a check to the player in payment of the appropriate prize amount less any applicable tax withholding.

(g) **Restriction of Payment:** Payments of claims submitted under this section are restricted to the prize amount.

(h) **Retailer Sanctions:** The Director may sanction a Lottery game retailer for the loss, damage, or destruction of a winning Scratch-itSM game ticket including, but not limited to, imposing a requirement for training for the retailer or the retailer's employees, and any other actions that the Lottery may take in response to a retailer's failure to perform contract duties or requirements as described in the Lottery retailer contract.

(i) **Notification of Denial:** If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the player notified.

(4) **Time Limit:** A prize claim must be made under this rule within the time limit specified in OAR 177-046-0150(1).

(5) **Invalid Tickets:** Any ticket not passing all applicable validation checks is invalid and void for claims made under OAR 177-050-0025(3). A player submitting an invalid or void ticket is ineligible for any prize and no prize shall be paid for such a ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.250
 Hist.: SLC 4-1985(Temp), f. & ef. 1-29-85; SLC 8-1985, f. & ef. 6-21-85; SLC 4-1986, f. & ef. 2-25-86; SLC 27-1986, f. & ef. 11-24-86; LC 7-1987, f. & ef. 4-29-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 8-1993, f. 9-22-93, cert. ef. 10-18-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08

177-050-0027

Ticket Validation Requirements

(1) General: Besides meeting all of the other requirements in OAR Chapter 177 and as may be printed on each ticket, the following validation requirements apply to Scratch-itSM game tickets.

(2) Requirements: Except as provided in section (3) of this rule and OAR 177-050-0025(3), to be a valid Scratch-itSM game ticket, all of the following requirements must be met:

(a) **Play Symbols:** Where applicable, each of the play symbols must have a play symbol caption underneath, and each play symbol must agree with its play symbol caption.

(b) **Legibility:** Where applicable, each of the play symbols and play symbol captions must be present in its entirety and be legible.

(c) **Specifications:** Each of the play symbols and its play symbol caption must be printed according to game specifications.

(d) **Completeness of Information:** The game number, pack number, ticket number, bar code, bar code number, and VIRN number must be present and all information must correspond with the Lottery's computer records.

(e) **Printing Order:** The play symbols, play symbol captions, game number, pack-ticket number, and VIRN number must be right-side-up and not reversed in any manner.

(f) **Pack-Ticket Number:** The ticket must have exactly one pack-ticket number.

(g) **VIRN:** The VIRN number of an apparent high-tier winning ticket must appear on the Lottery's official record of winning ticket VIRN numbers, and a ticket with that VIRN number must not have been paid previously.

(h) **Artwork:** Each of the following must correspond to the artwork on file at the Lottery: Play symbols on the ticket, play symbol captions, pack-ticket numbers, display printing, game numbers, retailer validation code, and ticket VIRN number.

(i) Multi-Page Tickets: In the case of Scratch-itSM tickets consisting of multiple pages designed to remain intact, the individual pages must not be detached from each other. Such separated multi-page tickets will be considered damaged tickets.

(3) Lost, Damaged, or Destroyed Tickets for Prizes Greater than \$600: If a player of a Scratch-itSM prize of more than \$600 cannot submit an intact winning ticket because a Scratch-itSM game retailer lost, damaged, or destroyed the ticket while attempting to perform validation procedures on the game ticket, a prize claim based on the lost, damaged, or destroyed ticket may still be validated as set forth in OAR 177-050-0025(3), provided the claim is made before the end of the one year claim period after the end of the game as described in OAR 177-046-0150(1).

(a) Payment Process: When a prize payment is authorized by the Director under this section, the prize payment shall be validated as set forth in OAR 177-050-0025(3).

(b) Payment Restriction: Payments of prize claims submitted under this section are restricted to the prize amount.

(4) Damaged Tickets: Notwithstanding OAR 177-046-0090 and section (2) of this rule, the Director may pay the prize on a winning Scratch-itSM ticket that is inadvertently or accidentally damaged so that it cannot be validated either through the Lottery's central computer system or because it is missing information required under section (2) of this rule, if the ticket is readable and is validated as a winning ticket by the Lottery's Security Section. For purposes of this rule, a Scratch-itSM ticket is unreadable if there is insufficient information remaining on the ticket for the Lottery's Security Section to reconstruct and validate the ticket.

(a) Validation Process: When a prize payment is authorized by the Director under this section, the prize payment shall be validated as follows:

(A) Evidence: The player shall obtain, complete, and sign a winner claim form and a claim affidavit furnished by the Lottery. The player shall submit the two completed forms along with the damaged ticket, (including, but not limited to, all pages of a game book in the player's possession) to the Lottery at the addresses listed in section OAR 177-050-0025(1)(b), either by mail (registered mail is recommended) or in person at the Lottery's Headquarters in Salem during Lottery business hours.

(B) Investigation: The Assistant Director for Security will conduct an investigation to determine if the claim and winning game ticket are valid.

(C) Director's Determination: Based upon all the facts and information available, the Director shall make a determination whether prize payment is warranted and authorized. The Director may require that such determination be made on the last day of the one year claim period following the end of the game, as described in OAR 177-046-0150(1). If the prize claim period expires on a weekend or on a holiday when the Lottery is closed, the claim period will be extended to end at the close of the next Lottery business day. Following validation, the Lottery shall issue the prize payment in the usual course of Lottery business.

(D) Payment of Prize: Upon the Director's determination that the ticket submitted under this section is a valid, winning ticket, and that the player is the proper person to whom a prize is payable, the Lottery shall present or mail a check to the player in payment of the appropriate prize amount less any applicable tax withholding.

(E) Notification of Denial: If the ticket is determined to be invalid or a non-winning ticket or the claim is invalid, the claim shall be denied and the player notified.

(b) Payment Restriction: Payment of a prize claim submitted under this section is restricted to the prize amount less any applicable tax withholding.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.250
 Hist.: LC 7-1987, f. & ef. 4-29-87; LC 4-1988, f. & cert. ef. 1-26-88; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. e.f. 7-2-93; LC 7-1995, f. & cert. ef. 7-7-95; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LC 1-1997, f. 1-31-97, cert. ef. 2-1-97; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 13-2004(Temp), f. & cert. ef. 11-29-04 thru 5-27-05; LOTT 3-2005, f. 4-27-05, cert. ef. 4-28-05; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08

177-050-0037

Stolen, Destroyed, and Damaged Scratch-It Tickets

(1) Defective, Damaged, or Destroyed Tickets: A Lottery retailer will not be billed for non-activated Scratch-itSM tickets that are defective, damaged, or destroyed, or the Lottery may credit a retailer's EFT account for activated Scratch-itSM tickets that are defective, damaged, or destroyed, under the following conditions:

(a) Manufacturing Defect: The defect is a result of a manufacturing error or damage during shipment; or

(b) Reasonable Control: The damage or destruction is due to circumstances beyond the retailer's reasonable control, such as a structure fire, flood, or other natural disaster; and

(c) Time Limitation: Damaged or defective Scratch-itSM tickets are returned to the Lottery within 30 days of discovering the damage or defect. When the Scratch-itSM tickets cannot be returned because they are completely destroyed or damaged beyond recognition, within 30 days of when the tickets were destroyed or damaged the retailer must submit, on a form provided by the Lottery, a signed and notarized affidavit which describes the circumstances of how the Scratch-itSM tickets were destroyed or damaged. The Lottery's Finance and Accounting department will review inventory and sales records and confirm the value of the destroyed or damaged Scratch-itSM tickets.

(d) Director's Approval: Credit for defective, damaged, or destroyed Scratch-itSM tickets may be given only upon approval of the Director.

(2) Theft of Activated Tickets: The Lottery may credit a retailer's EFT account for one-half of the uninsured loss of activated Scratch-itSM tickets that are stolen from the retailer's premises subject to the following:

(a) Loss Amount: The theft results in a loss of \$200 or more of activated Scratch-itSM tickets.

(b) Security Measures: The retailer has in place and was using at the time of the theft, reasonable security measures to prevent the theft of Scratch-itSM tickets. The Director will, in the Director's sole discretion, determine if a retailer was using reasonable security measures at the time of the theft. For purposes of this rule, "reasonable security measures" means that at a minimum, the retailer:

(A) Approved Dispensers: Keeps Lottery Scratch-itSM tickets in Lottery approved dispensers, ITVMs, or stored in a locked container inaccessible to customers and unauthorized employees if the tickets are not yet being offered for sale;

(B) Inventory Control Process: Has an inventory control process in place, including adequate record keeping, Scratch-itSM ticket access controls, and ticket activation controls; and

(C) Accounting Procedures: Uses accounting or bookkeeping procedures that alert the retailer to the theft of activated Scratch-itSM tickets within seven business days of the theft.

(c) Reporting Requirements: The retailer must:

(A) Report the theft to a local law enforcement agency and to the Lottery within 48 hours of discovering the theft. The report must include the game, pack, and Scratch-itSM ticket numbers of the stolen tickets; and

(B) Submit to the Lottery a copy of a police report showing the theft was reported to the local law enforcement agency.

(d) Retailer Affidavit: The retailer must submit to the Lottery, on an affidavit form provided by the Lottery, a signed and notarized statement:

(A) Describing the circumstances of the theft, the game, pack, and Scratch-ItSM ticket numbers of the stolen tickets, the total loss claimed, and a statement whether the retailer is self-insured or is covered by third-party insurance; and

(B) The retailer must attach to the statement a copy of any documents substantiating the theft or loss, including, but not limited to, any inventory control records related to the stolen tickets and any financial records showing the monetary loss.

(e) Third Party Insurance: If the loss is fully covered by third-party insurance, the retailer is not eligible to receive a credit for the stolen tickets. If the loss is not entirely covered by third-party insurance, then the retailer may receive a credit for one-half of the balance of the loss if the retailer provides a letter from the insurance company setting forth the amount of loss claimed by the retailer and the amount paid to the retailer by the insurance company. The retailer must provide any other information needed by the Lottery to determine the

amount of insurance coverage and the amount paid to the retailer for the loss.

(f) Cooperation: The retailer must fully cooperate with the Lottery and provide any documents or information requested. The retailer must cooperate fully in the prosecution of any criminal case resulting from the theft of the tickets or in any civil lawsuit for recovery of the amount of the loss paid to the retailer by the Lottery under this rule.

(g) Restitution from Criminal Prosecution of Judgment in Civil Action: The Director will not credit the retailer's EFT account for any amount of the loss that a court orders repaid as restitution or that is awarded to the retailer in a civil judgment or settlement. The Director may delay crediting the retailer for the loss claimed until criminal proceedings related to the theft of the tickets are concluded. The Lottery may recover from the retailer any amount ordered as restitution in a criminal case or received by the retailer pursuant to a civil judgment or settlement agreement.

(h) Employee Theft: In no event will the Director authorize credit to a retailer when the retailer is the victim of employee theft.

(i) Time Limitation: Notwithstanding the 48-hour reporting requirement of subsection (c) of this section, the Director may authorize a credit upon a showing that the failure to timely report was beyond the retailer's reasonable control. In no event will a retailer receive a credit for a theft that occurred more than 30 days prior to the date that the retailer reported the theft to the Lottery and the local law enforcement agency as set forth in subsection (b) of this section.

(j) Limit on Credit Amount: In no event may a retailer receive credit for a loss resulting from theft in an amount greater than \$2500 during the term of the retailer contract.

(3) Theft of Non-Activated Tickets: The Lottery will not bill a retailer for Scratch-itSM tickets received but not activated that are stolen from the retailer's premise if the theft results in the loss of \$200 or more of non-active Scratch-itSM tickets and the retailer complies with the requirements of subsections (2)(b) through (2)(h) of this rule. The limitations set forth in subsections (2)(g) through (2)(j) of this rule apply to the theft of non-activated Scratch-itSM tickets.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 2-1991, f. & cert. ef. 7-24-91; LC 6-1993, f. & cert. ef. 7-2-93; LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LC 13-1996, f. & cert. ef. 12-27-96; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 19-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08

**177-050-0070
 Confidentiality of Scratch-It Tickets**

Except when playing a ticket that the retailer or its employees or agents have purchased as a consumer, no retailer or its employees or agents shall attempt to ascertain the numbers or symbols appearing in the designated areas under the removable latex coverings or otherwise attempt to identify winning Scratch-itSM tickets.

Stat. Auth.: ORS 461
 Stats. Implemented: ORS 461.210
 Hist.: SLC 4-1985(Temp), f. & ef. 1-29-85; SLC 8-1985, f. & ef. 6-21-85; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08

DIVISION 51

LOTTERY PROMOTIONS AND GIVEAWAYS

**177-051-0000
 Purpose**

The purpose of this Division of OAR chapter 177 is to authorize and set forth the provisions for promotions and giveaways that the Oregon Lottery may conduct from time to time. The rules in this Division do not apply to promotions conducted by Lottery retailers or incentive programs that the Lottery may conduct for Lottery retailers.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.200
 Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

**177-051-0010
 Definitions**

For purposes of division 51, the following definitions apply except as otherwise specifically provided in OAR chapter 177, or unless the context requires otherwise:

(1) "Drawing" means a certain type of promotion in which the Lottery randomly selects a winner from among entrants in order to award a prize to the person whose entry is selected.

(2) "Entry requirements" means the additional instructions that specify how to enter a specific promotion, which the Lottery makes available at the website or other points of entry.

(3) "Electronic entry" means an entry in a promotion that is submitted using a computer and connecting to a website through the Internet.

(4) "Giveaway" means an item given by the Lottery to a person as a means of promoting the Lottery.

(5) "Promotion" means an activity involving the distribution of prizes among individuals that directly or indirectly promotes the sale of Lottery tickets or shares. A promotion includes, but is not limited to, drawings and second chance drawings.

(6) "Second chance drawing" means a promotion conducted by the Lottery in which an entrant must possess a non-winning Oregon Lottery ticket from a Lottery game identified by the Lottery in the entry requirements.

(7) "Website" means the Oregon Lottery's Internet address at www.oregonlottery.org, or any other website that may be specified by the Lottery.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.200
 Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

**177-051-0020
 Giveaways**

From time to time, the Lottery may provide giveaways to members of the public that do not require a prior purchase. A person may be required to provide information or engage in a promotional activity to receive a giveaway. No person may claim a right to receive a giveaway item.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.200
 Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

**177-051-0030
 Promotions**

From time to time, the Lottery may conduct promotions that involve the distribution of prizes among individuals that directly or indirectly promote the sale of Lottery tickets or shares. The Lottery also may conduct second chance drawings that require a prior purchase from the Lottery by an entrant. The Lottery may also conduct drawings that require no prior purchase from the Lottery by an entrant.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.200
 Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

**177-051-0040
 Eligibility**

(1) Requirements: To be eligible to win a prize in a Lottery promotion, a person must meet the following requirements:

(a) Be present in Oregon at the time of entry in the promotion if it is a second chance drawing;

(b) Be a natural person 18 years of age or older, unless a specific promotion requires the entrant to be 21 years of age or older;

(c) Must not be:

(A) An employee or representative of the Oregon State Lottery, or the spouse, child, brother, sister, or parent of any such employee or representative;

(B) An employee or representative of the Oregon State Police, Gaming Enforcement Division; or

(C) A Lottery vendor who is prohibited by contract with the Lottery from participating in the promotion or is prohibited from playing Oregon Lottery games.

(d) Submit an entry with the required information provided accurately in all blanks on the form whether manually or electronically. Illegible entries are not valid. All entry forms must be submitted by the deadline specified in the promotion.

(2) Disqualification: If at any time the Lottery determines that a person who submitted an entry in a promotion does not meet the requirements listed above, that person is disqualified. If the Lottery determines that a person is disqualified before any drawing is held, any

entries submitted by that person are void and shall be removed from the drawing or disregarded. A person who receives a prize in a promotion, and is later disqualified, forfeits any prize won in that promotion.

(3) Multiple Names: Each entry must contain only one entrant's name. An entry with multiple names on it is not valid.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

**177-051-0050
Promotion Entries**

(1) Entry Instructions: A player may enter certain promotions by following the instructions in the entry requirements provided for that promotion. This may include, but is not limited to, using the website, mailing an entry, or delivering an entry to the Lottery headquarters in Salem, Oregon, or another location as specified by the Lottery in the entry requirements. Entries must be received by the Lottery before the deadline specified in the entry requirements.

(2) Miscellaneous: All entries submitted to the Lottery become the property of the Lottery. Entries will not be returned to entrants. Entries submitted for one promotion will not be entered into any other promotion by the Lottery.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

**177-051-0060
Internet Entries**

(1) Internet Entry: In addition to the requirements of OAR 177-051-0040 and 177-051-0050, a player may enter certain promotions by visiting the website and completing and submitting an electronic entry for any promotion that may be offered electronically at that time. To be eligible to win a prize in a promotion done through the Internet, a person must be an Oregon resident. An electronic entry may require the entrant's:

- (a) Name;
- (b) Address;
- (c) Telephone number (if available);
- (d) Date of birth;

(e) Specific promotions may require that the entrant complete a questionnaire, and/or provide identifying information from a specified non-winning ticket to enter the promotion; and

(f) Any additional information as required by the Lottery to enter the promotion.

(2) Disputes: In case of a dispute as to the identity of a prize winner, the Lottery will deem an electronic entry to have been submitted by the person whose name appears on the electronic entry and who is able to present valid proof of identity that confirms the person's entry information.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

**177-051-0070
Mail or Walk-In Entries**

(1) Mail Entries: Unless specified otherwise in the entry requirements, a person may enter certain promotions by mailing an entry to the Oregon Lottery at the address specified in the entry requirements. The entry requirements may specify the format required for mailed entries to be eligible such as using a postcard or a business envelope. Each entry must include any information requested in the entry requirements. The entry must be received by the deadline for the promotion as specified by the Lottery. The Lottery will not accept postage due entries.

(2) Walk-In Entries: Unless specified otherwise in the entry requirements, a person may enter certain promotions by delivering an entry to the Oregon Lottery, 500 Airport Road SE, Salem, Oregon during the Lottery's business hours, Monday through Friday, 8:00 am to 5:00 pm PST, excluding observed holidays. Each entry must include any information requested in the entry requirements. The entry must be received by the deadline for the promotion as specified by the Lottery.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

**177-051-0080
Additional Requirements**

(1) Second Chance Drawings in which a Ticket Must be Presented to Claim a Prize: If the Oregon Lottery conducts a second chance drawing which does not require that a non-winning Lottery ticket be submitted with the entry, an entrant must retain the original, non-winning ticket used to enter the promotion. If the ticket is included with the entry, the entry is void.

(a) An entrant must not mail or deliver the non-winning ticket to the Oregon Lottery before receiving notification that the entrant is a winner. If selected as a winner, the entrant must present the Lottery with the original, non-winning ticket that includes the matching ticket identification number on the winning entry to receive a prize.

(b) The ticket identification number from a non-winning ticket shall only be used once by the person possessing that ticket. Any other entry by the same person, or a third party, using a duplicate number, is ineligible.

(2) Second Chance Drawings that Require a Ticket be Included with the Entry: The Lottery may conduct promotions that require the entrant to mail a non-winning Lottery ticket to the Lottery with the entry form as a condition of entry in the promotion.

(3) Limits on Entries: Unless a promotion provides otherwise, a person may enter a promotion as many times as desired, but each entry must be separately submitted.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

**177-051-0090
Prizes and Odds of Winning**

(1) General: Prizes that will be awarded in a promotion will be identified on the website during the promotion or listed in the entry requirements.

(2) Motor Vehicles: If the prize is a motor vehicle, the Oregon Lottery may pay the initial license, title, and registration fees. Insurance, service contracts, and any other costs are the responsibility of the winner.

(3) Travel: If a prize involves travel, the Oregon Lottery shall pay applicable airfare and basic hotel lodging, and may provide a stipend for expenses. Unless otherwise specified in writing for a specific promotion, the Lottery will not pay any additional fees or expenses including, but not limited to, hotel taxes or fees, travel agent fees, or any other taxes, fees, or expenses that the winner may incur.

(4) Odds: The odds of winning a prize in a promotional drawing depend on the number of eligible entries received by the applicable deadline.

(5) Not Transferable: Prizes are not transferable. A prize winner may not assign the right to receive a prize. The Lottery will not make substitutions at the request of a winner.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

**177-051-0100
Selection of Winners**

(1) Winners in certain promotions will be determined by random selection as stated in the entry requirements or on the website. Selection of winners will take place at the Lottery headquarters in Salem, Oregon or at any other location selected by the Lottery. Any drawing will be held within a reasonable time after the Lottery's deadline for entries in a promotion. The date and time of a drawing will be identified on the website or listed in the entry requirements.

(2) Lottery personnel will conduct drawings manually, or use a random number generator, or any other selection procedure that ensures random selection of winners.

(3) Winners in certain promotions that may involve an exhibition of skill will be determined by the Lottery. The Lottery shall verify the occurrence of any event used as the basis for selecting such winners.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200

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Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0110

Notification of Winners and Award of Prizes

(1) **Top Prize:** The Lottery will notify a top prize or grand prize winner of the prize by e-mail or telephone, and by certified mail. The effective date of notification is the date the certified mail is sent by the Lottery to the winner.

(2) **Other Prizes:** The Lottery will notify other prize winners by e-mail, telephone, or certified mail. Notice is effective upon transmission of the e-mail, contact through telephone, or deposit in the U.S. mail.

(3) **Time Limits:** The Lottery will advise each winner of any time limitation in which the winner has to respond to the notification and claim the prize.

(4) **Alternate Winners:** If a top prize or grand prize winner is determined by the Lottery to be ineligible or the winner fails to respond within the time limitation set by the Lottery, the Lottery will notify an alternate winner. This practice will continue until the list of entrants is exhausted or an eligible winner responds or the prize expires.

(5) **Forfeit Prizes:** If any other prize winner is ineligible or fails to respond to the notification within the time limitation set by the Lottery, the prize is forfeited and will not be awarded to entrants in that promotion.

(6) **Affidavit:** As a condition of receiving any prize, the Lottery may require each winner to execute a prize claim form and an affidavit of eligibility.

(7) **Identification:** The Lottery may require that all prizes be claimed in person. The Lottery may require that a prize winner present valid proof of identity that confirms the person's entry information. If it does not, the person is ineligible to receive a prize.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.200

Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0120

Limitation of Liability

(1) The State of Oregon, its agents, officers, and employees, and the Oregon State Lottery Commission, its agents, officers, and employees, are not liable for any late, lost, misrouted, garbled, distorted, or damaged entries or transmissions, any telephone, electronic, hardware, software, network, Internet, or other computer, or communications-related malfunctions or failures, any promotion disruptions, any printing or typographical errors in any materials associated with a promotion, any entries lost in the mail or delivered elsewhere, or other injuries, losses, or damages arising from, related to, or caused by a promotion, or any claims arising from or related to the acceptance, possession, or use of any prize.

(2) Participation in a promotion is voluntary. Promotions that require entrants to compete with other entrants, play games, or complete tasks, or any similar activities carry a risk of personal injury or death. Participation is at the entrant's own risk. The State of Oregon, its agents, officers, and employees and the Oregon State Lottery Commission, its agents, officers, and employees, are not liable for any personal injury, loss, or consequential damage arising from, related to or caused by an entrant's participation in a promotional activity.

(3) In the event an entrant disagrees with the Lottery's determination as to the amount or nature of a prize, the validity of an entry, whether an entry is a winner, whether it was submitted in error, or whether an entrant has won a prize, the Lottery shall provide the person with the opportunity to enter another promotion, or shall provide the person a ticket or share from any current Lottery game. This is the person's sole and exclusive remedy.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.200

Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0130

Miscellaneous

(1) The decisions of the Director, including, but not limited to, the amount or nature of a prize, the validity of an entry, whether an

entry is a winner, whether it was submitted in error, and whether an entrant has won a prize, are final.

(2) The Director may cancel or postpone any promotion at any time in the exercise of the Director's sole discretion. The Lottery shall provide notice on the website or at the point of entry for the promotion when a promotion is cancelled or postponed.

(3) In the event of a conflict between the provisions contained in the rules in this Division and any entry requirements, the provisions of these rules control.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.200

Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

DIVISION 65

BREAKOPEN GAMES

177-065-0005

Definitions

For the purposes of division 65, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) "Breakopen," or "Breakopen share" means a single card, the face of which is initially covered or otherwise hidden from view to conceal a number or series of numbers, symbol or set of symbols, or other patterns, a few of which numbers, symbols, or patterns have been designated in advance as prize winners.

(2) "Breakopen dispensing device" means a clear container or any coin or currency operated mechanical or electro mechanical device that a retailer uses for dispensing Breakopen shares to the public, upon payment of the appropriate purchase price.

(3) "Breakopen game" means a category of Breakopen packs that have in common the same unique game number, game theme and name, odds, prize structure, and payout rate.

(4) "Breakopen pack" means a sealed box containing a predetermined number of Breakopen shares which are then sold individually to Lottery players by a retailer.

(5) "Breakopen Prize Flare" or "Prize Flare" means a poster describing the contents of a Breakopen pack including: the numbers, symbols or patterns which win a prize; a tabulation of the number of prizes of each prize denomination; the odds of winning such prizes; and the number of Breakopen shares contained in the Breakopen pack.

(6) "Sight validation" means a printed feature on a Breakopen share used by a retailer to visually inspect a winning Breakopen share to verify the winning combination of numbers, symbols or patterns, and the prize amount.

(7) "Share verification card" means a printed card unique to and provided with each Breakopen pack which serves as an additional means of verifying a winning Breakopen share with a prize of \$5.00 or more by providing a serialized cross-reference.

(8) "Breakopen vendor" means any person who produces and provides Breakopen games to the Lottery.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.210

Hist.: LC 14-1987(Temp), f. & ef. 7-27-87; LC 16-1987, f. 8-24-87, ef. 9-1-87; LC 12-1989(Temp), f. & cert. ef. 7-17-89; LC 15-1989, f. & cert. ef. 8-28-89; LOTT 6-1999, f. & cert. ef. 5-27-99; LOTT 14-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 25-2002, f. & cert. ef. 11-25-02

177-065-0015

Breakopen Game Special Inspection

(1) The Director has the authority to select, remove from a retail sale environment, and examine any Breakopen pack or Breakopen packs to evaluate the quality and/or integrity of a Breakopen game or Breakopen pack. If the Director permanently withdraws from sale a Breakopen pack in which the Lottery finds no alteration, deceptive condition, or other violation attributed to the retailer, then the retailer shall either:

(a) receive a new sealed Breakopen pack;

(b) be credited by the Lottery for the cost to the retailer of the Breakopen pack if the original factory seal was intact when removed by the Director; or

(c) receive credit for a pro rata portion of the retailer's cost for the Breakopen pack based upon the remaining unsold Breakopen shares in the selected Breakopen pack.

(2) The permanently withdrawn Breakopen pack becomes the property of the Lottery. Whether the retailer receives credit or a replacement Breakopen pack is at the discretion of the Director.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 14-1987(Temp), f. & ef. 7-27-87; LC 16-1987, f. 8-24-87, ef. 9-1-87; LC 9-1989, f. & cert. ef. 4-25-89; LC 12-1989(Temp), f. & cert. ef. 7-17-89; LC 15-1989, f. & cert. ef. 8-28-89; LOTT 6-1999, f. & cert. ef. 5-27-99; LOTT 14-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 25-2002, f. & cert. ef. 11-25-02

**177-065-0020
 Limitations on the Sale of Breakopen Games**

(1) No retailer is permitted to display or sell any Breakopen share which may have been in any manner marked, defaced, or tampered with or otherwise placed in a condition that may deceive the public or affect the chances of winning the prizes associated with the Breakopen pack.

(2) A retailer is prohibited from selling Breakopen shares using any method other than fair chance or in any manner contrary to the principle that every share has an equal and random chance of winning a prize.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 14-1987(Temp), f. & ef. 7-27-87; LC 16-1987, f. 8-24-87, ef. 9-1-87; LC 12-1989(Temp), f. & cert. ef. 7-17-89; LC 15-1989, f. & cert. ef. 8-28-89; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 6-1999, f. & cert. ef. 5-27-99; LOTT 14-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 25-2002, f. & cert. ef. 11-25-02

**177-065-0025
 Breakopen Game Price**

The price of a Breakopen share is \$0.25, \$0.50, or \$1.00, or such other price approved by the Director and marked on the individual share.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 14-1987(Temp), f. & ef. 7-27-87; LC 16-1987, f. 8-24-87, ef. 9-1-87; LC 24-1987(Temp), f. & cert. ef. 12-22-87; LC 8-1988, f. & cert. ef. 2-23-88; LC 12-1989(Temp), f. & cert. ef. 7-17-89; LC 15-1989, f. & cert. ef. 8-28-89; LC 4-1990, f. & cert. ef. 4-3-90; LOTT 6-1999, f. & cert. ef. 5-27-99; LOTT 14-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 25-2002, f. & cert. ef. 11-25-02

**177-065-0030
 Determination of Winners and Payment of Prizes**

(1) Whether a Breakopen share is a winner, and the prize value for which such a Breakopen share may be claimed pursuant to OAR 177-065-0035, is determined in one of two ways:

(a) An individual may compare the numbers, symbols or patterns on a Breakopen share with the winning numbers, symbols or patterns displayed on a prize flare; or

(b) A retailer may compare a Breakopen share to the sight validation and/or share verification card.

(c) In the event that the methodologies specified in subsection (1)(a) and (1)(b) above produce conflicting results, the results of the methodology specified in subsection (1)(b) is controlling.

(2) A retailer shall pay all Breakopen game prizes for winning Breakopen shares validated pursuant to subsection (3). All Breakopen game prizes shall be paid by the retailer in cash or check, or any combination thereof.

(3) A retailer shall ensure the validity of an apparent winning Breakopen share by visually inspecting the Breakopen share using the sight validation feature, and by comparing the Breakopen share to the share verification card for Breakopen prizes of \$5.00 or more.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 14-1987(Temp), f. & ef. 7-27-87; LC 16-1987, f. 8-24-87, ef. 9-1-87; LC 24-1987(Temp), f. & cert. ef. 12-22-87; LC 8-1988, f. & cert. ef. 2-23-88; LC 12-1989(Temp), f. & cert. ef. 7-17-89; LC 15-1989, f. & cert. ef. 8-28-89; LC 6-1991, f. & cert. ef. 9-25-91; LC 7-1992, f. & cert. ef. 7-23-92; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 6-1999, f. & cert. ef. 5-27-99; LOTT 14-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 25-2002, f. & cert. ef. 11-25-02

**177-065-0035
 Claiming of Prizes**

(1) Breakopen prizes must be redeemed on the day of purchase at the location where the winning share was purchased.

(2) A retailer shall prominently display a sign which informs the public that all Breakopen shares purchased at the retailer's location must be redeemed at the retailer's location on the day of purchase.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 14-1987(Temp), f. & ef. 7-27-87; LC 16-1987, f. 8-24-87, ef. 9-1-87; LC 24-1987(Temp), f. & cert. ef. 12-22-87; LC 8-1988, f. & cert. ef. 2-23-88; LC 29-1988, f. & cert. ef. 11-29-88; LC 12-1989(Temp), f. & cert. ef. 7-17-89; LC 15-1989, f. & cert. ef. 8-28-89; LC 4-1990, f. & cert. ef. 4-3-90; LOTT 6-1999, f. & cert. ef. 5-27-99; LOTT 14-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 25-2002, f. & cert. ef. 11-25-02

**177-065-0040
 Limitation on Breakopen Dispensing Devices**

(1) Any Breakopen dispensing device must allow the public to clearly see that Breakopen shares are available within the device. Any container or device that attempts to reveal the uncovered play symbols of a Breakopen share that is being dispensed to a player shall not be a Breakopen dispensing device.

(2) A retailer must use a Breakopen dispensing device to dispense Breakopen shares to the public and shall use a Breakopen dispensing device solely for this purpose.

(3)(a) Except as provided in subsection (b) below, the Lottery is not responsible for any costs incurred by a retailer for the purchase, repair, or maintenance of any Breakopen dispensing device unless such costs are associated with a Lottery test of a Breakopen dispensing device at the retailer's location and the Lottery agreed in writing to reimburse the retailer's costs, or a specified portion thereof, in advance of the retailer incurring these costs.

(b) For those Breakopen dispensing devices that a retailer purchases from the Lottery, the Lottery, at its discretion, may provide minimal repair and maintenance services at no charge to the retailer. Prior to providing repair or maintenance services on such a Breakopen dispensing device, the Lottery shall inform a retailer as to whether the services shall be performed free of charge.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 14-1987(Temp), f. & ef. 7-27-87; LC 16-1987, f. 8-24-87, ef. 9-1-87; LC 24-1987(Temp), f. & cert. ef. 12-22-87; LC 8-1988, f. & cert. ef. 2-23-88; LC 12-1989(Temp), f. & cert. ef. 7-17-89; LC 15-1989, f. & cert. ef. 8-28-89; LC 4-1990, f. & cert. ef. 4-3-90; LC 7-1992, f. & cert. ef. 7-23-92; LOTT 6-1999, f. & cert. ef. 5-27-99; LOTT 14-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03

**177-065-0045
 All Devices Must Comply with Requirements**

A retailer is not permitted to display or use any device to dispense Breakopen shares unless such device conforms to all requirements of these rules.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 14-1987(Temp), f. & ef. 7-27-87; LC 16-1987, f. 8-24-87, ef. 9-1-87; LC 12-1989(Temp), f. & cert. ef. 7-17-89; LC 15-1989, f. & cert. ef. 8-28-89; LOTT 6-1999, f. & cert. ef. 5-27-99; LOTT 14-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 25-2002, f. & cert. ef. 11-25-02

**177-065-0055
 Breakopen Game Assembly and Packaging**

(1) Breakopen vendors shall manufacture, assemble, and package each Breakopen game and each Breakopen pack within any such Breakopen game in such a manner that none of the winning Breakopen shares can be identified prior to playing such shares and that neither the location nor approximate location of any of the winning shares can be determined by any means including, but not limited to, any pattern in manufacture, assembly, packaging, markings, sizing, or through the use of a light or any other device.

(2) No retailer or any employee or agent of a retailer shall attempt to identify winning Breakopen shares except pursuant to his or her responsibility under OAR 177-065-0030.

(3) All Breakopen games shall be approved by the Director for distribution and sale. Only the Lottery may distribute Breakopen packs to Lottery retailers. Only the Lottery and its retailers may sell Breakopen shares.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 14-1987(Temp), f. & ef. 7-27-87; LC 16-1987, f. 8-24-87, ef. 9-1-87; LC 12-1989(Temp), f. & cert. ef. 7-17-89; LC 15-1989, f. & cert. ef. 8-28-89; LOTT 6-1999, f. & cert. ef. 5-27-99; LOTT 14-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 25-2002, f. & cert. ef. 11-25-02

177-065-0065

Posting of Prize Flares

A Breakopen vendor shall include a prize flare in each Breakopen pack. A retailer shall display the prize flare in the immediate vicinity of the Breakopen dispensing device used to dispense Breakopen shares from the Breakopen pack.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 14-1987(Temp), f. & ef. 7-27-87; LC 16-1987, f. 8-24-87, ef. 9-1-87; LC 24-1987(Temp), f. & cert. ef. 12-22-87; LC 8-1988, f. & cert. ef. 2-23-88; LC 12-1989(Temp), f. & cert. ef. 7-17-89; LC 15-1989, f. & cert. ef. 8-28-89; LC 7-1992, f. & cert. ef. 7-23-92; LOTT 6-1999, f. & cert. ef. 5-27-99; LOTT 14-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 25-2002, f. & cert. ef. 11-25-02

177-065-0075

Number and Value of Breakopen Game Prizes

(1) For each Breakopen game and Breakopen pack, the Director shall determine the number and value of prizes, the quantity of shares ordered, and the odds of winning prizes.

(2) The Director shall provide a Breakopen game insert to all Breakopen game retailers which provides a tabulation of the number of prizes of each prize denomination that are to be awarded in each Breakopen pack and the odds of winning such prizes.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 16-1987, f. 8-24-87, ef. 9-1-87; LC 11-1988(Temp), f. & cert. ef. 3-29-88; LC 13-1988, f. & cert. ef. 4-26-88; LC 15-1988, f. & cert. ef. 6-2-88; LC 19-1988(Temp), f. & cert. ef. 6-28-88; LC 21-1988, f. & cert. ef. 8-23-88; LC 12-1989(Temp), f. & cert. ef. 7-17-89; LC 15-1989, f. & cert. ef. 8-28-89; LC 1-1991, f. & cert. ef. 3-7-91; LC 7-1992, f. & cert. ef. 7-23-92; LOTT 6-1999, f. & cert. ef. 5-27-99; LOTT 14-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 25-2002, f. & cert. ef. 11-25-02

177-065-0080

Breakopen Pack Returns

(1) A retailer may return a full Breakopen pack and receive either a new sealed Breakopen pack or credit for the retailer's cost for the returned Breakopen pack so long as the Breakopen game to which the Breakopen pack belongs is still being distributed by the Lottery to Lottery retailers and at least one of the following conditions exists:

- (a) The Breakopen pack contains a manufacturing defect;
- (b) The Breakopen pack contains Breakopen shares damaged during delivery or shipment;
- (c) The original factory seal surrounding the Breakopen pack has not been broken and the Breakopen pack was ordered or shipped in error; or
- (d) The Lottery or the retailer has terminated the retailer's contract to sell Breakopen games.

(2) If the Lottery or a retailer has terminated the retailer's contract to sell Breakopen games, the retailer may return a partial Breakopen pack and receive credit for a pro rata portion of the retailer's cost for the returned Breakopen pack based upon the remaining unsold Breakopen shares in the returned Breakopen pack.

(3) The Lottery shall ship a new, sealed Breakopen pack or give credit to the retailer upon the Director's confirmation of the requirements specified in subsection (1) or (2) above. Whether the retailer receives credit or a replacement Breakopen pack is within the Director's discretion.

(4) The Lottery reserves the right to allow the return of Breakopen shares for credit or Breakopen pack replacement in circumstances other than those specified in subsection (1) or (2) above, when, in the opinion of the Director, it is in the best interest of the Lottery to do so.

(5) A Breakopen pack returned under this rule becomes the property of the Lottery.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LOTT 6-1999, f. & cert. ef. 5-27-99; LOTT 14-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 25-2002, f. & cert. ef. 11-25-02

DIVISION 70

ON-LINE COMPUTER GAMES

177-070-0005

Definitions

For the purposes of division 70, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) "Drawing" means the procedure whereby the Lottery selects the winning combination in accordance with the rules of the game.

(2) "On-Line game" means a lottery game, other than video lottery games, in which a player selects a combination of numbers, events or symbols, the type of game and amount of play, and the drawing date(s) by use of a computer. In return for paying the appropriate amount, the player receives a computer-generated ticket with the player's selection(s) printed on it. Examples of On-Line games include, but are not limited to Megabucks, Powerball, Sports Action, Pick 4, Win for Life, and Keno.

(3) "On-Line retailer" means a person or business authorized by the Lottery to sell On-Line tickets.

(4) "On-Line terminal (OLT)" means the computer hardware by which an On-Line retailer or player enters the combination selected by the player and by which On-Line tickets are generated and claims are validated.

(5) "On-Line ticket" means a computer-generated ticket issued by an On-Line terminal to a player as a receipt for the combination a player has selected. That ticket is the only acceptable evidence of the combination of numbers or symbols selected.

(6) "Play slip" means a card used in selecting and marking a player's game plays which may then be inserted into a terminal's play slip reader.

(7) "Validation" means the process of determining whether an On-Line ticket presented for payment is a winning ticket.

(8) "Winning combination" means the one or more numbers or symbols randomly selected by the Lottery in a drawing.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.010
 Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 5-1986, f. & ef. 3-5-86; LC 3-1992, f. & cert. ef. 4-27-92; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 15-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 26-2002, f. & cert. ef. 11-25-02

177-070-0025

Payment of Prizes

(1) **Prizes of \$600 or Less:** To claim an On-Line game prize of \$600 or less, the claimant may present the winning On-Line ticket to any On-Line retailer, or to the Oregon Lottery headquarters in Salem, Oregon:

(a) **Retailer Payment:** If the claim is presented to an On-Line retailer, the On-Line retailer shall validate the claim and, if determined to be a winning ticket, shall make payment of the amount due the claimant during the prize redemption hours agreed upon between the retailer and the Lottery. The retailer may pay prizes in cash or check, or any combination thereof. If the On-Line retailer cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to the Lottery by mail or in person.

(b) **Lottery Payment:** The claimant may submit a winning ticket, either by mail or in person to the Lottery for payment at the addresses listed in section (2)(a) below. Upon validation that the ticket is a winning ticket under OAR 177-070-0035, the Lottery shall pay the amount of the prize to the claimant, less any applicable tax withholding. Payment may be made by check or in cash, or any combination thereof. Cash prize payments are limited to \$50 per person per day. Payment may be made in person or by mail, except that the Lottery will not mail cash. If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the claimant notified.

(2) **Prizes Greater than \$600:**

(a) **Winner Claim Form:** To claim an On-Line prize of more than \$600, the claimant shall obtain and complete a "Winner Claim Form." The claimant may submit the Winner Claim Form with the winning ticket in person to the Lottery Player Services Office, Oregon Lottery, 500 Airport Road SE, Salem, Oregon. A claimant may mail a winning ticket and Winner Claim Form to the Oregon Lottery, P.O. Box 14515, Salem, Oregon 97309 (registered mail recommended).

(b) **Prize Payment:** Upon validation of a winning ticket, the Lottery shall present or mail a check to the claimant in payment of the amount due, less any applicable tax withholding. The amount due shall be calculated according to the rules adopted for the particular On-Line game. If the ticket is determined to be a non-winning ticket or invalid, the claim shall be denied and the claimant notified. Non-winning or invalid tickets will not be returned to the claimant.

(c) **Prize Payment of Lost, Damaged, or Destroyed Tickets:**

(A) When a prize payment is authorized by the Director under OAR 177-070-0035(4), the prize payment shall be validated through the Lottery's central computer system on the last day of the eligible prize claim period. If the prize claim period expires on a weekend or on a holiday when the Lottery is closed, the expiration period will be extended to the end of the next working day. Following validation, the Lottery shall issue the prize payment in the usual course of Lottery business.

(B) Prize payments made under this subsection shall be restricted to the prize amount under the prize structure for the On-Line game in which the ticket was purchased.

(3) **General Time Limitation:** All prizes must be claimed within one year of the drawing in which the prize was won. In the event the final day of the one-year period falls on a weekend or a Lottery holiday, the claim period will be extended to end on the next business day. Any prize not claimed within the specified period shall be forfeited and thereafter placed into the Economic Development Fund established by ORS 461.540. The transfer shall take place at the same time the Lottery's next scheduled transfer of proceeds allocated for economic development is made.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.260
 Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 5-1986, f. & ef. 3-5-86; LC 20-1987, f. 10-26-87, ef. 11-2-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. ef. 7-2-93; LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LC 7-1995, f. & cert. ef. 7-7-95; LOTT 4-2000(Temp), f. 6-15-00, cert. ef. 6-15-00 thru 12-12-00; LOTT 7-2000, f. & cert. ef. 10-4-00; LOTT 15-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 26-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05

**177-070-0035
 Validation Requirements**

(1) **General:** To be a valid winning On-Line ticket, all of the following conditions must be met:

(a) The ticket data must have been recorded in the Lottery's central computer system prior to the drawing and the information appearing on the ticket must correspond with the computer record;

(b) The ticket must be intact to the extent that all information appearing on the ticket corresponds with the Lottery's computer records;

(c) The ticket must not be altered or tampered with in any manner;

(d) The ticket must not be counterfeit or a duplicate of another winning ticket;

(e) The ticket must have been issued by an authorized On-Line retailer or dispensed by a player-activated terminal in an authorized manner;

(f) The ticket must not have been stolen or canceled;

(g) The ticket must not have been previously paid;

(h) The ticket is subject to all other confidential security checks of the Lottery.

(2) **Ticket as Receipt:** Except as provided in section (4) of this rule, a ticket is the only valid receipt for claiming a prize. A copy of a ticket or a play slip has no pecuniary or prize value and does not constitute evidence of ticket purchase or of numbers selected.

(3) **Validation Process:** A ticket shall be validated through the Lottery's computer system.

(4) **Validation of Lost, Damaged, or Destroyed Tickets Greater than \$600:** Notwithstanding the requirement that a winning On-Line game ticket be submitted to the Oregon Lottery for validation and prize payment, in the event that a Lottery retailer attempted to validate a winning On-Line game ticket with a prize of more than \$600 and in the course of the validation process the retailer or an employee of the retailer lost, damaged, or destroyed the game ticket, a prize claim based on the lost, damaged, or destroyed ticket may be validated.

(a) The claimant shall obtain, complete, and sign an Oregon Lottery "Winner Claim Form" and Oregon Lottery "Claim Affidavit." The claimant shall submit the "Winner Claim Form" and "Claim Affidavit" along with any other evidence of the validation attempt in the claimant's possession including, but not limited to, the "Claim at Lottery" slip produced by the terminal at the time of the validation attempt, to the Lottery Player Services Office, Oregon Lottery, 500 Airport Road SE, Salem, Oregon by mail or in person.

(b) To be validated, the information supplied on the winner claim form, the claim affidavit, and other evidence submitted by the claimant

must agree with the data recorded in the Lottery's central computer system including, but not limited to: Corroboration of the criteria set forth in section (1) of this rule except those specific criteria related to the physical properties of the lost, damaged, or destroyed game ticket; and corroboration of the validation attempt including, but not limited to, identification of the Lottery retailer or clerk who attempted to validate the prize, the time and date of the validation attempt, the ticket serial number, the terminal number, and the prize amount.

(c) The Assistant Director for Security will conduct an investigation to determine if the claim and winning game ticket are valid.

(d) The Director shall, based on all the facts and information available, make a determination whether prize payment is warranted and authorized.

(e) The Director may assign sanctions to a Lottery retailer for the loss, damage, or destruction of a game ticket including, but not limited to, imposing a requirement for training for the retailer or the retailer's employees, and any other actions that the Lottery may take in response to a retailer's failure to perform contract duties or requirements as described in the Lottery retailer contract.

(f) A retailer who is the subject of an investigation conducted under this section is required to complete an Oregon Lottery retailer affidavit form explaining the events in question.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.250
 Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 5-1986, f. & ef. 3-5-86; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1991, f. & cert. ef. 9-25-91; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LC 1-1997, f. 1-31-97, cert. ef. 2-1-97; LOTT 4-2000(Temp), f. 6-15-00, cert. ef. 6-15-00 thru 12-12-00; LOTT 7-2000, f. & cert. ef. 10-4-00; LOTT 15-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 26-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05

**177-070-0080
 Unauthorized Use of Play Slips**

(1) A person shall not insert into an on-line terminal's play slip reader any material that is not a play slip printed and approved for use by the Oregon Lottery, including but not limited to facsimiles or copies of play slips. No device shall be connected to a Lottery terminal to enter plays, except as may be approved by the Lottery.

(2) All plays made in the game shall be marked on the play slip by hand. No play slips with plays marked by an electric or mechanical device shall be used to enter plays.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 6-1992, f. & cert. ef. 6-23-92; LOTT 15-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 26-2002, f. & cert. ef. 11-25-02

DIVISION 75

MEGABUCKS GAME RULES

177-075-0000

Definitions

For the purposes of Oregon Megabucks, a 6 of 48 lotto game, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) "Division 1 prize pool" means the amount of money required to fund an advertised Division 1 prize.

(2) "Exchange ticket" means a computer-generated, printed paper issued by a terminal to replace a game ticket that had been purchased for play in consecutive Megabucks Lotto games and was validated as a winning ticket before the latest drawing appearing on the game ticket. An exchange ticket shall contain the exact game play and future drawing date(s) appearing on the validated game ticket it is replacing and shall have all other characteristics of a game ticket except as otherwise stated in these rules. An exchange ticket shall not contain a ticket price.

(3) "Game board" or "boards" means that area of the play slip which contains 48 squares numbered 1 through 48.

(4) "Game ticket" or "ticket" means a ticket produced by a terminal, which contains the caption "Megabucks," two or more lettered game plays each of which has six numbers from 1 through 48 followed by the drawing date, the price of the ticket, a retailer number, and a serial number.

(5) "Kicker" means the play option whereby a player, by paying an additional one dollar for each dollar wagered on Megabucks, is

entitled to receive larger prizes for matching three of six, four of six, or five of six numbers.

(6) "Lotto" means a lottery game wherein a player selects a group of numbers, usually six, out of a larger predetermined set of numbers.

(7) "Play" or "game play" means the six different numbers from 1 through 48 which appear on a ticket as a single lettered selection and are to be played by a player in a game.

(8) "Privileged terminal" means a terminal authorized to validate prizes over \$600.00.

(9) "Quick pick" means the random selection by a terminal of six different numbers from 1 through 48 which appear on a ticket and are to be played by a player in the game.

(10) "Play slip" or "Game slip" means a card used in marking a player's game plays. For this purpose, each play slip has ten game boards. Each game board is lettered with one letter from A through J and, when used to purchase a game play, corresponds to the numbers selected and printed on the ticket. An even number of boards, i.e., two, four, six, eight, or ten must be selected on each slip.

(11) "Random number generator" means a computer-driven electronic device capable of producing numbers at random.

(12) "Terminal" means a device as defined in OAR 177-070-0005(4).

(13) "Winning numbers" means the six numbers between 1 and 48, randomly selected at each drawing, which shall be used to determine winning plays contained on a game ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461.120(2)
 Stats. Implemented: OR Const. Art. XV, Sec. 4(4) & ORS 461.250
 Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 6-1993, f. & cert. ef. 7-2-93; LC 3-1994, f. 2-24-94, cert. ef. 3-1-94; LC 3-1995, f. & cert. ef. 4-27-95; LOTT 8-1998(Temp), f. & cert. ef. 12-16-98 thru 6-11-99; LOTT 7-1999, f. 5-27-99, cert. ef. 5-30-99; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02

**177-075-0005
 Price**

Game plays shall sell for \$0.50 each with the minimum wager being two plays for \$1. All plays must be made in \$1 increments, hence only an even number of selections, up to a maximum of ten selections for \$5.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.240
 Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SL 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 6-1992, f. & cert. ef. 6-23-92; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02

**177-075-0010
 Ticket Purchase, Characteristics and Restrictions**

(1) Oregon Megabucks is a pari-mutuel lotto game. A player must select an even number set of six different numbers, between 1 and 48 for input into a terminal. Tickets can be purchased either from a terminal operated by a retailer (i.e., a clerk-activated terminal) or from a terminal operated by the player (i.e., a player-activated terminal). If purchased from a retailer, the player may select each set by marking six numbered squares in any one game board on a play slip and submitting the play slip to the retailer, or by requesting "Quick pick" from the retailer. The retailer will then issue a ticket, via the terminal, containing the selected even number set or sets of numbers, each of which constitutes a game play. Tickets can also be purchased from a player-activated terminal by use of a touch screen or by inserting a play slip into the machine. A ticket can contain up to ten game plays lettered A through J. Tickets may be purchased for up to six consecutive drawings.

(2) The player must also choose whether to play "Kicker." Kicker awards larger prizes for correctly selecting three of six, four of six, and five of six numbers.

(3) A Megabucks ticket may not be voided or cancelled by returning the ticket to the retailer, including tickets that are printed in error. The placing of plays is done at the player's own risk through the On-Line retailer who is acting on behalf of the player in entering the player's plays.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 16-1988, f. & cert. ef. 6-2-88; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 2-1991, f. & cert. ef. 7-24-91; LC 6-1993, f. & cert. ef. 7-2-93; LC 3-

1995, f. & cert. ef. 4-27-95; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02

**177-075-0015
 Drawings**

(1) Megabucks drawings shall normally take place every Monday, Wednesday, and Saturday at approximately 7:29 PM or at any other times as determined by the Director.

(2) The objective of a drawing shall be to randomly select six winning numbers between 1 and 48. Drawings may be conducted with the aid of mechanical drawing equipment or a random number generator or other such devices as the Director may determine.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.230
 Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02

**177-075-0020
 Determination of Prize Winners**

(1) Prizes shall be determined and awarded on the following basis:

Tickets Containing the Following Number of Matches in One Single Lettered Game Play Irrespective of Drawing Order — Prize Category
 All Six Winning Numbers — Division 1
 Five Winning Numbers — Division 2
 Four Winning Numbers — Division 3
 Three Winning Numbers — Division 4

(2) Division 1 prizes of less than \$100,000 will be paid in a lump sum. Division 1 prizes with a value of \$100,000 and more will be paid in the form of the prevailing maximum acceptable annuity or zero coupon bonds which can be purchased with the Division 1 prize pool. The annuity or zero coupon bonds will provide for 25 equal periodic payments, the first immediately and the other 24 annually on the anniversary date (or the first regular business day thereafter) of the applicable Megabucks drawing.

(3) Divisions 2 and 3 prize winners will be paid in a lump sum. Division 4 prize winners with a Kicker game play will be paid in a lump sum. Division 4 prize winners who did not select a Kicker game play on the winning ticket shall receive a free Megabucks ticket valued at \$1.00 except when such prize is redeemed at Lottery Headquarters, in which event the winner will have the option to be paid \$1.00 from the privileged terminal or to receive a free ticket from the Lottery Store terminal.

(4) Players are eligible to receive only the highest division prize for each winning game play.

(5) Notwithstanding the allocations in section (1) of this rule, shares in each prize category shall be rounded down to the nearest \$0.10 and each winning game play in each prize category shall be considered to be a single unit equal to one share of that prize category. All breakage (amounts left over after rounding down) shall be carried forward to the prize pool for the next drawing.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.220
 Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; SLC 22-1986(Temp), f. 8-26-86, ef. 9-21-86; LC 19-1987, f. & ef. 9-28-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 8-1992, f. & cert. ef. 7-23-92; LC 6-1993, f. & cert. ef. 7-2-93; LC 3-1994, f. 2-24-94, cert. ef. 3-1-94; LC 3-1995, f. & cert. ef. 4-27-95; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02

**177-075-0027
 Annuity Conversion Option**

(1) A Division 1 prize winner has the option of receiving the advertised Division 1 prize in a single lump sum payment consisting of one-half of the advertised Division 1 prize or of receiving the full value of the Division 1 prize paid out in equal annual installments over a period of 25 years.

(2) A Division 1 prize winner shall present the winner's ticket and completed claim form, in person, at the Salem Lottery office, pursuant to OAR 177-070-0025. Upon the Lottery's determination and validation that the winner's ticket is a winning ticket of a Division 1 prize, the prize winner may exercise the payment option provided in this rule.

(3) Within 60 days of the date of validation of the Division 1 prize, a winner, prior to receiving any prize payment from the Lottery, may acknowledge in writing the winner's election to receive either the single lump sum payment or the annuitized prize payments. A winner's election is irrevocable once the winner's written election is received by the Lottery subject to the limited exception provided in Section 5 below.

(4) In the event a winner does not exercise the above option within 60 days of the validation of the Division 1 prize, the winner shall receive the full value of the prize paid in equal annual installments over a period of 25 years pursuant to OAR 177-075-0020(2).

(5) A Division 1 prize winner who has elected the annuitized prize payment method or who has failed to make an election and is placed on the annuitized prize payment plan according to Section 4 above, may be permitted at the Lottery's sole discretion to convert to the lump sum payment provided the Lottery has not yet made any payments to the prize winner. Once the Lottery makes any payment of a Division 1 prize to a Division 1 prize winner, the choice of payment is irrevocably fixed.

(6) Multiple winners, jointly claiming ownership of a Division 1 prize winning ticket in accordance with OAR chapter 177, shall make individual determinations whether to exercise the option to receive their portion of the prize in the form of a single lump sum payment or annuitized payments. Each of the multiple winners exercising the option to receive a single lump sum payment or annuitized payments must do so pursuant to the terms of this rule. Each winner has the option of choosing the lump sum payment or the annuitized payments when the entire prize is more than \$100,000 even if each individual's portion of the prize is less than \$100,000.

(7) A winner is under no obligation to exercise the option made available by this rule.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461.120(2)
 Stats. Implemented: OR Const. Art. XV, Sec. 4(4) & ORS 461.250
 Hist.: LOTT 8-1998(Temp) f. & cert. ef. 12-16-98 thru 6-11-99; LOTT 7-1999, f. 5-27-99, cert. ef. 5-30-99; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02

**177-075-0030
 Ticket Validation Requirements**

To be a valid ticket and eligible to receive a prize, all the following requirements must be satisfied in addition to all other requirements contained in OAR chapter 177:

(1) Each winning game play appearing on the ticket must be separately lettered and consist of six different numbers between one and 48.

(2) A game ticket containing a winning game play which was also wagered in subsequent, consecutive drawings may be validated prior to the occurrence of future drawings for which the game ticket was purchased. An exchange ticket shall be issued at the time the original game ticket is validated for the remainder of the drawings appearing on the validated game ticket. An exchange ticket shall also be issued at the time a previously issued exchange ticket is validated for the remainder of the drawings appearing on the validated exchange ticket.

(3) Claimants who share ownership interests in a winning ticket must comply with any additional requirements for prize payment described elsewhere in OAR chapter 177 as it may be amended from time to time.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.250
 Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 4-1990, f. & cert. ef. 4-3-90; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02

**177-075-0035
 Allocation of Revenues**

(1) On the average 50 percent of all gross sales revenues shall be reserved for prizes and shall be allocated to the prize categories as set forth below. [Table not included. See ED. NOTE.]

(2) In the event it is determined that there are no valid winning tickets for a specific prize category in any given drawing, all monies allocated for that prize category shall be carried forward and accumulated with the monies allocated for that prize category for the next

drawing. This process shall continue until such time as there is one or more valid winning ticket(s) for the Division 1 prize category.

(3) In the event the Oregon Megabucks game is terminated for any reason whatsoever, any prizes which were not won shall be reallocated by the Director. Any prizes which were won but not claimed within the specified claim period shall be forfeited and allocated to the benefit of the public purpose. The transfer shall take place at the same time the Lottery's next scheduled transfer of proceeds is made.

[ED. NOTE: Tables referenced are available from the agency.]
 Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.220
 Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; SLC 22-1986(Temp), f. 8-26-86, ef. 9-21-86; LC 19-1987, f. & ef. 9-28-87; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 17-1989(Temp), f. & cert. ef. 9-29-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LC 4-1990, f. & cert. ef. 4-3-90; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 12-1992, f. cert. ef. 9-28-92; LC 2-1993, f. & cert. ef. 2-25-93; LC 3-1995, f. & cert. ef. 4-27-95; Administrative Reformatting 11-30-97; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02

**177-075-0040
 Probability of Winning**

(1) The following table sets forth the probability of winning and the probable distribution of winners in and among each prize category, based upon the total number of possible combinations of six drawn from a field of 48 numbers. [Table not included. See ED. NOTE.]

(2) In the event there is no Megabucks Division 2 or 3 prize winner, the Megabucks Plus Kicker Division 2 prize shall be \$3200 and the Division 3 prize shall be \$160.

[ED. NOTE: Tables referenced are available from the agency.]
 Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.220
 Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 10-1990(Temp), f. & cert. ef. 8-21-90; LC 13-1990, f. & cert. ef. 11-1-90; LC 2-1993, f. & cert. ef. 2-25-93; LC 3-1995, f. & cert. ef. 4-27-95; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01

DIVISION 81

PICK 4

**177-081-0000
 Definitions**

For the purposes of division 81, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) "Exchange ticket" means a computer-generated, printed paper issued by a terminal to replace a game ticket that had been purchased for play in consecutive Pick 4 drawings and was validated as a winning ticket before the latest drawing appearing on the game ticket. An exchange ticket shall contain the exact game play and future drawing date(s) appearing on the validated game ticket it is replacing and shall have all other characteristics of a game ticket except as otherwise stated in these rules. An exchange ticket shall not contain a ticket price.

(2) "Easy 4 combo" means a specific match choice option as described in OAR 177-081-0080(1) in which there are six possible ways to match two to four numbers in exact order.

(3) "Game play" means the number or group of numbers and the order in which they occur appearing on a ticket for a particular drawing which shall be compared to the winning numbers and the order of the winning numbers, selected at the drawing(s) appearing on the ticket, to determine any prize payment for which the ticket may be redeemed.

(4) "Match Choice" means one or more of the seven Pick 4 game play selections offered by the Lottery as described in OAR 177-081-0080(1). The Match Choice options include the following:

- (a) Option A — All four game play numbers match the Lottery's numbers in the exact order;
- (b) Option B — All four game play numbers match the Lottery's numbers in any order;
- (c) Option C — Easy 4 Combo;
- (d) Option D — First three game play numbers match the Lottery's numbers in the exact order;
- (e) Option E — Last three game play numbers match the Lottery's numbers in exact order;

(f) Option F — First three game play numbers match the Lottery's numbers in any order; and

(g) Option G — Last three game play numbers match the Lottery's numbers in any order.

(5) "Quick Pick" means the random selection of numbers by a terminal which appear as the game play on a ticket.

(6) "Winning numbers" means the four single-digit numbers, each from zero to nine, and the order in which they occur, that are selected at each drawing that is used to determine winning game plays contained on the game tickets.

Stat. Auth.: OR Const. Art. XV Sec. (4) & ORS 461
 Stats. Implemented: ORS 461.210, 461.220, 461.240 & 461.250
 Hist.: LOTT 2-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 17-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 28-2002, f. & cert. ef. 11-25-02

177-081-0010

Game Description

(1) Pick 4 is a game based on four-digit numbers in which a player selects:

(a) A single number from each of four columns of single-digit numbers from zero to nine. The player has the option of selecting a Quick Pick or choosing his or her own number selections;

(b) One or more Match Choices from the seven possible Match Choice options; and

(c) A wager of at least \$1.00.

(2) The player's four number selections form a specific four-digit number sequence from left to right. The player's number selections and subsequent Match Choices which match the winning numbers and the order of the winning numbers in accordance with OAR 177-081-0080(1) selected at the drawing(s) on the date(s) indicated on the player's ticket determine any prize amount won.

(3) An offer to buy and an offer to sell a Pick 4 Ticket shall be made only at a location which has a contract with the Lottery to sell On-Line games, as defined in OAR 177-070-0005(3).

Stat. Auth.: OR Const. Art. XV Sec. (4) & ORS 461
 Stats. Implemented: ORS 461.210, 461.220, 461.240 & 461.250
 Hist.: LOTT 2-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 17-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 28-2002, f. & cert. ef. 11-25-02

177-081-0020

Price

The price of a ticket shall be determined by the amount of money a player chooses to wager on the game play selected, multiplied by the number of drawings in which the ticket will be played.

(1) The price of a ticket for a single drawing purchased through a clerk-operated terminal shall range from a minimum of \$1.00 to a maximum of \$7.00 in \$.50 increments.

(2) The price of a ticket for a single drawing purchased through a player-operated terminal shall range from a minimum of \$1.00 to a maximum of \$7.00 in \$1.00 increments. When a player requests a Quick Pick from a player-operated terminal the only wager possible is \$1.00.

(3) A player may purchase a ticket for a single drawing or for up to a maximum of twelve consecutive drawings. The price of a ticket is determined by multiplying the number of drawings in which the ticket will be played by the total wager for each drawing. The minimum ticket price for a ticket containing consecutive drawings is \$2.00 (\$1 x 2 consecutive drawings = \$2). The maximum ticket price for a ticket containing consecutive drawings is \$84 (\$7 x twelve consecutive drawings = \$84). A game slip indicating a price of less than \$1.00 or greater than \$84.00 shall be automatically rejected by the terminal. Expansion of the number of consecutive drawings from seven to twelve applies retroactively to 1:00 P.M. February 11, 2002.

(4) Notwithstanding sections (1) through (3) of this rule, the price of a ticket for consecutive drawings purchased through a player-operated terminal shall range from a minimum of \$2.00 to a maximum of \$84.00 and must be in whole dollar amounts. For example, a \$1.50 wager placed for two consecutive drawings equals a viable \$3.00 total game play wager.

Stat. Auth.: OR Const. Art. XV Sec. (4) & ORS 461
 Stats. Implemented: ORS 461.210, 461.220, 461.240 & 461.250
 Hist.: LOTT 2-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 17-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 28-2002, f. & cert. ef. 11-25-02

177-081-0030

Ticket Purchase, Characteristics, and Restrictions

(1) Pick 4 tickets may be purchased everyday of the year during the hours of operation of the Lottery's On-Line game system and a Lottery retailer's business hours of operation.

(2) Ticket purchase: Tickets may be purchased either from a terminal operated by a retailer, i.e., a clerk-operated terminal, or from a terminal operated by the player, i.e., a player-operated terminal. To play Pick 4, a player must either:

(a) Complete a game slip for input into a clerk-operated terminal or player-operated terminal;

(b) Request a Quick Pick or manual numbers selection from a clerk; or

(c) Request a Quick Pick using a player-operated terminal.

(3) Completing a game slip:

(a) A player must choose a game play by one of two methods:

(A) A player must select four numbers, one each from four columns of numbers from zero to nine on the game slip; or

(B) The player may select the Quick Pick option.

(b) A player must also complete the selection of the Match Choice option(s) on the game slip.

(c) A player must indicate if the game play is for consecutive drawings.

(4) Purchasing a ticket from a clerk-operated terminal:

(a) After the player completes a game slip and submits it along with the price of the ticket to the clerk, the clerk shall use the terminal to issue a ticket to the player.

(b) Alternately, the player may request that a clerk, without using a game slip, electronically submit a player's game play request through the terminal for a Quick Pick number selection or manually enter the player's four numbers, and request game play for a single drawing or consecutive drawings. A wager submitted by a clerk through the terminal without a game slip can only be made on the Easy 4 Combo Match Choice.

(5) A player may purchase a ticket from a player-operated terminal by following the instructions appearing on the screen of the terminal. Once the player has completed the game slip and inserted it and paid the price of the ticket into the terminal, the terminal will issue a ticket to the player. The player may also request a Quick Pick without using a game slip by using the player-operated terminal. A player requesting a Quick Pick from a player-operated terminal without using a game slip must play the Easy 4 Combo Match Choice and the number of consecutive drawings to be played.

(6) **Ticket Restrictions:** A player cannot place an "All 4 In Any Order" wager when all 4 numbers are the same, a "First 3 In Any Order" wager when all 3 numbers are the same, or a "Last 3 In Any Order" wager when all 3 numbers are the same. Any of the aforementioned shall be automatically rejected by the terminal.

Stat. Auth.: OR Const. Art. XV Sec. (4) & ORS 461
 Stats. Implemented: ORS 461.210, 461.220, 461.240 & 461.250
 Hist.: LOTT 2-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 17-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 28-2002, f. & cert. ef. 11-25-02

177-081-0040

Cancellation of Tickets

A player may cancel a Pick 4 ticket for a single drawing or consecutive drawings. To cancel a ticket, a player must follow the procedure in OAR 177-046-0060.

Stat. Auth.: OR Const. Art. XV Sec. (4) & ORS 461
 Stats. Implemented: ORS 461.210, 461.220, 461.240 & 461.250
 Hist.: LOTT 2-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 17-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 28-2002, f. & cert. ef. 11-25-02

177-081-0050

Drawings

Effective February 11, 2002, drawings shall generally occur 7 days a week at 1:00 p.m., 4:00 p.m., 7:00 p.m. and 10:00 p.m. or as otherwise authorized by the Director. Each drawing shall randomly select a specific sequence of four numbers, each from zero to nine. The winning numbers selected at each drawing shall be generated through the use of a computer-driven random number generator.

Stat. Auth.: ORS 461 & OR Const. Art. XV Sec. 4(4)
 Stats. Implemented: ORS 461.200
 Hist.: LOTT 2-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 2-2002(Temp), f. 1-1-02, cert. ef. 1-11-02 thru 8-2-02; LOTT 6-2002, f. & cert. ef. 4-29-02; LOTT 17-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 28-2002, f. & cert. ef. 11-25-02

177-081-0060

Ticket Validation Requirements

(1) For a ticket to be valid and eligible to receive prize payment, the requirements in OAR chapter 177 must be met:

(2) A game ticket containing a winning game play and purchased for play in consecutive drawings may be validated prior to the occurrence of future drawings for which the game ticket was purchased. An exchange ticket shall be issued, at the time the original game ticket is validated, for the remainder of the drawings appearing on the validated game ticket.

Stat. Auth.: OR Const. Art. XV Sec. (4) & ORS 461
 Stats. Implemented: ORS 461.210, 461.220, 461.240 & 461.250
 Hist.: LOTT 2-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 17-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 28-2002, f. & cert. ef. 11-25-02

177-081-0080

Prizes

(1) Prizes for a winning ticket are determined by the ticket's game play and Match Choices which match the winning numbers and the Match Choice criteria established in this section. The prize structure is as follows: [Table not included. See ED. NOTE.]

(2)(a) When the potential, aggregate Pick 4 prize liability resulting from all wagers containing a particular combination of numbers reaches or first exceeds \$500,000 in a single drawing, then no further wagers of that number combination shall be accepted by the Lottery gaming system for that drawing.

(b) Notwithstanding subsection (a) of this section, the Director may, when conditions so warrant as determined in the Director's sole discretion, establish a prize liability threshold that is higher than \$500,000 for a single drawing. The Director shall not raise the prize liability limit for a particular drawing once wagers have been curtailed because the prize limit has been reached for that drawing.

(3) The number of prizes for Pick 4 is not pre-determined by the Lottery. The overall prize-percentage payout for Pick 4 prizes is estimated at 60% over time, but the actual prize payout may vary from day-to-day and year-to-year, due to factors that include, but are not limited to, the number of players participating each day and the number of winning wagers.

(4) In the event of a dispute over the determination of a prize, the Lottery's determination is controlling.

(5) Each prize-winning player will be paid in one lump sum.

(6) For each drawing, a player may have more than one winning combination on a single ticket depending on the game play and match choice selected. However, when the Easy 4 Combo Match Choice is selected the player shall receive only the highest single prize for which the player is eligible.

[ED. NOTE: Tables referenced are available from the agency.]
 Stat. Auth.: OR Const. Art. XV Sec. (4) & ORS 461
 Stats. Implemented: ORS 461.210, 461.220, 461.240 & 461.250
 Hist.: LOTT 2-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 9-2000(Temp), f. & cert. ef. 10-9-00 thru 4-7-01; LOTT 4-2001, f. & cert. ef. 4-6-01; LOTT 17-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 28-2002, f. & cert. ef. 11-25-02

DIVISION 83

LUCKY LINES GAME RULES

177-083-0000

Definitions

For the purposes of division 83, in addition to the definitions set forth in OAR 177-070-0005, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) "Exchange ticket" means a computer-generated, printed paper issued by a terminal to replace a game ticket that had been purchased for play in consecutive Lucky Lines drawings and was validated as a winning ticket before the latest drawing appearing on the game ticket. An exchange ticket shall contain the exact game play and future drawing dates appearing on the validated game ticket it is replacing and shall have all other characteristics of a game ticket except as otherwise stated in these rules. An exchange ticket shall not contain a ticket price.

(2) "Play" or "Game play" means the eight different numbers which appear on a grid on a Lucky Lines ticket and are to be played by a player in a drawing. These eight numbers are compared to the

winning numbers selected for each of the drawings appearing on the ticket.

(3) "Quick Pick" means the random selection of numbers by a terminal, which appears as the game play on a Lucky Lines ticket.

(4) "Winning numbers" means the eight numbers that are randomly selected by the Lottery at each drawing and which are used to determine winning game plays contained on a Lucky Lines ticket.

Stat. Auth.: ORS 461 & OR Const., Art. XV, §4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LOTT 4-2006, f. 3-23-06, cert. ef. 4-9-06

177-083-0010

Game Description

(1) **General:** Lucky Lines is a game based on a grid consisting of nine fields. There are four numbers in eight of the nine fields. The center field is a free field. To play the game, one number is selected from each of the eight fields that contain numbers. The player may select the numbers from each of the eight fields or may select the numbers using the Quick Pick option. During each drawing, the Lottery randomly selects one number from each of the eight fields as the winning numbers.

(2) **Determination of Winners:** A player wins by matching the player's numbers on the grid in a straight line, either horizontally, vertically, or diagonally, to the winning numbers on the grid selected by the Lottery for that drawing. There are eight possible ways to match numbers in a straight line on each ticket.

(3) **Location:** A Lucky Lines ticket may only be sold by and purchased from a Lottery On-Line retailer.

Stat. Auth.: ORS 461 & OR Const., Art. XV, §4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LOTT 4-2006, f. 3-23-06, cert. ef. 4-9-06

177-083-0020

Price

(1) **Ticket Price for a Single Drawing:** A player may purchase a ticket for a single drawing. The price of a ticket for a single drawing is \$2.

(2) **Ticket Price for Consecutive Drawings:** A player may purchase a ticket for 2, 3, 4, 5, 6, 7, or 14 consecutive drawings. The price of a ticket for consecutive drawings is a minimum of \$4 to a maximum of \$28.

Stat. Auth.: ORS 461 & OR Const., Art. XV, §4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LOTT 4-2006, f. 3-23-06, cert. ef. 4-9-06

177-083-0030

Ticket Purchase, Characteristics, and Restrictions

(1) **Hours of Purchase:** Lucky Lines tickets may be purchased everyday of the year during the hours of operation of the Lottery's On-Line game system and a Lottery On-Line retailer's business hours of operation.

(2) **Ticket Purchase:** Tickets may be purchased either from a clerk-operated terminal or from a player-operated terminal. To play Lucky Lines, a player must:

(a) Complete a play slip for input into a clerk-operated terminal or player-operated terminal; or

(b) Request a Quick Pick from a clerk or by using a player-operated terminal; and

(c) Pay the ticket price.

(3) **Play Slip:** Completing a play slip:

(a) A player must choose a game play by one of two methods:

(A) A player must select one number out of a group of four numbers in each of the eight fields; or

(B) The player may select the numbers using the Quick Pick option.

(b) A player must indicate if the game play is for consecutive drawings. If the game play is for consecutive drawings, the player must select the number of consecutive drawings from 2, 3, 4, 5, 6, 7, or 14.

(4) **Clerk-Operated Terminal:** Purchasing a ticket from a clerk-operated terminal:

(a) The player may complete a game slip and submit it with the price of the ticket to the clerk. The clerk will use the terminal to issue a ticket to the player with the player's game plays; or

(b) Without using a game slip, the player may request that a clerk electronically use the terminal's Quick Pick number selection. Upon payment of the price of the ticket to the clerk, the clerk will use the

terminal to issue a ticket to the player with the player's Quick Pick game plays.

(c) The placing of game plays is done at the player's own risk through the On-Line retailer who is acting on behalf of the player in entering the player's plays.

(5) **Player-Operated Terminal:** A player may purchase a ticket from a player-operated terminal by following the instructions appearing on the screen of the terminal either by:

(a) Completing a game slip, inserting it into the terminal, and paying the price of the ticket into the terminal. The terminal will issue a ticket to the player with the player's game plays; or

(b) The player may use the terminal's Quick Pick number selection without using a game slip by following the instructions appearing on the terminal screen and paying the price of the ticket. The terminal will issue a ticket to the player with the player's Quick Pick game plays.

Stat. Auth.: ORS 461 & OR Const., Art. XV, §4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LOTT 4-2006, f. 3-23-06, cert. ef. 4-9-06

**177-083-0040
 Cancellation of Tickets**

(1) **General:** A player may cancel a Lucky Lines ticket for a single drawing or consecutive drawings. To cancel a ticket, a player must follow the procedure in OAR 177-046-0060.

(2) **Refund:** In the event that a ticket is canceled in accordance with OAR 177-083-0040(1) and 177-046-0060, the player shall be entitled to a refund from the retailer equal to the cost shown on the player's ticket, not to exceed the maximum ticket cost of \$28.

Stat. Auth.: ORS 461 & OR Const., Art. XV, §4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LOTT 4-2006, f. 3-23-06, cert. ef. 4-9-06

**177-083-0050
 Drawings**

Drawings will normally occur daily at approximately 6:00 p.m. or at any other time as determined by the Director. Each drawing shall randomly select numbers from each of the four number choices in each of the eight fields. The winning numbers selected at each drawing shall be generated through the use of a computer-driven random number generator.

Stat. Auth.: ORS 461 & OR Const., Art. XV, §4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LOTT 4-2006, f. 3-23-06, cert. ef. 4-9-06

**177-083-0060
 Ticket Validation Requirements**

(1) **General:** A Lucky Lines ticket must meet the requirements in OAR chapter 177 to be valid and eligible to receive prize payment.

(2) **Validation of Consecutive Play Tickets:** A game ticket containing a winning game play and purchased for play in consecutive drawings may be validated prior to the occurrence of future drawings for which the game ticket was purchased. At the time the original game ticket is validated, an exchange ticket shall be issued for the remainder of the drawings appearing on the validated game ticket.

Stat. Auth.: ORS 461 & OR Const., Art. XV, §4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LOTT 4-2006, f. 3-23-06, cert. ef. 4-9-06

**177-083-0070
 Prizes**

(1) **Prize Structure:** Prizes for a winning ticket are determined by the ticket's game play that matches the winning numbers and the criteria established in this section. The prize structure is as follows: [Table not included. See ED. NOTE.]

(2) **Jackpot Prize:** The jackpot prize is a rolling jackpot, and it is paid on a parimutuel basis. The jackpot prize starts at a minimum of \$10,000 and if it is not won in the daily drawing, it will increase by approximately \$1,000 for each consecutive drawing. If the jackpot prize is won, it will return to a minimum of \$10,000.

(3) **Estimation:** The number of prizes for Lucky Lines is not predetermined by the Lottery. The overall prize-percentage payout for Lucky Lines prizes is estimated at 60.95% over time, but the actual prize payout may vary from day-to-day and year-to-year, due to factors that include, but are not limited to, the number of players participating each day and the number of winning wagers.

(4) **Lottery's Determination:** In the event of a dispute over the determination of a prize, the Lottery's determination is controlling.

(5) **Prize payments:** Prizes will be paid in accordance with OAR 177-046-0110.

(6) **Lump Sum Distribution:** Each prize-winning player will be paid in one lump sum.

(7) **Limits on Prizes:** For each drawing, a player may have more than one winning combination on a single ticket for each game play. However, the player shall receive only the highest single prize for which the player is eligible.

[ED. NOTE: Tables referenced are available from the agency.]
 Stat. Auth.: ORS 461 & OR Const., Art. XV, §4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LOTT 4-2006, f. 3-23-06, cert. ef. 4-9-06

**DIVISION 85
 POWERBALL**

**177-085-0000
 Purpose**

These rules establish the procedures and requirements for playing Powerball, a lotto game operated by the Multi-State Lottery (hereinafter referred to as "MUSL"), of which the Oregon State Lottery is a member.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.210
 Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 2-1992(Temp), f. & cert. ef. 4-17-92; LC 6-1992, f. & cert. ef. 6-23-92

**177-085-0005
 Definitions**

The following definitions apply unless the context requires a different meaning.

(1) "Drawing" means the formal process of selecting winning numbers which determine the number of winners for each prize level of the game.

(2) "Game Board" or "Boards" means that area of the play slip which contains two sets of numbered squares to be marked by the player, the first set containing fifty-five squares, numbered 1 through 55, and the second set containing forty-two squares, numbered 1 through 42.

(3) "Game Ticket" or "Ticket" means a ticket produced by a terminal which contains the caption Powerball, one or more lettered game plays followed by the drawing date, the price of the ticket, a six digit retailer number and a serial number that is compatible with the Lottery's on-line operating system.

(4) "Lottery" means the Oregon State Lottery.

(5) "Match 5 Bonus Prize" means the bonus money won when a Grand Prize has reached a new high level and bonus prize monies have been declared by the Product Group under these rules. The Match 5 Bonus Prize does not include the original amount declared for the Match 5 Prize. For the purposes of the Match 5 Bonus Prize, Match 5 means matching five of the numbers drawn from the first set containing fifty-five numbers.

(6) "MUSL" means the Multi-State Lottery Association

(7) "MUSL Board" means the governing body of the MUSL which is comprised of the chief executive officer of each Party Lottery.

(8) "Party Lottery" means a state lottery or lottery of a political subdivision or entity that participates in the Multi-State Lottery (MUSL) and, in the context of these Powerball Product Group rules, which has joined in selling the Powerball game.

(9) "Play" means the six numbers, the first five from a field of fifty-five numbers and the last one from a field of forty-two numbers which appear on a ticket as a single lettered selection and are to be played by a player in the game.

(10) "Play Slip" or "Game Slip" means the paper used in marking a player's game plays and containing one or more boards.

(11) "Product Group" means a group of lotteries which has joined together to offer a product pursuant to the terms of the Multi-State Lottery Agreement and the Group's own rules.

(12) "Quick Pick" means the random selection by the computer system of two-digit numbers that appear on a ticket and are played by a player in the game.

(13) "Retailer" means a person or entity authorized by the Lottery to sell lottery tickets.

(14) "Set Prize" means all prizes except the Grand Prize that are advertised to be paid by a single lump sum payment and, except in instances outlined in these rules, will be equal to the prize amount established by the MUSL Board for the prize level.

(15) "Winning Numbers" means the six numbers, the first five from a field of fifty-five numbers and the last one from a field of forty-two numbers, randomly selected at each drawing, which shall be used to determine winning plays contained on a game ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.200
 Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LC 9-1997(Temp), f. & cert. ef. 11-7-97; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 4-2003(Temp), f. & cert. ef. 4-15-03 thru 10-10-03; LOTT 10-2003, f. & cert. ef. 6-30-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05

177-085-0010

Ticket Price

- (1) A Powerball ticket shall cost one dollar (USA\$1) per play.
- (2) An offer to buy and an offer to sell a Powerball ticket shall be made only at a location which has a retailer contract with the Lottery or only by a method which is approved by the Lottery.
- (3) The Lottery shall not directly and knowingly sell a Powerball ticket or combination of tickets to any person or entity which would guarantee said purchaser a Grand Prize win.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.240
 Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 2-1992(Temp), f. & cert. ef. 4-17-92; LC 6-1992, f. & cert. ef. 6-23-92; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

177-085-0015

Game Description

(1) Powerball is a five out of fifty-five numbers plus one out of forty-two numbers on-line lottery game, drawn every Wednesday and Saturday, which pays the Grand Prize, at the election of the player made in accordance with these rules or by a default election made in accordance with these rules, either on an annuitized pari-mutuel basis or as a single lump sum payment of the total amount held for this prize pool on a pari-mutuel basis. Except as provided in the rules, all other prizes are paid on a set lump sum basis.

(2) To play Powerball, a player shall select five different numbers, between 1 and 55 and one additional number between 1 and 42, for input into a terminal. The additional number may be the same as one of the first five numbers selected by the player.

(3) Tickets can be purchased either from a terminal operated by a retailer (i.e., a clerk-activated terminal) or from a terminal operated by the player (i.e., a player-activated terminal). If purchased from a retailer, the player may select a set of five numbers and one additional number by marking six numbered squares in any one game board on a play slip and submitting the play slip to the retailer, or by requesting "Quick Pick" from the retailer. The retailer will then issue a ticket, via the terminal, containing the selected set or sets of numbers, each of which constitutes a game play. Tickets can be purchased from a player-activated terminal by use of a touch screen or by inserting a play slip into the machine. Tickets may be purchased for up to four consecutive drawings.

(4) It is the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. A ticket may not be voided or canceled by returning the ticket to the retailer or to the Lottery, including tickets that are printed in error. No ticket shall be returned to the Lottery for credit. The placing of plays is done at the player's own risk through the on-line retailer.

(5) The winning numbers for the Powerball game shall be determined at a drawing conducted under the supervision of the MUSL Board. The MUSL Board shall determine the frequency of Powerball game drawings. Winning numbers shall be selected at random with the aid of mechanical drawing equipment. The Lottery Director shall des-

ignate a Drawing Manager who shall review and randomly observe the drawings conducted by the MUSL Board.

Stat. Auth.: ORS 461.250 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.220
 Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 6-1993, f. & cert. ef. 7-2-93; LC 1-1994, f. 1-27-94, cert. ef. 2-1-94; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05

177-085-0020

Prize Claims

A ticket, subject to the validation requirements set forth in these rules, is the only proof of a game play or plays and the submission of a winning ticket to the Lottery or an authorized retailer as required by these rules is the sole method of claiming a prize or prizes. A play slip or a copy of a ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase or of numbers selected. A terminal produced paper receipt has no pecuniary or prize value and does not constitute evidence of ticket purchase or of numbers selected.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.250
 Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05

177-085-0025

Prize Pool

(1) The prize pool for all prize categories shall consist of up to 49.3% of each drawing period's sales, including tax, that remain after funding the prize reserve accounts to the amounts established by the Product Group. Any amount remaining in the prize pool at the end of this game shall be carried forward to a replacement game or expended in a manner as directed by the Product Group in accordance with state law.

(2) Two percent of sales, including tax, shall be placed in trust in one or more prize reserve accounts until the prize reserve accounts reach the amounts designated by the Product Group. Once the prize reserve accounts exceed the designated amounts, the excess shall become part of the Grand Prize pool. Any amount remaining in a prize reserve account at the end of this game shall be carried forward to a replacement prize reserve account or expended in a manner as directed by the Product Group in accordance with state law.

(3) The Grand Prize shall be determined on a pari-mutuel basis. Except as provided in these rules, all other prizes awarded shall be paid as set lump sum prizes with the following expected prize payout percentages: [Table not included. See ED. NOTE.]

(a) The prize money allocated to the Grand Prize category shall be divided equally by the number of game boards winning the Grand Prize.

(b) The prize pool percentage allocated to the set prizes (the single lump sum prizes of \$200,000 or less) shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the set prizes awarded in the current draw. If the total of the set prizes awarded in a drawing exceeds the percentage of the prize pool allocated to the set prizes, then the amount needed to fund the set prizes awarded shall be drawn from the following sources, in the following order:

(A) The amount allocated to the set prizes and carried forward from previous draws, if any;

(B) An amount from the set Prize Reserve Account, if available, not to exceed \$25,000,000.00 per drawing.

(c) If, after these sources are depleted, there are not sufficient funds to pay the set prizes awarded, then the highest set prize shall become a pari-mutuel prize. If the amount of the highest set prize, when paid on a pari-mutuel basis, drops to or below the next highest set prize and there are still not sufficient funds to pay the remaining set prizes awarded, then the next highest set prize shall become a pari-mutuel prize. This procedure shall continue down through all set prize levels, if necessary, until all set prize levels become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this rule shall be divided among the winning plays in proportion to their respective prize percentages.

(d) The prize money allocated to the Match 5 Bonus Prize shall be divided equally by the number of game plays winning the Match 5 prize when a game play wins the new high jackpot amount.

[ED. NOTE: Tables referenced are available from the agency.]
 Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stat. Implemented: ORS 461.220
 Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 17-1988(Temp), f. & cert. ef. 6-2-88; LC 18-1988, f. & cert. ef. 6-28-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 4-1993, f. & cert. ef. 4-2-93; LC 11-1995, f. 10-30-95, cert. ef. 11-1-95; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05

177-085-0030

Probability of Winning

The following table sets forth the probability of winning and the probable distribution of winners in and among each prize category, based upon the total number of possible combinations in Powerball: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
 Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.220
 Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05

177-085-0035

Prize Payment

(1) Grand prizes shall be paid, at the election of the player made no later than 60 days after validation of the prize, with either a per winner annuity or single lump sum payment. If the payment election is not made by the player within 60 days after validation, then the prize shall be paid as an annuity prize. The election to take the single lump sum payment may be made at the time of validation of the prize claim or within 60 days thereafter. An election made after validation is final and cannot be revoked, withdrawn or otherwise changed. Shares of the Grand Prize shall be determined by dividing the amount available in the Grand Prize pool equally among all winners of the Grand Prize. Winner(s) who elect a lump sum payment shall be paid their share(s) in a single lump sum payment. The annuitized option prize shall be determined by multiplying a winner's share of the Grand Prize pool by the MUSL annuity factor. (Application of the MUSL annuity factor generally is anticipated to result in the Grand Prize winner who elects a single lump sum payment receiving an amount that roughly approximates one-half of the advertised jackpot amount. The actual single lump sum payment amount will vary as a function of the MUSL annuity factor determined as described in subsection (5) of this rule.) The MUSL annuity factor is determined by the best total securities price obtained through a competitive bid of qualified, pre-approved brokers made after it is determined that the prize is to be paid as an annuity prize or after the expiration of 60 days after the winner becomes entitled to the prize. Neither MUSL nor the party lotteries shall be responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount purchased after the prize payment method is actually known to MUSL. In certain instances announced by the Product Group, the Grand Prize shall be a guaranteed amount and shall be determined pursuant to subsection (5) of this rule. If individual shares of the cash held to fund an annuity are less than \$250,000, the Product Group, in its sole discretion, may elect to pay the winners their share of the amount held in the Grand Prize pool. All annuitized prizes shall be paid annually in thirty payments with the initial payment being made directly with available funds, to be followed by twenty-nine payments funded by the annuity. All annuitized prizes shall be paid annually in thirty graduated payments (increasing each year) by a rate as determined by the Product Group. Prize payments may be rounded down to the nearest \$1,000. Annual payments after the initial payment shall be made by the lottery on the anniversary date of the first payment or if such date falls on a non-business day, then the first business day following the anniversary date of the selection of the jackpot winning numbers. Funds for the initial payment of an annuitized prize or the lump sum payment prize shall be made available by MUSL for payment by the Party Lottery which sold the winning ticket by the 15th calendar day (or the next banking day if the fifteenth day is a holiday) following the drawing. If necessary, when the due date for the payment of a prize occurs before the receipt of sufficient funds in the prize pool trust to pay the prize, then the

transfer of funds for the payment of the full lump sum payment amount may be delayed pending receipt of funds from the party lotteries. A state may elect to make the initial payment from its own funds after validation, with notice to MUSL. In the event of the death of a lottery winner during the annuity payment period, the Product Group, in its sole discretion, upon the petition of the estate of the lottery winner (the "Estate") or the persons identified on the winner's Beneficiary Designation form (BDF), whichever is applicable, to the state lottery of the state in which the deceased lottery winner purchased the winning ticket, and subject to applicable federal, state, or district laws, may make payment to the Estate or the designated beneficiary of the discounted present value of the annuitized prize payments. If the Product Group makes such a determination, then securities and/or amounts held to fund the deceased lottery winner's annuitized prize may be distributed to the Estate or the persons on the BDF. The identification of the securities, if any, to fund the annuitized prize shall be at the sole discretion of the Product Group.

(2) All low-tier cash prizes (all prizes except the Grand Prize) shall be paid directly through the Lottery that sold the winning ticket. The Lottery may begin paying low-tier prizes after receiving authorization to pay from the MUSL central office.

(3) Annuitized payments of the Grand Prize or a share of the Grand Prize may be rounded to facilitate the purchase of an appropriate funding mechanism. Breakage on an annuitized Grand Prize win shall be added to the first payment to the winner or winners. Prizes other than the Grand Prize which, under these rules, may become single-payment, pari-mutuel prizes, may be rounded down so that prizes can be paid in multiples of whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

(4) If the Grand Prize is not won in a drawing, the prize money allocated for the Grand Prize shall roll over and be added to the Grand Prize pool for the following drawing. If a new high Grand Prize is not won in a drawing, the prize money allocated for the Match 5 Bonus Prizes shall roll over and be added to the Match 5 Bonus Prize pool for the following drawing.

(5) The Product Group may offer guaranteed minimum Grand Prize amounts or minimum increases in the Grand Prize amount between drawings or make other changes in the allocation of prize money where the Product Group finds that it would be in the best interest of the game. If a minimum Grand Prize amount or a minimum increase in the Grand prize amount between drawings is offered by the Product Group, then the Grand Prize amount shall be determined as follows. If there are multiple Grand Prize winners during a single drawing, each selecting the annuitized option prize, then a winner's share of the guaranteed annuitized Grand Prize shall be determined by dividing the guaranteed annuitized Grand Prize by the number of winners. If there are multiple Grand Prize winners during a single drawing and at least one of the Grand Prize winners has elected the annuitized option prize, then the best bid submitted by MUSL's pre-approved qualified brokers shall determine the cash pool needed to fund the guaranteed annuitized Grand Prize. If no winner of the Grand Prize during a single drawing has elected the annuitized option prize, then the amount of the cash in the Grand Prize pool shall be an amount equal to the guaranteed annuitized amount divided by the average annuity factor of the most recent three best quotes provided by MUSL's pre-approved qualified brokers submitting quotes. In no case shall quotes be used which are more than two weeks old, and if less than three quotes are submitted, then MUSL shall use the average of all quotes submitted. Changes in the allocation of prize money shall be designed to retain approximately the same prize allocation percentages, over a year's time, set out in these rules. Minimum guaranteed prizes or increases may be waived if the alternate funding mechanism set out in OAR 177-085-0025(3)(b) or (c) becomes necessary.

(6) The holder of a winning ticket may win only one prize per board in connection with the winning numbers drawn, and shall be entitled only to the prize won by those numbers in the highest matching prize category.

(7) Claims for all prize categories, including the Grand Prize, shall be submitted within one year after the date of the drawing in accordance with these rules.

(8) When the Grand Prize reaches a new high annuitized amount, through a procedure as determined by the Group, the maximum amount to be allocated to the Grand Prize pool from the Grand Prize

percentage shall be the previous high amount plus \$25 million (annuitized) or as otherwise set by the Group. Any amount of the Grand Prize percentage which exceeds the \$25 million (annuitized) increase shall be added to the Match 5 Bonus Prize Pool. The Match 5 Bonus prize pool is hereby created, and shall accumulate until the Grand Prize is won, at which time the Match 5 Bonus prize pool shall be divided equally by the number of game boards winning the Match 5 prize. If there are no Match 5 winners on the draw when the new high Grand Prize is won, then the Match 5 Bonus prize pool shall be divided equally by the number of game plays winning the Match 4+1 prize.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.20
 Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 8-1992, f. & cert. ef. 7-23-92; LC 4-1993, f. & cert. ef. 4-2-93; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 4-2003(Temp), f. & cert. ef. 4-15-03 thru 10-10-03; LOTT 10-2003, f. & cert. ef. 6-30-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05

177-085-0040

Ticket Validation

To be a valid ticket and eligible to receive a prize, a Powerball ticket shall satisfy all the requirements established by the Lottery for validation of winning tickets sold through its on-line system and any other validation requirements adapted by the MUSL Board, the Product Group, and published as the Confidential MUSL Minimum Game Security Standards. The Lottery and MUSL shall not be responsible for tickets which are altered in any manner. When a winning ticket is submitted to the Lottery for validation along with the Lottery's completed claim form, and the Lottery has initiated the validation procedures, the Lottery retains possession of the winning ticket and claim form.

Stat. Auth.: ORS 461.250 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.250
 Hist.: LC 6-1988 (Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 1-1994, f. 1-27-94, cert. ef. 2-1-94; LC 10-1996, f. & cert. ef. 9-4-96; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

177-085-0045

Ticket Responsibility

Until such time as a signature is placed in the area designated for signature, a ticket is owned by the bearer of the ticket. MUSL, the Product Group, or the Lottery are not responsible for lost or stolen tickets.

Stat. Auth.: ORS 461.250 & OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.250
 Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 16-1988, f. & cert. ef. 6-2-88; LC 10-1996, f. & cert. ef. 9-4-96; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

177-085-0050

Ineligible Players

(1) A ticket or share issued by the MUSL or any of its party lotteries shall not be purchased by, and a prize won by any such ticket or share shall not be paid to:

- (a) A MUSL employee, officer, or director;
- (b) A contractor or consultant under agreement with the MUSL to review the MUSL audit and security procedures;
- (c) An employee of an independent accounting firm under contract with MUSL to observe drawings or site operations and actually assigned to the MUSL account and all partners, share-holders, or owners in the local office of the firm; or
- (d) An immediate family member of an individual described in subsections (a) through (c) of this section.

(2) Those persons designated by a party lottery's law as ineligible to play its game shall also be ineligible to play Powerball in that party lottery's jurisdiction.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.250
 Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 12-1990, f. & cert. ef. 10-2-90; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03

177-085-0065

Power Play

(1) Power Play is an optional, limited extension of the Powerball Game described in OAR division 85. The Lottery Director, in the

Lottery Director's sole discretion and based on agreements with MUSL, is authorized to initiate and terminate the Power Play option.

(2) Power Play multiplies the amount of any of the cash Set Prizes (the cash prizes normally paying \$3 to \$200,000) won in a drawing. The Grand Prize jackpot is not a Set Prize and will not be multiplied. Match 5 Bonus Prizes are awarded independent of the Power Play option and are not multiplied by the Power Play multiplier.

(3) A qualifying Power Play option play is any single Powerball Play for which the player selects the Power Play option on either the Play Slip or by selecting the Power Play option through a clerk-activated or player-activated terminal, pays one extra dollar for the Power Play option play, and which is recorded at the Party Lottery's central computer as a qualifying play.

(4) A qualifying play which wins one of the cash Set Prizes will be multiplied by the number selected (2 through 5), in a separate random selection announced during the official Powerball drawing show.

(5) MUSL will conduct a separate random "Power Play" drawing and announce results during each of the regular Powerball drawings. During each random "Power Play" drawing, one number from sixteen possible numbers will be selected. The numbers available for selection are 2, 2, 2, 2, 3, 3, 3, 3, 4, 4, 4, 4, 5, 5, 5, and 5. The Powerball Group may change one or more of these multiplier numbers for special promotions from time to time.

(6) Except as provided in these rules, all prizes awarded shall be paid as lump sum set prizes. Instead of the Powerball set prize amounts, qualifying Power Play option plays will pay the amounts shown below when matched with the Power Play number drawn: [Table not included. See ED. NOTE.]

(7) The following table sets forth the probability of the various Power Play numbers being drawn during a single Powerball drawing: [Table not included. See ED. NOTE.]

(8) The prize pool percentage allocated to the Power Play set prizes shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the set prizes awarded in the current draw.

(9) If the total of the original Powerball set prizes and the multiplied Power Play set prizes awarded in a drawing exceeds the percentage of the prize pools allocated to the set prizes, then the amount needed to fund the set prizes (including the multiplied set prizes) awarded shall be drawn from the following sources, in the following order:

- (a) The amount allocated to the set prizes and carried forward from previous draws, if any;
- (b) An amount from the Powerball Set-Prize Reserve Account, if available in the account, not to exceed twenty-five million dollars (\$25,000,000) per drawing; and
- (c) If, after these sources are depleted, there are not sufficient funds to pay the set prizes awarded (including multiplied prizes), then the highest set prize (including the multiplied prizes) shall become a pari-mutuel prize. If the amount of the highest set prize, when paid on a pari-mutuel basis, drops to or below the next highest set prize and there are still not sufficient funds to pay the remaining set prizes awarded, then the next highest set prize, including the multiplied prize, shall become a pari-mutuel prize. This procedure shall continue down through all set prizes levels, if necessary, until all set prize levels become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this rule shall be divided among the winning plays in proportion to their respective prize percentages.

[ED. NOTE: Tables referenced are available from the agency.]
 Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461
 Hist.: LOTT 3-2001(Temp), f. 3-1-01, cert. ef. 3-2-01 thru 8-29-01; LOTT 10-2001, f. 5-25-01, cert. ef. 5-29-01; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05

**DIVISION 90
 SPORTS ACTION**

177-090-0000

Purpose and Disclaimer

(1) **Purpose:** These rules establish the procedures and requirements for playing Sports Action, a lottery game operated by the Oregon State Lottery.

(2) **Disclaimer:** Sports Action is not associated with, sponsored, or authorized by the National Football League (NFL).

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0005

Definitions

For the purposes of division 90, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) "Entry Form" means a play slip used by a player to choose the dollar amount to be wagered, the number of events selected, and the player's chosen option for each event selected.

(2) "Event" means a game or a special play that a player may select.

(3) "Favorite" means the likely winning team of a game as indicated on the official program.

(4) "Game" means a professional football game between two teams.

(5) "Game ticket" or "ticket" means a computer-generated, printed paper issued by an Oregon Lottery on-line terminal as a receipt for the events selected and the options chosen by a player and includes, but is not limited to, the following data: The name "Sports Action," the purchase date, events selected, the option chosen for each selected event, the cost of the ticket, the identifying number for the specific play week, a six-digit retailer number, a serial number, and a bar code.

(6) "Official program" means the Lottery's list of games with point spreads and special plays, including the options for each event a player may select for a particular play week.

(7) "Official Sports Action results" means the Lottery's list of the final outcomes of the events scheduled for a given play week, showing the winning option for each event.

(8) "Option" means one of two possible outcomes for an event.

(9) "Parimutuel" means a system of wagering in which the money allocated for prizes from the total amount of money wagered on an event is divided among prizewinners in proportion to each prizewinner's individual wager.

(10) "Play week" means a seven-day period:

(a) Beginning at 5:00 a.m. on Tuesday and ending at the scheduled start time of the last game on Monday during the pre-season and regular season; and

(b) Beginning at 5:00 a.m. on Monday and ending at the scheduled start time of the last game on Sunday during the post-season playoffs.

(11) "Point spread" means the number of points used to balance the possible outcome of an event, giving equal chance for each event's success.

(12) "Prize category" means a division of the prize pool identified by a specific number of events selected by a player.

(13) "Prize pool" means the amount of money allocated from total sales for prizes.

(14) "Quick Pick" means the random selection by an Oregon Lottery on-line terminal of events played on a ticket and an option for each event selected.

(15) "Special play" means an activity that occurs within a game, including, but not limited to, fumbles, interceptions, and sacks.

(16) "Underdog" means the likely losing team of a game as indicated on the official program.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.010
 Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0010

Sports Action Description

(1) **General:** Sports Action is a Lottery game based on the outcome of a game or special play. Each play week during the Sports Action season, the Lottery will make available an official program, which lists the events for that play week. The play week's official program will contain at least eight events. For each game listed, the official program will indicate the favorite and the underdog and include a point spread. The point spread is added to the underdog score which

is then compared to the favorite's score to determine the outcome of a game. The team with the highest score is the winner as specified in OAR 177-090-0055. The Lottery's point spread appearing on the official program is the only point spread applicable to Sports Action.

(2) **Player Selections:** A player is required to select at least three events on the official program but may select 4, 5, 6, 7, 8, 10, 12, or a maximum of 14 events.

(3) **Lottery Selections:** The Lottery will list a minimum of eight events up to a maximum of thirty events each week. The Director reserves the right to determine which events will be listed in the official program and whether to apply a point spread.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.010
 Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0015

Play Dates and Times

For a given play week, a player may purchase a ticket for an event starting at the beginning of the play week. After the scheduled start time of a game as listed on the official program, a ticket for that game and any special plays in that game can no longer be purchased. A ticket for a specific play week can not be purchased when there are less than three events remaining in that play week.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0020

Cost of a Ticket

The cost of a ticket is determined by the amount of money a player chooses to wager. The minimum wager is \$2 per ticket. A player may choose to wager \$2, \$3, \$4, \$5, \$10, or \$20 per ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.240
 Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LC 11-1990, f. & cert. ef. 8-21-90; LC 7-1993, f. & cert. ef. 8-4-93; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0025

Ticket Purchase, Characteristics, and Restrictions

(1) **General:** A Sports Action ticket may only be purchased from a Lottery on-line retailer during the Sports Action season.

(2) **Age of Player:** A player must be at least 18 years of age to purchase a Sports Action ticket.

(3) **Ticket Purchase Options:** A ticket may be purchased from a clerk-operated on-line terminal or from a player-operated on-line terminal.

(a) **Purchasing a Ticket from a Clerk-operated On-line Terminal:** A player may purchase a ticket from a clerk-operated on-line terminal by completing an entry form and submitting it with the amount of money to be wagered on the ticket to the clerk. The clerk will then issue a ticket to the player. Alternatively, a player may request a Quick Pick ticket from the clerk without using an entry form by informing the clerk of the number of events to be played and paying the amount of money to be wagered on the ticket.

(b) **Purchasing a Ticket from a Player-operated On-line Terminal:** A player may purchase a ticket from a player-operated on-line terminal only by using an entry form and following the instructions appearing on the terminal screen. Once the entry form is completed, the player must insert into the terminal the entry form and the amount of money to be wagered on the ticket. The terminal will then issue a ticket to the player.

(4) **Ticket Characteristics:** A game ticket is the only proof of Sports Action game play, including the selections made by a player. The submission of a winning ticket to the Lottery or the on-line retailer is the sole method for claiming a prize. An entry form or a copy of a game ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase, the selections made by a player, or otherwise represent an opportunity to win a prize.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.210
 Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0035

Cancellation of Tickets

(1) **General:** A player may cancel a Sports Action game ticket as set forth in OAR 177-046-0060 by returning the ticket to the selling retailer on the day of purchase prior to the time wagers are disabled before the first event listed on the ticket. After this time, the ticket cannot be canceled.

(2) **Refund:** In the event that a ticket is canceled in accordance with OAR 177-090-0035(1) and 177-046-0060, the player shall be entitled to a refund from the retailer equal to the cost shown on the player's ticket, not to exceed the maximum ticket cost of \$20.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.210
 Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LC 11-1990, f. & cert. ef. 8-21-90; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0040

Prize Pool

(1) **General:** The prize pool consists of approximately sixty percent of the total amount of money wagered each week.

(2) **Parimutuel:** Except for the 3 of 3 and 4 of 4 prize categories, all prizes in each prize category are determined on a parimutuel basis. The prize for correctly selecting all three events in the 3 of 3 pool is \$10 for a minimum \$2 wager. The prize for correctly selecting all four events in the 4 of 4 pool is \$20 for a minimum \$2 wager.

(3) **Rounding:** Prize amounts are rounded down to the nearest ten cents.

(4) **Carry Forward:** If there is no winner in a prize category, the prize money in that category is carried forward and added to the prize pool for that prize category in the next play week. For example, if no player from all the players who played fourteen events correctly selects all fourteen winners, the money is carried forward and added to the prize pool for fourteen events in the next play week. If, in the next play week, one or more prize categories do not offer a comparable number of events, the prize pool will be carried forward to the prize category with the most events offered during that play week. For example, if the prize pool for the prize category of 12 of 12 events is carried forward to the next play week, but the largest prize category for that week is 10 of 10 events, the prize pool carried forward will be added to the prize pool for the 10 of 10 events.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.220
 Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0045

Payment of Prizes; Ticket Validation Requirements

(1) **Payment:** Except as otherwise provided herein, prize payments must be claimed, and are made, in accordance with the provisions of OAR 177-070-0025.

(2) **Ticket Validation:** To be a valid ticket and eligible to receive a prize, a ticket must:

- (a) Be validated in accordance with the provisions of OAR 177-070-0035; and
- (b) Be a winner under OAR 177-090-0055.

(3) **Time:** A ticket with a winning event selection for the 3 of 3 and 4 of 4 prize categories may be validated and payable to a winner the day following the last event on the ticket. Other prizes are parimutuel and may be validated and payable on the day following the end of the play week when the Lottery's on-line game system is activated for that day.

(4) **Limits:** All prizes must be claimed within one year from the end of the play week in which the winning event occurred.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.250(3) & 461.260
 Hist.: LC 14-1989, f. & cert. ef. 8-28-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0050

Odds of Winning

The number of prizes for Sports Action is not pre-determined by the Lottery. The overall prize percentage payout for Sports Action prizes is estimated at sixty percent over time but will vary week to week, as well as year to year, due to factors including, but not limited to, the number of players participating each week and the number

of winning wagers. The following table sets forth the estimated odds of winning Sports Action prizes: [Table not included: See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
 Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.220
 Hist.: LC 14-1989, f. & cert. ef. 8-28-89; Administrative Correction 4-15-98; LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0055

Determination of Winners

(1) **Favorite:** To be a winning selection, the favorite must defeat the underdog by more points than the point spread.

(2) **Underdog:** To be a winning selection, the underdog must win the game or lose by fewer points than the point spread.

(3) **General:** To win, all of a player's event selections must match the final outcomes in the Lottery's official Sports Action results. For example, no prize shall be awarded to players who match 3 of 4 event selections, 5 of 7 event selections, or 11 of 14 event selections.

(4) **Official Event Results:** The scores and results for an event become official and final for the purpose of playing Sports Action when the Lottery enters the results in the Lottery's central computer system for purposes of validating winning tickets. Once the results are entered, the Lottery shall not recognize any changes, including, but not limited to, the game's final score, or any protests, overturned decisions, or statistical changes made by the professional sports league or organization overseeing the game that changes the outcome of a special play.

(5) **Availability of Results:** At the end of each play week, the Lottery will provide Sports Action results to the public through appropriate means.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.210, 461.220, 461.230 & 461.250
 Hist.: LOTT 10-1999, f. 6-30-99, cert. ef. 7-1-99; LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

177-090-0057

Game Cancellation, Postponement, or Termination

(1) **Game Cancellation:** If a game is officially canceled prior to the start, or during the course of play, the final outcome for the game and for each special play associated with the game will be determined by using the Lottery's random number generator.

(2) **Multiple Game Cancellations:** If multiple games for a play week are officially canceled, the Director may instead authorize a refund equal to the cost shown on the player's ticket.

(3) **Game Postponed:** If a game is officially postponed prior to the start, or during the course of play, play on a Sports Action ticket, which includes that game, may continue until the rescheduled starting time for the game. In the exercise of the Director's discretion, the final outcome for a postponed game and any special plays associated with that game may instead be determined by using the Lottery's random number generator.

(4) **Game Terminated after Play Has Started:** If a game is officially terminated after play has started and the results of that game are declared as official and final by the NFL, the Lottery will adopt those results. Results include the final score of the game and any special plays within that game.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2004, f. 7-28-04 cert. ef. 8-3-04

DIVISION 91

SCOREBOARD

177-091-0000

Purpose and Disclaimer

(1) **Purpose:** These rules establish the procedures and requirements for playing Oregon Lottery Scoreboard, a lottery game operated by the Oregon State Lottery and authorized by the Oregon State Lottery Commission, which is based upon the results of sporting events.

(2) **Disclaimer:** Scoreboard is not associated with, sponsored, or authorized by the National Football League, its member clubs, or any other professional or amateur sports league or organization.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04; LOTT 16-2003, f. & cert. ef. 12-19-03

177-091-0010

Definitions

For the purposes of division 91, the following definitions apply except as otherwise specifically provided in OAR chapter 177, or unless the context requires otherwise:

(1) "Game ticket" or "ticket" means a computer-generated, printed paper issued by a terminal as a receipt for the sporting-event and game-play selections made by a player and that contains, but is not limited to, the following data: The caption "Scoreboard," the dates of the sporting events for which the ticket is played, an identifying number, the price of the ticket, a six-digit retailer number, a serial number, and a bar code.

(2) "Official Scoreboard results" means the Lottery's list of the final sporting event scores.

(3) "Quick pick" means the random selection by a terminal of the numbers played on a ticket.

(4) "Terminal" means an on-line terminal as defined in OAR 177-070-0005(4).

(5) "Ticket validation" or "validation" means the process of determining whether a ticket presented for payment is a winning ticket as set forth in OAR 177-070-0035.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04; LOTT 16-2003, f. & cert. ef. 12-19-03

177-091-0020

Game Description

(1) General: Scoreboard is an on-line lottery game based on the outcome of sporting events in which a player must match quick pick numbers to the last digit of the final score for each team in each period of play, including, but not limited to, quarters, innings, rounds, and periods, in a sporting event selected by the Lottery. These scores may be commonly known as the "box score," but only the Lottery's official Scoreboard results are used to determine winners. The final score includes any overtime play.

(2) Name of Game: Lottery may from time to time use variations of the name Scoreboard including, but not limited to, such names as "Monday Scoreboard," "Monday Night Scoreboard."

(3) Game Changes: The Director reserves the right to suspend or cancel the Scoreboard game at any time. The Director's decisions are final.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04; LOTT 16-2003, f. & cert. ef. 12-19-03

177-091-0030

Play Dates and Times

Scoreboard shall support up to twenty sporting events. Dates and times to purchase a ticket will vary depending on the times of the sporting events selected by the Lottery during the Lottery's Scoreboard season.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04; LOTT 16-2003, f. & cert. ef. 12-19-03

177-091-0040

Price

The minimum price of a Scoreboard ticket is \$2. The maximum price of a ticket is \$20. A player may choose to wager \$2, \$3, \$4, \$5, \$10, or \$20 per ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04; LOTT 16-2003, f. & cert. ef. 12-19-03

177-091-0050

Ticket Purchase, Restrictions, and Characteristics

(1) General: Scoreboard tickets must be purchased during the Oregon Lottery's Scoreboard season which will be determined by the

Lottery and announced by reasonable means before or during the season.

(2) Authorized Retailer: Scoreboard tickets are sold at retailer locations that have a Lottery contract to sell on-line lottery tickets.

(3) Age of Player: A player must be at least 18 years of age to purchase a Scoreboard ticket.

(4) Ticket Purchase: A ticket may be purchased either from a clerk-operated terminal, or a player-operated terminal. All Scoreboard tickets are quick picks.

(a) Purchasing a Ticket From a Clerk-Operated Terminal: The player informs the clerk of the event, the number of tickets desired, and the amount of money to be played on each ticket. After the player submits the request and the money to the clerk, the clerk uses the terminal to issue the requested tickets to the player.

(b) Purchasing a Ticket From a Player-Operated Terminal: A player may purchase Scoreboard tickets from a player-operated terminal by following the instructions appearing on the touch screen of the terminal. Once the player has completed the player's selection and inserted the price of the tickets into the terminal, the terminal issues the tickets to the player.

(5) Ticket Description: On each ticket purchased by the player, four sets of two single-digit numbers for each of the specified event's periods of play will be printed. The single-digit numbers produced will range from zero through nine. No two sets of numbers in any period of play will be duplicated.

(6) Ticket Characteristics: A ticket is the only acceptable evidence of the selections made by a player and the only valid receipt for claiming a prize. A copy of a ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase or the selections made by a player.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04; LOTT 16-2003, f. & cert. ef. 12-19-03

177-091-0060

Cancellation of Tickets

A player may not cancel a Scoreboard ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04; LOTT 16-2003, f. & cert. ef. 12-19-03

177-091-0070

Prize Structure

The following table sets forth the prize structure and the estimated probability of winning a Scoreboard prize for a sporting event with four quarters of play. Quarters are defined as first quarter, second quarter, third quarter, and final score. Payouts on this table are based on a \$2 wager. Payouts increase proportionally based on the amount wagered by the player. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
 Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04; LOTT 16-2003, f. & cert. ef. 12-19-03

177-091-0080

Payment of Prizes; Ticket Validation Requirements

(1) Payment of Prizes: A prize payment for a winning Scoreboard ticket must be claimed, and shall be made, in accordance with the provisions of OAR 177-070-0025.

(2) Validation of Tickets: To be a valid ticket and eligible to receive a prize, a ticket must:

(a) Be validated in accordance with the provisions of OAR 177-070-0035; and

(b) Be a winner under OAR 177-091-0100.

(3) Limitation on Prizes Paid: A player shall receive only the highest prize available for each winning ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04; LOTT 16-2003, f. & cert. ef. 12-19-03

177-091-0090

Probability of Winning

The number of prizes for Scoreboard is not pre-determined by the Lottery. The overall prize percentage payout for Scoreboard prizes is

estimated at 70 percent over time but will vary from week to week, as well as from year to year, due to factors which include, but are not limited to, the number of players participating each week and the number of winning wagers.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04; LOTT 16-2003, f. & cert. ef. 12-19-03;

**177-091-0100
 Determination of Winners**

(1) General: A player wins by correctly matching the numbers on the player's ticket to the last digit of the score of the specified sporting event for the specified period of play.

(2) Official Game Results: The scores in a sporting event become official for the purpose of playing Scoreboard when adopted by the Lottery and listed in the Lottery's official game results. The Lottery shall not recognize protests or overturned decisions.

(3) Availability of Results: The Lottery shall make Scoreboard results available at all retailer locations that sell Scoreboard tickets after each sporting event has ended.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04; LOTT 16-2003, f. & cert. ef. 12-19-03

**177-091-0110
 Sporting Event Cancellation, Rescheduling, or Suspension**

(1) Cancellation of Sporting Event: If a sporting event is canceled prior to the start, or during the course of play, and it is not declared final and it is not rescheduled by the governing body for that event, the Director shall authorize the refund of the purchase price of a player's ticket for that sporting event to the player.

(2) Sporting Event Rescheduled: If a sporting event is rescheduled prior to the start, or during the course of play, by the governing body for that event, play on the Scoreboard tickets purchased for that sporting event may continue for the sporting event at the rescheduled time, or in the exercise of the Director's discretion, the Director may authorize the refund of the purchase price of a player's ticket for that sporting event to the player.

(3) Suspension of Sporting Event After Play Has Started: If a sporting event is suspended after play has started and the governing body for that event does not reschedule the event and declares the results of that event as official/final, the Lottery shall adopt the score from the last completed period of play as the score for any remaining unplayed periods of play as well as the final score of that sporting event. For example, if a professional football game ends after two quarters of play, and the National Football League declares the game official, the score at the end of the second quarter of play also becomes the score for the unplayed third quarter and the final game score.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.213
 Hist.: LOTT 12-2003(Temp), f. 8-28-03, cert. ef. 9-2-03 thru 2-27-04; LOTT 16-2003, f. & cert. ef. 12-19-03

DIVISION 94

WIN FOR LIFE

**177-094-0000
 Definitions**

For the purposes of the Win for Life game, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) "Board" means that portion of the game slip through which a player, either manually or by indicating a Quick Pick, selects a set of four, two-digit numbers from one through seventy-seven which comprise a Win for Life prize category wager. There are five boards on each Win for Life game slip which, depending on the number of boards marked by the player, will produce up to five game plays per game slip.

(2) "Exchange ticket" means a computer-generated, printed paper issued by a terminal to replace a game ticket that had been purchased for play in consecutive Win for Life drawings and was validated as a winning ticket before the latest drawing appearing on the game ticket. An exchange ticket shall contain the exact game play and future

drawing date(s) appearing on the validated game ticket it is replacing and shall have all other characteristics of a game ticket except as otherwise stated in these rules. An exchange ticket shall not contain a ticket price.

(3) "Game play" means the player selection of one set of numbers as their Win for Life prize category selection. The Win for Life selection, once properly submitted as described in OAR 177-094-0030, then prompts the terminal to automatically and randomly select fourteen additional sets of numbers. The first two of the fourteen sets apply to the \$50,000 prize category, the next four sets apply to the \$20,000 prize category, and the last eight sets apply to the \$10,000 prize category. All fifteen sets of numbers appear on a ticket for a particular drawing each of which shall be compared to the winning numbers selected at the drawing(s) and appearing on the ticket to determine the prize or multiple prize payment that may be claimed.

(4) "Game ticket" or "ticket" means a computer-generated, printed paper issued by a terminal as a receipt for the game play selected by a player and which contains the following: the caption "Win for Life;" one game play, the date(s) of the drawing(s) in which the ticket shall be played, the number of consecutive drawings on which the ticket shall be played, the identifying number for each drawing, the price of the ticket, a six-digit retailer number, a serial number, and a bar code.

(5) "Prize category" means a subset of the prize structure described in OAR 177-094-0080 which describes the value of the Win for Life prizes.

(6) "Quick Pick" means the random selection of numbers by a terminal which appear as the game play on a ticket.

(7) "Set" means the four, two-digit numbers from one through seventy-seven which are selected by either the player or the terminal as Win for Life wagers.

(8) "Winning numbers" means the four numbers, from one to seventy-seven randomly selected at each drawing, as described in OAR 177-094-0050, which are used to determine whether the game ticket contains winning game plays.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461
 Hist.: LOTT 11-2000, f. & cert. ef. 12-1-00; LOTT 18-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 29-2002, f. & cert. ef. 11-25-02

**177-094-0010
 Game Description**

(1) Win for Life is a Lottery game based on fifteen horizontal sets of numbers.

(2) Each of the fifteen sets of numbers that match the winning numbers as prescribed by OAR 177-094-0080(1) selected at each drawing on the date(s) indicated on the player's ticket determine any prize amount won.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461
 Hist.: LOTT 11-2000, f. & cert. ef. 12-1-00; LOTT 18-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 29-2002, f. & cert. ef. 11-25-02

**177-094-0020
 Price**

(1) The minimum price of a ticket for a single drawing is \$2.

(2) The price of a ticket for play in consecutive drawings shall be the price of a ticket for a single drawing (\$2.00) multiplied by the number of consecutive drawings in which the ticket will be played. The minimum ticket price for consecutive drawings is \$4.00 (\$2 x 2 consecutive drawings = \$4). The maximum ticket price for multiple, consecutive drawings is \$12.00 (\$2 x 6 consecutive Drawings = \$12).

(3) A ticket purchased for consecutive drawings is limited solely to the following options: 2, 3, 4, 5, or 6 consecutive drawings following ticket purchase.

(4) A game slip contains five boards. Each of the five boards may be used by a player to purchase a single ticket. Therefore, a game slip may be used to purchase up to five tickets. The maximum wager allowed through one game slip is \$60 (5 boards x \$2 = \$10 x 6 consecutive drawings = \$60). Any game slip indicating a total ticket purchase price greater than \$60.00 shall be automatically rejected by the terminal.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461
 Hist.: LOTT 11-2000, f. & cert. ef. 12-1-00; LOTT 18-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 29-2002, f. & cert. ef. 11-25-02

177-094-0030

Ticket Purchase, Characteristics, and Restrictions

(1) Win for Life tickets may be purchased every day of the year during the hours of operation of the Lottery's On-Line game system and a Lottery retailer's business hours.

(2) Ticket purchase: Tickets may be purchased either from a terminal operated by a retailer, i.e., a clerk-operated terminal, or from a terminal operated by the player, i.e., a player-operated terminal. To play Win for Life, a player must:

(a) Complete a game slip for input into a clerk-operated terminal or player-operated terminal:

- (b) Request a Quick Pick from a clerk; or
 - (c) Request a Quick Pick using a player-operated terminal.
- (3) Completing a game slip:

(a) A player must choose a game play or game plays by one of two methods:

(A) A player may select four two-digit numbers from one to seventy-seven on a board on a game slip; or

(B) The player may select the Quick Pick option on a board on a game slip.

(b) A player may choose from one to five game plays per game slip by utilizing one or more of the five boards.

(c) A player must indicate if the game play is to be played in consecutive drawings.

(4) Purchasing a ticket from a clerk-operated terminal:

(a) After the player completes a game slip and submits it along with the price of the ticket(s) to the clerk, the clerk shall use the terminal to issue the ticket(s) to the player.

(b) Alternately, the player may submit the price of the ticket(s) to a clerk and request that a clerk, without using a game slip, electronically submit a player's Quick Pick game play selection through the terminal and request game play for a single drawing or consecutive drawings.

(5) Purchasing a ticket from a player-operated terminal:

(a) A player may purchase a ticket from a player-operated terminal by following the instructions appearing on the screen of the terminal.

(b) Once the player has completed the game slip, inserted it along with the purchase price of the ticket(s) into the terminal, the terminal will issue the ticket(s) to the player.

(c) Alternately, the player may request a Quick Pick game play selection without using a game slip through a player-operated terminal by selecting the Win for Life game option, indicating the number of consecutive drawings to be played, and inserting the purchase price of the ticket. The terminal will then issue a ticket to the player.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461
 Hist.: LOTT 11-2000, f. & cert. ef. 12-1-00; LOTT 18-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 29-2002, f. & cert. ef. 11-25-02

177-094-0040

Cancellation of Tickets

A player may cancel a Win for Life ticket for a single drawing or consecutive drawings. To cancel a ticket, a player must follow the procedure in OAR 177-046-0060.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461
 Hist.: LOTT 11-2000, f. & cert. ef. 12-1-00; LOTT 18-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 29-2002, f. & cert. ef. 11-25-02

177-094-0050

Drawings

(1) Win for Life drawings shall normally take place every Monday, Wednesday, and Saturday at approximately 7:30 P.M. or at other times as determined by the Director.

(2) Each drawing shall randomly select four, two-digit numbers from a possible seventy-seven numbers from one to seventy-seven which shall be the winning numbers. The winning numbers selected at each drawing shall be generated through the use of a computer-driven random number generator.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461
 Hist.: LOTT 11-2000, f. & cert. ef. 12-1-00; LOTT 18-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 29-2002, f. & cert. ef. 11-25-02

177-094-0060

Ticket Validation Requirements

(1) For a ticket to be valid and eligible to receive prize payment, the ticket must be validated in accordance with the provisions of OAR chapter 177.

(2) A game ticket containing a winning game play which was also wagered in subsequent, consecutive drawings may be validated prior to the occurrence of future drawings for which the game ticket was purchased. An exchange ticket shall be issued at the time the original game ticket is validated for the remainder of the drawings appearing on the validated game ticket. An exchange ticket shall also be issued at the time a previously issued exchange ticket is validated for the remainder of the drawings appearing on the validated exchange ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461
 Hist.: LOTT 11-2000, f. & cert. ef. 12-1-00; LOTT 18-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 29-2002, f. & cert. ef. 11-25-02

177-094-0080

Prizes

(1) Prizes for a winning ticket are determined by matching each horizontal set in the ticket's game play with the winning numbers from the relevant drawing. [Table not included. See ED. NOTE.]

(2) The number of prizes for the Win for Life game is not predetermined by the Lottery. The overall prize percentage payout for the Win for Life game is estimated at approximately 65% over time, but the actual prize payout may vary from day-to-day and year-to-year due to factors that include, but are not limited to, the numbers of players participating each day and the number of winning wagers.

(3) In the event of a dispute over the value of a prize or whether a ticket contains winning numbers, the Director's determination is controlling.

(4)(a) Subject to the validation requirements in OAR 177-094-0060, for each drawing, a player may receive multiple prizes on each ticket for which a ticket containing a winning game play is eligible.

(b) Only the top-prize associated with each set of numbers within the Win for Life, \$50,000, \$20,000, and \$10,000 prize categories shall be paid.

(5) Prize payments must be claimed, and shall be made, in accordance with the provisions of OAR 177-070-0025.

(6) All prizes resulting from a ticket shall be paid in one lump-sum except for the Win for Life prize of \$1,000 per week for life.

(7) Win for Life Top Prize:

(a) Only one natural person may claim and receive payment of the Win for Life top prize of \$1,000 per week for life per winning ticket. A Win for Life top prize cannot be shared by multiple owners of a single winning ticket. In the event a single winning ticket is owned by more than one natural person, the individual owners with an ownership interest in the ticket must identify the natural person who will receive the top prize on a form provided by the Lottery.

(b) The Win for Life top prize is \$1,000 per week for life and shall be paid, based upon a selection made by the winner, either as:

(A) A prize payment of \$1000 each week of a 12-month year beginning on the date prize payment is initiated upon validation of the winning ticket; or

(B) One annualized prize payment equal to the sum of all the weekly prize payments which would be paid to a winner during a specific 12-month year beginning on the date prize payment is initiated upon validation of the winning ticket.

(c) The Win for Life top prize of \$1,000 per week for life will be paid to the winning player until such time as the winning player dies at which time all further prize payments shall cease.

(d) Notwithstanding subsection (c) of this section, if the prize winner dies within five years of the date of prize validation, the Lottery shall pay any remaining prize payments the prize winner would have received within the first five years after prize validation in one lump sum to the individual designated on a beneficiary designation form or to the prize winner's estate.

(e) Election of Payment Schedule:

(A) At the time of the validation of a winning Win for Life ticket for the top prize of \$1000 per week for life, the winner of that prize must elect either the weekly or annual prize payment schedule described in subsection (b) of this section. A winner who elects the annual payment schedule cannot subsequently convert to the weekly

payment schedule. The election of the annual payment schedule is irrevocable. A winner who elected the weekly payment schedule may convert to the annual payment schedule at any time, and the Lottery will issue payment to the winner for the sum of the remaining weekly payments from that date to the next anniversary date. Subsequent annual payments will be made on the anniversary date.

(B) Notwithstanding subsection (A) of this subsection and subsection (g) of this section, when a search of delinquent child support obligors performed pursuant to ORS 461.715 and OAR 177-010-0090 Child Support Validation Check results in a positive match with the prize winner and the Division of Child Support of the Department of Justice (DOJ) or its successor initiates garnishment proceedings, the winner of the Win for Life top prize of \$1,000 per week for life has no payment options from which to select and will be placed on the annual payment schedule as described in subsection (7)(b)(B) of this section. This placement on the annual payment schedule is irrevocable.

(C) Upon receipt of garnishment proceedings from DOJ directed to the Lottery for monies due or to become due to a winner receiving weekly payments under the Win for Life top prize, the Lottery will place that winner on the annual payment schedule as described in subsection (7)(b)(B) of this section. Conversion of the winner's payment schedule from weekly to annual under this section of the rule is irrevocable. The Lottery shall make payments to such a winner as follows:

(i) Within a reasonable time after the disposition of the garnishment proceeding, the Lottery shall pay the winner the sum of the winner's weekly payments from the date the Lottery placed the winner's payments on hold to the winner's next anniversary date less any amounts withheld pursuant to the garnishment proceedings and applicable tax laws.

(ii) The Lottery shall make any subsequent annual payments, less any amounts withheld pursuant to the garnishment proceedings and applicable tax laws, on the anniversary date of the validation of the prize.

(f) Limitation on Prize Amount for Multiple Top Prize Winners

(A) Notwithstanding the \$1,000 per week amount referred to in this rule, if there are more than three individual winners of a Win for Life top prize of \$1,000 per week for life in a single drawing, the top prize payment per individual winner shall be limited to an amount equal to three times the top prize award divided by the number of actual top prize winners in that drawing.

(B) For example, if there are four top prize winners in a single drawing and the prize payment year contains 52 weeks, then 52 weeks x \$1,000 x 3 = \$156,000 divided by 4 winners = \$39,000 annual prize payment per each winner. If a winner has selected the weekly payment schedule, then the calculated annual prize payment shall be divided by the number of weeks in that prize payment year to arrive at the winner's weekly payment amount. In the above example, the \$39,000 annual prize amount shall be divided by 52 weeks for a weekly payment of \$750 to a winner on the weekly payment schedule less applicable taxes.

(C) Subsequent events, including, but not limited to, the death of one of the prize winners, shall not alter the other winners' original pro rata share of the calculated prize amount.

(g) Prize payment is initiated upon validation of the winning ticket and will continue to be paid weekly or annually in accordance with the payment provisions contained in subsection (e) of this rule.

(h) After the initial prize payment issued to a Win for Life top prizewinner, the Lottery shall pay both weekly and annualized Win for Life prize installments via electronic funds transfer in the usual course of Lottery business.

(i) Annual Affidavit Required:

(A) Once each year and no earlier than thirty days prior to the anniversary of the original validation date, a winner of a Win for Life top prize of \$1,000 per week for life shall provide the Lottery with an affidavit on a form provided by the Lottery, signed by the winner, bearing the seal of a notary public, verifying the winner is living, containing the winner's current address, and a bank account number to which the prize shall be paid.

(B) If a winner of a Win for Life prize of \$1,000 per week for life does not provide the Lottery with the affidavit described in subsection (i)(A) of this section, then the Lottery shall not make further prize payments to the winner. If the failure of a winner to provide the affidavit

continues to the next anniversary of the validation date, the remainder of the prize shall be terminated.

(C) Notwithstanding subsection (i)(B) of this section, when it is reasonable and prudent to do so based on the facts underlying a winner's failure to provide an annual affidavit, the Director may authorize prize payment even though an affidavit has not been provided or is not timely provided. No interest shall be paid by the Lottery on the value of the prize during the period a prize remained unclaimed.

(j) If a winner of a Win for Life prize of \$1,000 per week for life dies after five years have elapsed from the date of validation and if a sequence of weekly prize payments are paid over the course of the year in which the prize winner dies or if a single annual prize payment has been paid prospectively to the winning player for that year, the prize could be overpaid. It is the policy of the Lottery that the difference between the prize that should have been paid based on the date of the death of the prize winner relative to the anniversary date of validation of the prize and the prize amount that was actually paid during the year in which the winner died will not be subject to reimbursement by the Lottery. Any prize payment paid after the year in which the winner dies relative to the anniversary date of validation of the prize shall be subject to reimbursement to the Lottery.

(k) A Win for Life top prize of \$1,000 per week for life is based on the unknown duration of the life of the prizewinner and is therefore a prize of unspecified value and uncertain periodicity. Consequently, a Win for Life top prize of \$1,000 per week for life is not a future periodic prize payment as described in ORS 461.253(1) and cannot be assigned, gifted, sold, or transferred in any manner from the winner to another person or entity except under the circumstances as described in subsection (d) of this rule.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461

Hist.: LOTT 11-2000, f. & cert. ef. 12-1-00; LOTT 1-2001(Temp), f. & cert. ef. 1-22-01 thru 7-21-01; LOTT 7-2001, f. 4-25-01, cert. ef. 4-26-01; LOTT 8-2002(Temp), f. & cert. ef. 7-15-02 thru 1-3-03; LOTT 20-2002, f. & cert. ef. 9-30-02

177-094-0085

Retailer Selling Bonus

For the purposes of OAR 177-040-0025(3)(a), and notwithstanding OAR 177-040-0025(3)(b), a retailer who sells any winning and validated Win for Life top prize of \$1,000 per week for life shall receive a bonus of \$13,000 which is based on one percent (1%) of an estimated prize value of \$52,000 per year paid over a period of 25 years (\$52,000 x 25 = \$1,300,000 x .01 = \$13,000).

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461

Hist.: LOTT 11-2000, f. & cert. ef. 12-1-00; LOTT 18-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 29-2002, f. & cert. ef. 11-25-02

DIVISION 99

KENO

177-099-0000

Definitions

For the purposes of Keno, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) "Exchange ticket" means a computer-generated, printed paper issued by a terminal to replace a game ticket that had been purchased for play in multiple drawings and was validated before the latest drawing appearing on the game ticket. An exchange ticket shall contain the exact game play and future drawing dates appearing on the validated game ticket it is replacing and shall have all other characteristics of a game ticket except as otherwise stated in these rules. An exchange ticket shall not contain a ticket price.

(2) "Game play" means the number or group of numbers appearing on a ticket for a particular spot which is compared to the winning numbers, selected at the drawings appearing on the ticket, to determine the prize payment for which the ticket may be redeemed.

(3) "Game slip" or "play slip" means a paper form used by a player to select a game play, that indicates the amount the player will play on the ticket containing the game play, the number of drawings in which the ticket will be played, the choice to play the Special Keno option, and the choice to select the Keno Multiplier option. Only one game play may be marked on each game slip.

(4) "Game ticket" or "ticket" means a computer-generated, printed paper issued by a terminal as a receipt for the game play selected by a player and which contains the following: the caption "Keno," one game play, the dates of the drawings in which the ticket may be played, the number of consecutive drawings in which the ticket may be played, the identifying number for each such drawing, the price of the ticket, a six-digit retailer number, a serial number, a bar code, the phrase "Special Keno" if that option has been selected, and the phrase "Keno Multiplier" if that option has been selected.

(5) "Keno Multiplier" means the Keno and Special Keno play option whereby a player, by paying an additional one dollar for each dollar wagered on a Keno or Special Keno game play, may be entitled to receive a larger prize for correctly selecting winning numbers. Keno Multiplier multiplies the amount of certain prizes won in a game play. Keno Multiplier is an optional, limited extension of the Keno and Special Keno game and is effective beginning at 6:00 A.M., April 7, 2003.

(6) "Quick Pick" means the random selection of numbers by a terminal that appear as the game play on a ticket.

(7) "Special Keno" means an optional variation of the Keno prize payment and odds structure as defined in OAR 177-099-0090 which may be selected by the player.

(8) "Spot" means the amount of numbers a player may play for a game play. A player may play from one spot, i.e., one number, to ten spots, i.e., ten different numbers.

(9) "Winning numbers" means the twenty numbers, from one to eighty, that are selected at each drawing that are used to determine winning game plays contained on the game tickets.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.200
 Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LC 5-1996, f. & cert. ef. 4-1-96; LC 3-1997, f. 4-25-97, cert. ef. 4-27-97; LOTT 7-1998(Temp), f. & cert. ef. 11-13-98 thru 5-7-99; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03; LOTT 11-2003, f. & cert. ef. 6-30-03

**177-099-0010
 Game Description**

Keno is a 20/80 Lottery game with set prize amounts. For each drawing, a player may choose to play from one to ten spots and a corresponding selection of number choices from one to eighty. That is the player's game play. The Lottery then selects twenty winning numbers from one to eighty. The Lottery awards prizes based on the extent to which the game play appearing on a player's ticket matches the winning numbers in a drawing for which the player's ticket was purchased.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461.120(2)
 Stats. Implemented: ORS 461.210, 461.220, 461.230, 461.240 & 461.250
 Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LC 5-1996, f. & cert. ef. 4-1-96; LC 3-1997, f. 4-25-97, cert. ef. 4-27-97; LOTT 7-1998(Temp), f. & cert. ef. 11-13-98 thru 5-7-99; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02

**177-099-0020
 Price**

(1) The price of a ticket is determined by the amount of money a player chooses to play on the game plays selected, multiplied by the number of drawings in which the ticket will be played. A player may also choose the Keno Multiplier option that will increase the cost of the ticket by \$1.00 for every \$1.00 wagered.

(2) A ticket may be purchased for one drawing or for multiple, consecutive drawings.

(a) A player may purchase a ticket for a single drawing for \$1.00 to \$5.00, in whole dollar amounts, \$10.00, or \$20.00.

(b) The price of a ticket for play in multiple, consecutive drawings is the price of a ticket for a single drawing, ranging from \$1.00 to \$5.00, \$10.00 or \$20.00 as selected by the player, multiplied by the number of consecutive drawings in which the ticket will be played.

(3) The minimum ticket price for multiple, consecutive drawings is \$2.00 (\$1 x 2 consecutive drawings = \$2).

(4) The maximum ticket price for any Keno ticket is \$100.00.

(5) A ticket purchased for multiple, consecutive drawings is limited solely to the following options: 1, 2, 3, 4, 5, 10, 20, 50, or 100 consecutive drawings so long as the price of a ticket does not exceed \$100.00.

(6) If a player adds the Keno Multiplier option to a Keno or Special Keno game play, the player may only play a maximum of 50 consecutive draws at \$2, for a total of \$100.

(7) A game slip indicating a price greater than \$100 is automatically rejected by the terminal.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.200
 Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LC 5-1996, f. & cert. ef. 4-1-96; LC 3-1997, f. 4-25-97, cert. ef. 4-27-97; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03; LOTT 11-2003, f. & cert. ef. 6-30-03

**177-099-0030
 Ticket Purchase, Characteristics, and Restrictions**

(1)(a) General: Keno tickets may be purchased every day of the year during the hours of operation of the Lottery's On-Line game system and a Lottery retailer's business hours.

(b) Default: A player may purchase a ticket for play under either the Keno prize structure set forth in OAR 177-099-0080, or the Special Keno prize structure set forth in OAR 177-099-0090. If a player does not select the Special Keno option when purchasing a ticket, the ticket is played under the Keno prize structure.

(c) Multiplier Option: A player may purchase the Keno Multiplier option on any Keno or Special Keno game play as set forth in OAR 177-099-0020(6). If a player does not select the Keno Multiplier option when purchasing a ticket, the ticket is played under the Keno or Special Keno prize structure.

(2)(a) Ticket purchase: Tickets may be purchased either from a terminal operated by a retailer, i.e., a clerk-operated terminal, or from a terminal operated by the player, i.e., a player-operated terminal. To play Keno, a player must complete a game slip for input into a terminal, request a Quick Pick from a clerk, or request a Quick Pick using a player-operated terminal.

(b) Completing a game slip: A player must choose a game play by one of two methods. A player may select from one to ten numbers from the eighty number choices contained on the game slip. Alternatively, the player may select the Quick Pick option. A player must also complete the selections on the game slip regarding the amount of money to be played on the ticket per drawing, the number of multiple, consecutive drawings in which to play the ticket and the price of the ticket. The player may select the Special Keno option or the Keno Multiplier option.

(c) Purchasing a ticket from a clerk-operated terminal: After the player completes a game slip and submits it along with the price of the ticket to the clerk, the clerk shall use the terminal to issue a ticket to the player. The player may also request that a clerk, without using a game slip, electronically submit a request for a Quick Pick through the terminal with the player informing the clerk of the number of spots to be played, the amount of money to be played on the ticket per drawing, the number of multiple, consecutive drawings in which to play the ticket, and whether the player wants the Special Keno option or the Keno Multiplier option.

(d) Purchasing a ticket from a player-operated terminal: A player may purchase a ticket from a player-operated terminal by following the instructions appearing on the screen of the terminal. Once the player has completed the game slip and inserted it and paid the price of the ticket into the terminal, the terminal will issue a ticket to the player. The player may also request a Quick Pick without using a game slip by using the player-operated terminal. A player requesting a Quick Pick from a player-operated terminal without using a game slip must select either the Keno or Special Keno option, the number of spots to be played, the amount of money to be played on the ticket per drawing, the number of multiple, consecutive drawings to be played, and whether the player wants the Keno Multiplier option.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.200
 Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LC 5-1996, f. & cert. ef. 4-1-96; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03; LOTT 11-2003, f. & cert. ef. 6-30-03

**177-099-0040
 Cancellation of Tickets**

A player may cancel a Keno ticket. To cancel a ticket, a player must follow the procedure in OAR 177-046-0060.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.200
 Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02

25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03; LOTT 11-2003, f. & cert. ef. 6-30-03

177-099-0050

Drawings

(1) **General:** Drawings shall take place at such times and upon such intervals as determined by the Director. Drawings shall normally take place at four minute intervals. The last drawing shall take place just prior to the deactivation of the On-Line game system for the day.

(2) **Objective:** Each drawing randomly selects twenty numbers from a possible eighty numbers that are the winning numbers. The winning numbers selected at each drawing are generated through the use of a computer-driven random number generator.

(3) **Selection of the Keno Multiplier Number:** The Lottery will conduct a separate random Keno Multiplier drawing and announce the result prior to each of the regular Keno drawings by displaying the Keno Multiplier number on the Keno monitor immediately prior to each new Keno game drawn and after the previous game pool closes. During each random Keno Multiplier drawing, one number will be selected. The Keno Multiplier numbers available for selection are 1, 2, 3, 5, and 10. The Keno Multiplier number selected at each drawing is generated through the use of a computer-driven random number generator in accordance with the provisions of OAR 177-046-0080.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.200
 Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LC 5-1996, f. & cert. ef. 4-1-96; LC 3-1997, f. 4-25-97, cert. ef. 4-27-97; LOTT 7-1998(Temp), f. & cert. ef. 11-13-98 thru 5-7-99; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03; LOTT 11-2003, f. & cert. ef. 6-30-03; LOTT 2-2004(Temp), f. 2-20-04, cert. ef. 2-23-04 thru 8-20-04; LOTT 10-2004, f. & cert. ef. 5-26-04

177-099-0060

Ticket Validation Requirements

(1) For a ticket to be valid and eligible to receive prize payment, the ticket must be validated in accordance with the provisions of OAR chapter 177.

(2) A game ticket containing a winning game play and purchased for play in multiple, consecutive drawings may be validated prior to the occurrence of future drawings for which the game ticket was purchased. An exchange ticket shall be issued, at the time the original game ticket is validated, for the remainder of the drawings appearing on the validated game ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461.120(2)
 Stats. Implemented: ORS 461.210, 461.220, 461.230, 461.240 & 461.250
 Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02

177-099-0080

Keno Prizes

Section (1) of this rule specifies prizes for Keno drawings.

(1) Prizes for each drawing are determined and awarded based on how many numbers contained in a game play on a ticket match the winning numbers selected at that drawing. Prizes are determined separately for each spot category. Prizes per one dollar wagered, based upon potential sales of \$8,911,711.18 per drawing, are as follows: [Table not included. See ED. NOTE.]

(2) The total prize amount for a winning ticket multiplies according to the amount wagered on that ticket. Except as provided in OAR 177-099-0100, the highest potential prize for any Keno ticket is \$1,000,000 per drawing. If a ticket shows a wager of 2, 3, 4, 5, 10, or 20 dollars per drawing on a winning game play, the prize shown above for a \$1 wager shall multiply, up to \$1,000,000, according to the wager amount shown on the winning ticket. For example, if a ticket shows a \$5 wager on the 8 spot category and the game play on the ticket matches 8 out of 8 of the winning numbers, the prize associated with that ticket is \$15,000 x \$5 = \$75,000. All Keno prizes are capped at \$1,000,000. However, Jackpot Bonus prizes awarded are in addition to the \$1,000,000 prize.

(3) A prize-winning player is paid in one lump sum for all prizes under \$1,000,000.

(4) Upon the Lottery's determination that a ticket is a winning ticket, the winner of a \$1,000,000 annuitized prize has the option to receive a lump sum payment of \$500,000 instead of the annuitized prize payments in accordance with the provisions of OAR 177-0099-0090(6)(a) through (e).

(5) For each drawing, a player may receive (subject to the validation requirements set forth in OAR 177-099-0060) only the highest single prize for which a ticket containing a winning game play is eligible.

(6) Prize payments must be claimed, and are made, in accordance with the provisions of OAR 177-070-0025.

[ED. NOTE: Tables referenced are available from the agency.]
 Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.200
 Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 3-2002(Temp) f. & cert. ef. 2-4-02 thru 8-2-02; LOTT 7-2002, f. & cert. ef. 4-29-02; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03; LOTT 11-2003, f. & cert. ef. 6-30-03

177-099-0090

Special Keno Prizes

(1) Special Keno increases the size of the prizes at the upper tier levels, and eliminates some prizes at the lower tiers of the prize structure when compared to the Keno prize structure.

(2) As described in OAR 177-099-0030, a player must indicate the player's choice to play under the Special Keno prize structure. When the Special Keno prize option is designated on a ticket, the Keno prizes described in OAR 177-099-0080 are no longer applicable.

(3) Prizes for each drawing are determined and awarded based on how many numbers contained in a game play on a ticket match the winning numbers selected at that drawing. Prizes are determined separately for each spot category. Prizes per one dollar wagered, based upon potential sales of \$8,911,711.18 per drawing, are as follows: [Table not included. See ED. NOTE.]

(4) Except as provided in OAR 177-099-0100, the highest potential prize for a Special Keno ticket per drawing is \$1,000,000. A prize-winning player is paid in one lump sum for all prizes under \$1,000,000. A \$1,000,000 Special Keno prize is paid either as a \$1,000,000 annuity payable in twenty-five equal annual payments, or as a lump sum of \$500,000. All Special Keno prizes are capped at \$1,000,000. However, Jackpot Bonus prizes awarded are in addition to the \$1,000,000 prize.

(5) Special Keno prizes multiply according to the amount played per drawing. If a ticket shows a wager of 2, 3, 4, 5, 10, or 20 dollars per drawing on a winning game play, the prize shown above for a \$1 wager shall multiply, up to \$1,000,000, according to the wager amount shown on the winning ticket. If a prize is multiplied by the amount played and the aggregate prize amount exceeds the amount authorized in section (4) of this rule as the highest potential prize for Special Keno, the winner will receive the \$1,000,000 annuitized prize.

(6) Upon the Lottery's determination that the ticket is a winning ticket, the winner of a \$1,000,000 annuitized prize has the option to receive a lump sum payment of \$500,000 instead of the annuitized prize payments.

(a) Within 60 days of the date of validation of the \$1,000,000 ticket, the winner, prior to receiving any prize payment from the Lottery, may acknowledge in writing the winner's election to receive either the lump sum payment or the annuitized prize payments. Subject to the limited exception provided in section (b) below, a winner's election is irrevocable once the winner's written election is received by the Lottery.

(b) A prize winner who has elected the annuitized prize payments or who has failed to make an election and is placed on the annuitized prize payments, may be permitted, at the Lottery's sole discretion, to convert to the lump sum payment provided the Lottery has not yet made any payments to the prize winner. Once the Lottery makes any payment, the choice of payment is irrevocably fixed.

(c) Multiple \$1,000,000 annuitized prize winners, jointly claiming ownership of a ticket in accordance with OAR 177-046-0100(2), shall make individual determinations whether to exercise the option to receive their portion of the prize in the form of a lump sum payment.

(d) In the event a \$1,000,000 annuitized prize winner does not exercise the option to receive a lump sum payment within 60 days of the date of the validation of the ticket, the winner shall receive the annuitized prize.

(e) A \$1,000,000 annuitized prize winner is under no obligation to exercise the option made available by this rule to receive a lump sum payment in lieu of receiving annuitized prize payments.

(7) For each drawing, a player may receive (subject to the validation requirements set forth in OAR 177-099-0060) only the highest single prize for which a ticket containing a winning game play is eligible.

(8) Prize payments must be claimed, and are made, in accordance with the provisions of OAR 177-070-0025.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.200

Hist.: LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 3-2002(Temp) f. & cert. ef. 2-4-02 thru 8-2-02; LOTT 7-2002, f. & cert. ef. 4-29-02; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03; LOTT 11-2003, f. & cert. ef. 6-30-03

177-099-0095

Keno Multiplier Option

(1) When the Keno Multiplier option is selected on a winning Keno or Special Keno game ticket, the prize amount is multiplied by the Keno Multiplier number. The Keno Multiplier number (1, 2, 3, 5, or 10) is randomly selected prior to each drawing.

(2) The following table sets forth the probability of the various Keno Multiplier numbers being selected during a single Keno Multiplier drawing: [Table not included. See ED. NOTE.]

(3) A prize multiplied by the Keno Multiplier is subject to all Keno or Special Keno rules applicable to the particular prize won.

(4) The Director, in the Director's sole discretion, is authorized to initiate and terminate the Keno Multiplier option.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.200

Hist.: LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03; LOTT 11-2003, f. & cert. ef. 6-30-03

177-099-0100

Keno Jackpot Bonus

(1) In addition to the prizes described in OAR 177-099-0080 and 177-099-0090, 2.10% of gross Keno sales (excluding sales of the Keno Multiplier option) for each drawing is allocated between three prize pools held in reserve as an additional prize for winners of the top prize in the 6, 7, and 8 spot categories, i.e., 6 out of 6, 7 out of 7, and 8 out of 8. A Jackpot Bonus prize is awarded when a ticket wins the top prize for either the 6, 7, or 8 spot under OAR 177-099-0080 or 177-099-0090. If the Jackpot Bonus prize pool for a specific spot is not won, the Jackpot Bonus prize pool for that spot continues to grow.

(2) If a game play on a ticket is for a 6, 7, or 8 spot, the ticket is automatically playing for the Jackpot Bonus prize, as well as a prize under either OAR 177-099-0080 or 177-099-0090. For example, if a Keno ticket with a 6 spot game play is the only Keno or Special Keno ticket to match 6 out of 6 of the winning numbers, that ticket, subject to ticket validation requirements, would win the top prize for the 6 spot under OAR 177-099-0080 (\$1,600) and the accumulated Jackpot Bonus prize for the 6 spot.

(3) The prize money in the Jackpot Bonus prize pool for a specific spot for any given drawing is divided by the number of tickets winning the top prize for that spot under either OAR 177-099-0080 or 177-099-0090. The Jackpot Bonus prize pool is divided among those winning tickets on a pro-rata basis determined by the amount that each winning ticket played in the drawing in which the Jackpot Bonus prize was won. For example, if one Keno ticket wins the top prize for the 8 spot (\$15,000) in a drawing, and was purchased for ten drawings at \$3 per drawing, and one Special Keno ticket wins the top prize for the 8 spot (\$25,000) in the same drawing, and was purchased for one drawing at \$1, the holder of the Keno ticket would receive 75% of the prize in the Jackpot Bonus prize pool for the 8 spot and the holder of the Special Keno ticket would receive the remaining 25% of the prize in that Jackpot Bonus prize pool.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.200

Hist.: LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 3-2002(Temp) f. & cert. ef. 2-4-02 thru 8-2-02; LOTT 7-2002, f. & cert. ef. 4-29-02; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03; LOTT 11-2003, f. & cert. ef. 6-30-03

DIVISION 100

VIDEO LOTTERY TERMINALS

177-100-0000

Video LotterySM Game System

The Director may operate a Video LotterySM game system using Video LotterySM game terminals approved under this Division.

Stat. Auth.: OR Const. Art. XV, § 4(4) & ORS 461

Stats. Implemented: ORS 461.215 & 461.217

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03; LOTT 7-2008, f. 10-31-08, cert. ef. 11-1-08

177-100-0010

Definitions

For purposes of division 100, the following definitions apply except as otherwise provided in OAR chapter 177, or unless the context requires otherwise:

(1) **"Certification"** means the inspection process used by the Lottery to approve Video LotterySM game terminals and games.

(2) **"Decal"** means the stamp displayed by the Lottery upon a Video LotterySM game terminal to provide notice that the Video LotterySM game terminal is authorized by the Oregon Lottery[®].

(3) **"Display"** means the visual presentation of Video LotterySM game features shown on the screen of a Video LotterySM game terminal.

(4) **"Gray machine"** means a gambling device as described in ORS 167.117(9).

(5) **"Manufacturer"** means any individual, partnership, corporation, trust, association, joint venture, limited liability company, or other business entity that manufactures, assembles, services, or produces Video LotterySM game terminals or gray machines in Oregon.

(6) **"Service"** means the activities of a manufacturer related to the maintenance, repair, testing, or quality assurance of gray machines.

(7) **"Video LotterySM"** or **"Video LotterySM game"** means a lottery conducted through Video LotterySM game terminals that are monitored by a central computer system.

(8) **"Video LotterySM game terminal"** is a device operated under the authority of the Oregon State Lottery and has the meaning set forth in OAR 177-010-0003(23).

Stat. Auth.: OR Const. Art. XV, § 4(4) & ORS 461

Stats. Implemented: ORS 461.215 & 461.217

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03; LOTT 5-2005(Temp), f. & cert. ef. 5-20-05 thru 11-11-05; LOTT 8-2005, f. & cert. ef. 9-1-05; LOTT 7-2008, f. 10-31-08, cert. ef. 11-1-08

177-100-0080

Certification Decal

(1) Each Video LotterySM game terminal certified for operation by the Lottery must bear a certification decal and must conform to the specifications of the prototype terminal of the same model that has been tested and certified by the Lottery.

(2) No person other than an authorized Lottery employee or agent may affix or remove the certification decal. The placement of the decal represents that the Video LotterySM game terminal has been certified, inspected, and approved for operation in Oregon.

(3) No Video LotterySM game terminal may be transported out of Oregon until the decal has been removed.

Stat. Auth.: OR Const. Art. XV, § 4(4) & ORS 461

Stats. Implemented: ORS 461.215, 461.217 & 461.330

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03; LOTT 7-2008, f. 10-31-08, cert. ef. 11-1-08

177-100-0090

External Video LotterySM Game Terminal Specifications and Age Restriction Requirements

(1) Video LotterySM game terminals operated by the Lottery may only display information on the screen or terminal housing that has been approved by the Lottery.

(2) At no time may anyone other than an authorized Lottery employee or agent place stickers or other removable devices on a Video LotterySM game terminal for any reason.

(3) Each Video LotterySM game terminal must display an Oregon Lottery[®] logo.

(4) The following age restriction notice must clearly be displayed on each Video LotterySM game terminal: “No person under 21 years of age may play” or “Must be 21 years of age or older to play” or “Anyone under 21 years of age must not play.”

Stat. Auth.: OR Const. Art. XV, § 4(4) & ORS 461
 Stats. Implemented: ORS 461.215 & 461.217
 Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03; LOTT 7-2008, f. 10-31-08, cert. ef. 11-1-08

177-100-0095

Procurement of Video LotterySM Game Terminals

(1) Only the Lottery may possess and operate Video LotterySM game terminals in Oregon.

(2) The Lottery may select and procure Video LotterySM game terminals as necessary by contracting with manufacturers approved pursuant to OAR chapter 177, division 35, and may provide the terminals to Video LotterySM retailers.

Stat. Auth.: OR Const. Art. XV, § 4(4) & ORS 461
 Stats. Implemented: ORS 461
 Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03; LOTT 7-2008, f. 10-31-08, cert. ef. 11-1-08

177-100-0130

Duties of Manufacturers

Manufacturers, their employees, representatives, and agents shall:

(1) Promptly report to the Lottery any violation or any facts or circumstances that may result in a violation of ORS Chapter 461 or these rules.

(2) Provide immediate access to all records and the entire physical premises of the business for inspection at the request of the Lottery or its auditors.

(3) Not conduct any advertising or promotional activities in Oregon (or directed at Oregon residents) that are false or misleading regarding Video LotterySM games.

(4) Promptly report to the Lottery their knowledge or suspicion of any gray machine located within Oregon.

(5) Attend all trade shows or conferences as required by the Lottery.

Stat. Auth.: OR Const. Art. XV, § 4(4) & ORS 461
 Stats. Implemented: ORS 461.215, 461.217 & 461.400
 Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03; LOTT 7-2008, f. 10-31-08, cert. ef. 11-1-08

177-100-0160

Transportation of Video LotterySM Game Terminals Within, Into, or Through Oregon

(1) No person shall ship or transport Video LotterySM game terminals within or into Oregon without first obtaining a written authorization for transport from the Director. Transporting or shipping within Oregon means the starting point of a trip is within the boundaries of the state and the termination point is either within or outside the boundaries of the state. Transporting or shipping into Oregon means the starting point of a trip is outside the boundaries of the state and terminates within the boundaries of the state.

(2) No person shall ship or transport Video LotterySM game terminals through Oregon without first obtaining a written authorization from the nearest port of entry immediately upon arrival in the state. Transporting or shipping through Oregon means the starting point and termination point of a trip are outside the boundaries of the state and the route between the starting and termination points enters the state.

(3) Notwithstanding section (1) of this rule, authorization to transport a Video LotterySM game terminal within or into Oregon for purposes of display or demonstration at a trade show conducted within the boundaries of the state must be obtained as described in OAR 177-010-0120.

(4) The written authorization required under sections (1) and (2) of this rule shall include:

(a) The manufacturer of each Video LotterySM game terminal being transported;

(b) The model and serial number of each Video LotterySM game terminal being transported;

(c) The full name, address, and telephone number of the person or establishment from which the Video LotterySM game terminals were obtained;

(d) The full name, address, and telephone number of the person or venue to whom the Video LotterySM game terminals are being sent or transported; and

(e) The dates of shipment or transport within, into, or through the state.

(5) At all times, a copy of the written authorization shall accompany the Video LotterySM game terminal or terminals in transport.

Stat. Auth.: OR Const. Art. XV, § 4 & ORS 461
 Stats. Implemented: 1999 OL Ch. 193 & ORS 461.215
 Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 12-1999(Temp), f. & cert. ef. 12-27-99 thru 6-20-00; LOTT 3-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03; LOTT 7-2008, f. 10-31-08, cert. ef. 11-1-08

177-100-0180

Approval for Instate Manufacturing and Servicing of Gray Machines Shipped Out-of-State

(1) General Approval: A manufacturer shall apply to the Director of the Oregon Lottery for approval to manufacture or service gray machines within Oregon.

(a) **Director’s Approval:** The Director may authorize a manufacturer to manufacture or service gray machines within the state of Oregon only if the manufacturer intends to export the gray machines to another state or jurisdiction where the operation or possession of the machines is legal. The Director shall require a manufacturer to cite the law that authorizes the legal operation or possession of the machines in the state or jurisdiction, and may require additional evidence that the gray machines will be sold or otherwise provided to a person who is authorized to operate or possess the machines in that jurisdiction. The authorization includes approval to engage in ongoing research and development related to the improvement and development of Video LotterySM game terminals the manufacturer intends to manufacture.

(b) **Disclosure Requirements:** The manufacturer is subject to the same disclosure and background investigation requirements as an applicant for a major procurement. The manufacturer may be required by the Director to reimburse the Lottery for the costs of background investigations.

(c) **Inspections and Audits:** A manufacturer’s premises, and all production, shipping, service, and financial records, shall be made available for routine and unannounced inspections and audits by the Assistant Director of Security. A manufacturer shall provide to the Lottery, upon request of the Assistant Director for Security, a report listing: the types and numbers of gray machines manufactured; the types and number of machines in storage; the types and number of machines serviced; the name and address of each individual or entity who purchased, leased, or otherwise was provided gray machines or who agreed or expressed an intent to purchase, lease, or otherwise acquire gray machines, or who own, operate, or otherwise possess gray machines serviced by the manufacturer; the number of shipments; destinations of all shipments; and methods of shipment, including carrier used. The information in the report shall be for a time period designated by the Assistant Director for Security. Shipment or transport of gray machines to a destination outside of Oregon also must comply with OAR 177-100-0160.

(2) **Temporary Approval:** The Director may temporarily authorize a manufacturer to manufacture or service gray machines within the state of Oregon that the manufacturer intends to export to another state or jurisdiction where the operation or possession of the machines is legal. The temporary authorization is subject to such terms, conditions, or limitations as the Director deems necessary.

(a) The manufacturer must submit the following:
 (A) The information required by ORS 461.410(1);
 (B) A written description of the proposed use of the gray machines;

(C) A cite for the law that authorizes the legal operation or possession of the gray machines in the state or jurisdiction where the machines will be used; and

(D) The identity of the individuals or entities who have agreed to or have expressed an intent to purchase or otherwise acquire gray machines from the manufacturer, or who own, operate, or otherwise possess gray machines serviced by the manufacturer.

(b) When the Lottery receives the above materials for temporary approval, the Lottery will conduct an abbreviated background investigation of the manufacturer. The investigation includes, but is not limited to:

(A) A computerized criminal background check of all control persons and any employee deemed necessary by the Assistant Director for Security.

(B) A credit check using the services of a commercial credit reporting company, and

(C) An inspection of the manufacturer's business premises where the gray machines will be manufactured or serviced.

(c) If the Director issues a temporary approval, it is effective for no longer than 180 days.

(3) **Cancellation of Approval:** The Director may cancel any general or temporary approval if the Director determines that the manufacturer has failed to adhere to the qualifications or conditions required for authorization of the manufacturer or otherwise poses a threat to the integrity, security, or honesty of the Lottery. Approval also may be cancelled if within a reasonable time from the date of production, the manufacturer is unable to show the machines have been purchased, leased, or otherwise acquired by a person or entity authorized to obtain or possess the machines.

Stat. Auth.: OR Const. Art. XV, § 4(4) & ORS 461
Stats. Implemented: ORS 167.117 & 167.164

Hist.: LC 7-1991(Temp), f. & cert. ef. 10-28-91; LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03; LOTT 5-2005(Temp), f. & cert. ef. 5-20-05 thru 11-11-05; LOTT 8-2005, f. & cert. ef. 9-1-05; LOTT 7-2008, f. 10-31-08, cert. ef. 11-1-08

177-100-0185

Instate Manufacturing of Video LotterySM Game Terminals Operated in Oregon

(1) A manufacturer of Video LotterySM game terminals approved by the Lottery for the Lottery's own use under OAR chapter 177, division 35, may manufacture such terminals in Oregon.

(2) The Director may issue temporary approval for the manufacture of Video LotterySM game terminals upon submission and satisfactory review of the following information:

(a) The information required by ORS 461.410(1);

(b) The manufacturer's written statement of intent to manufacture Video LotterySM game terminals to be operated in Oregon solely by the Lottery; and

(c) A copy of a letter or other document from the Lottery expressing an interest in purchasing Video LotterySM game terminals from the manufacturer.

(3) If the Director issues a temporary approval, it shall be effective for no longer than 180 days.

(4) No Video LotterySM game terminal shall leave the premises of the approved manufacturer until it is shipped to a destination authorized by the Lottery.

(5) All Video LotterySM game terminals whose manufacture has been approved by the Lottery shall be operated only under the authority of the Lottery.

(6) A manufacturer's premises, and all production, shipping, service, and financial records, shall be made available for routine and unannounced inspections and audits by the Assistant Director of Security. A manufacturer shall provide to the Lottery a monthly report listing the types and numbers of Video LotterySM game terminals manufactured, the types and number in storage, the number of shipments of these Video LotterySM game terminals, the destinations of all shipments, and methods of shipment, including carrier used.

(7) The Director may cancel any approval if the Director determines that the manufacturer has failed to adhere to the conditions required for approval of the manufacturer or otherwise poses a threat to the integrity, security, or honesty of the Lottery. Approval also may be revoked if the Lottery does not enter into a contract with the manufacturer for the purchase of the Video LotterySM game terminals within a reasonable period, or if such a contract is cancelled.

(8) Notwithstanding sections (1) through (3) of this rule, any Oregon manufacturer who has previously submitted a bid in response to a request for proposal issued by the Lottery may continue to perform Video LotterySM game terminal research and development. If the manufacturer is not successful in providing Video LotterySM game terminals in any subsequent request for proposal issued by the Lottery,

the Director may cancel the manufacturer's approval to manufacture Video LotterySM game terminals.

Stat. Auth.: OR Const. Art. XV, § 4(4) & ORS 461
Stats. Implemented: ORS 167.117 & 167.164
Hist.: LC 7-1991(Temp), f. & cert. ef. 10-28-91; LC 8-1991, f. & cert. ef. 11-25-91; LC 13-1992, f. & cert. ef. 10-29-92; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03; LOTT 7-2008, f. 10-31-08, cert. ef. 11-1-08

DIVISION 200

GENERAL VIDEO LOTTERY GAME RULES

177-200-0005

Definitions

For purposes of Division 200, the following definitions apply except as otherwise provided in OAR chapter 177, or unless the context requires otherwise: "**Cash slip**" means the receipt issued by a video lottery terminal for the payment of a player's credits remaining at the end of play.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.215 & 461.217
Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0010

Game Requirements

(1) **General:** To play a video lottery game, a player deposits cash into a video lottery terminal that displays the deposit as a number of credits to which the player is entitled. Each credit represents a monetary amount as specified in each video lottery game. The player purchases a game play by wagering one or more credits. A prize for a winning wager shall not exceed \$600. Prizes are paid on the terminal in the form of credits. A player may wager the credits that the player has won on additional game plays or may direct the terminal to issue a cash slip for the remaining credits.

(2) **Bonus Game Plays:** In addition to the prizes paid as credits, and depending on the specific game, bonus game plays may be awarded to a player. A prize awarded on an individual bonus game play is independent of the original game play and may not exceed \$600.

(3) **Odds of Winning:** A close approximation of the odds of winning some prize for each game must be displayed on a video lottery terminal screen. Each game also must display the amount wagered and the amount awarded for each possible winning occurrence based on the number of credits wagered on a game play.

(4) **Payout Tables:** Each game shall provide a method for a player to view payout tables for that game.

(5) **Age Requirement:** A player must be at least 21 years of age.
Stat. Auth.: ORS 461
Stats. Implemented: ORS 461.210
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03; LOTT 6-2006(Temp), f. 6-12-06, cert. ef. 6-26-06 thru 12-8-06; LOTT 7-2006, f. 8-30-06, cert. ef. 9-1-06

177-200-0011

Accuracy of Wagers

It is the sole responsibility of a player to verify the accuracy of a wager placed on a video lottery terminal by the player. The Lottery is not responsible for any wager placed in error. The Lottery shall not cancel wagers or provide refunds.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.215 & 461.217
Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0012

Ownership of Cash Slips

(1) Until such time as an individual's name is imprinted or placed upon a cash slip, a cash slip is a bearer instrument and is owned by the bearer of the cash slip. The bearer may be the person to whom the cash slip is delivered for the purpose of giving that person the right to redeem the cash slip. A person who obtains possession of a cash slip by theft, fraud, or other illegal means is not a bearer.

(2) When a name is placed upon a cash slip, the cash slip ceases to be a bearer instrument, and the individual whose name appears on the cash slip is the owner of the cash slip. A cash slip that bears a

name may not be transferred to any other person for the purpose of redeeming the cash slip.

(3) Only a natural person may own a cash slip and claim payment for it.

(4) Multiple individuals may not jointly own, possess, or claim payment as owners of a cash slip. More than one name shall not be placed on a cash slip. If more than one name appears on a cash slip, the individual whose name was first placed on the cash slip is the owner of the cash slip.

(5) The Lottery may delay payment on a cash slip in order to conduct an investigation to verify ownership of a cash slip.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461.250, 461.260 & 962. OL 1991 (enrolled HB 3151)
 Stats. Implemented: ORS 461.215 & 461.217
 Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

**177-200-0015
 Game Play Price**

The price of a game play for a video lottery game shall be clearly displayed on the terminal screen during play. The minimum wager is one credit.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4), ORS 461.210, 461.220, 461.230, 461.240, 461.250, 461.260 & 962. OL 1991 (enrolled HB 3151)
 Stats. Implemented: ORS 461.240
 Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

**177-200-0020
 Payment of Video Lottery Game Cash Slips**

(1) **Original Cash Slip:** Except as set forth in sections (5) and (6) of this rule, an original cash slip is the only valid receipt for claiming prizes or for redeeming credits remaining on a terminal. A copy of a cash slip has no pecuniary or prize value and does not constitute evidence of a cash slip.

(2) **Retailer Validation Requirements:** A retailer shall pay a cash slip only if:

(a) The player presents the cash slip for payment at the retailer location that issued the cash slip.

(b) The player is a person 21 years of age or older and authorized to play under these rules or Oregon statutes.

(c) The cash slip is presented to the retailer within 28 days of the date it was properly issued.

(d) It is intact and legible and meets all the Lottery's security requirements.

(e) It is not stolen, counterfeit, fraudulent, lacking the correct captions, altered, or tampered with in any manner.

(f) The information appearing on the cash slip corresponds with the computer record of the cash slip data recorded in the Lottery's central computer system.

(g) It has not been previously paid.

(3) **Retailer Validation Exception:** If a cash slip is presented for payment, and the cash slip meets the requirements of sections (1) and (2) of this rule, except the cash slip is not intact or legible, the cash slip may nevertheless be paid by the retailer as follows:

(a) **Software Validation:** Upon notification by a player that a video lottery terminal issued a cash slip that is not intact or legible, the retailer shall request a validation number from the terminal. If the retailer is able to obtain a validation number from the terminal that corresponds to the time and amount of the credits claimed by the player, then the retailer shall validate the cash slip through the validation terminal and pay the player.

(b) **Software Validation Report:** If the retailer pays the player pursuant to section (3)(a) of this rule, the retailer must complete a Retailer Software Validation Report signed by the player and the retailer. The retailer must retain the report for one year. The retailer must group the reports by month and must make them available for audit by the Lottery immediately upon request. The retailer must retain and attach the damaged or illegible cash slips to the reports.

(c) **Validation Number Unavailable:** If the retailer is unable to obtain a validation number from the terminal that corresponds to the time and amount of the credits claimed by the player as required by subsection (3)(a), the player may request payment of the cash slip from the Lottery as provided in section (5) of this rule.

(4) **Retailer Payment of Cash Slip:** Upon validation of a cash slip as set forth in sections (2) and (3) of this rule, a retailer may pay the amount due in cash or check, or any combination thereof.

(a) If a retailer's check is dishonored, the player may seek payment from the Lottery by presenting a copy of the dishonored check to the Oregon Lottery, Player Services Office, 500 Airport Road SE, Salem, Oregon during Lottery business hours, or by mailing a copy of the dishonored check with a winner claim form to the Oregon Lottery, P.O. Box 14515, Salem, Oregon 97309. If the Lottery determines that payment of the cash slip is authorized, the retailer has not paid the cash slip, and it is unlikely that the retailer will pay the cash slip, the Lottery may then issue a check to the claimant in the amount of the cash slip.

(b) A retailer that pays a cash slip with a check that is dishonored may be subject to termination of the Lottery Retailer Contract.

(5) **Lottery Validation and Payment of Cash Slips:** Payment of a cash slip may be made at the Oregon Lottery, Player Services, 500 Airport Road SE, Salem, Oregon. The cash slip presented for payment must meet all of the requirements in sections (1) and (2) of this rule and must be delivered to the Lottery in person or by mail at P.O. Box 14515, Salem, Oregon 97309 (registered mail recommended) before 5:00 P.M. within one year of the date that the cash slip was issued. If the final day of the one-year claim period falls on a weekend or an official Lottery holiday, the claim period shall be extended to the next Lottery business day at 5:00 P.M. Upon validation of a cash slip, the Lottery will pay the amount of the credits showing on the cash slip. For cash slips of \$600 or less, payment may be made by check or in cash, or any combination thereof. Cash prize payments are limited to \$50 per person per day. For cash slips of more than \$600, payment will be made by check. Payment may be made in person or by mail, except that the Lottery will not mail cash.

(6) **Lack of Cash Slip or Validation Number:** If a player does not have a cash slip, or a retailer was unable to obtain a validation number, the Lottery will conduct an investigation of a claim presented for payment to the Lottery. The investigation will determine the reasons or causes for the failure of the terminal to produce a cash slip or to print an intact and legible cash slip, and why the retailer was unable to obtain a validation number.

(a) **Payment:** The Lottery may pay the claim if the Lottery can determine from its investigation that the credit was on the terminal identified by the player at the time claimed, and that no cash slip has been paid on the claim.

(b) **Signed Statement:** The Lottery will not pay any such claim without a signed statement by a player. The player's statement must contain game play information that can be compared to data in the Lottery's central computer system that substantiates that the player won a prize in the amount and at the time claimed, and information from which the Lottery reasonably can determine that the claim has not been paid.

(7) **Lottery Validation Exceptions:** If a cash slip cannot be validated because the cash slip data is not recorded on the Lottery's central computer system, the Director may still authorize payment if:

(a) The Lottery conducts an investigation of the claim, and

(b) The Director concludes that the claimant was an authorized player and that the absence of a record of the cash slip data in the Lottery's central computer system was the result of either a technical problem in the video lottery terminal or a communications problem that prevented the recording of the credits in the Lottery's central computer system.

(8) **Subsequent Claims:** If a cash slip paid by a retailer is later submitted for payment to the Lottery, the Lottery may pay the cash slip and debit the retailer's account for the amount of the cash slip. The Lottery will conduct an investigation in accordance with section (6) of this rule to determine that the Lottery properly may make payment.

(9) **Withholding of Payment:** The Lottery may withhold payment of any cash slip claim presented to it until the expiration of the 28-day prize claim period at the retailer's location or until the completion of any investigation by the Lottery to determine if payment is proper.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.250
 Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LC 9-1993, f. 11-18-93, cert. ef. 12-1-93; LC 9-1994, f. 8-19-94, cert. ef. 9-1-94; LC 1-1995, f. 1-25-95, cert. ef. 3-1-95; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LC 4-1997, f. & cert. ef. 4-25-97; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05

177-200-0032

Retailer Payment Credit/Debit

(1) Retailer Payment Credit/Debit: Except for cash slips that are presented for payment to the Lottery and which have not been recorded in the Lottery's central computer system, the amount of any cash slip paid by the Lottery at its headquarters shall be debited from the electronic funds transfer (EFT) account of the retailer from which the prize was won unless the retailer's account has already been debited under section (2) of this rule. Prizes paid by the retailer upon a validated cash slip shall be credited to the retailer's EFT account. Prizes that are paid by a retailer but not validated at the time of payment shall be credited to the retailer's account if payment is authorized under OAR 177-200-0020(1) and (2).

(2) Automatic Debit of Unclaimed Prizes: If a cash slip is not redeemed within 28 days of the date it was issued, the Lottery will charge back the amount of the cash slip to the retailer's account.

(3) Limitation on Redemption Location: A retailer shall only redeem cash slips for prizes awarded on terminals located on its premises. If a retailer redeems a cash slip from another location, the Lottery will not credit the retailer's EFT account for the payment.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.215 & 461.217
 Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0050

Method of Determining Winners

Each video lottery terminal must have a random number generator that will determine the occurrence of a specific card, symbol, or number to be displayed on the video screen during a game play. A selection process will be considered random if it meets the requirements of OAR 177-200-0055.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.217
 Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0055

Requirements for Randomness Testing

(1) Chi-Squared Analysis: Each card position, symbol position, or number position must satisfy the 99 percent confidence limit using standard chi-squared analysis. For purposes of this rule, chi-squared analysis is the sum of the squares of the difference between the expected result and the observed result. Card position means the first card dealt, second card dealt in sequential order, up to the last card dealt. Symbol position means the first symbol drawn, second symbol drawn in sequential order, up to the last symbol drawn. Number position means first number drawn, second number drawn in sequential order, up to the 20th number drawn.

(2) Run Test: Each card position, symbol position, or number position must not produce a significant statistic with regard to producing patterns of occurrences. For purposes of this rule, the run test is a mathematical statistic that determines the existence of recurring patterns within a set of data. Each card, symbol, or number position will be considered random if it meets the 99 percent confidence level with regard to the run test or any similar pattern-testing statistic.

(3) Correlation Test: Each card position, symbol position, or number position must be independently chosen without regard to any other card, symbol, or number drawn within that game play. This test is the correlation test. Each pair of card, symbol, or number positions is considered random if it meets the 99 percent confidence level using standard correlation analysis.

(4) Serial Correlation Test: Each card position, symbol position, or number position must be independently chosen without reference to the same card, symbol, or number position in the previous game. This test is the serial correlation test. Each card, symbol, or number position is considered random if it meets the 99 percent confidence level using standard serial correlation analysis.

(5) Outside Influences: The random number generator and selection process must be impervious to influences from outside devices including, but not limited to, electromagnetic interferences, electrostatic discharge, and radio frequency interferences.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.215 & 461.217
 Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0060

Requirements for Percentage Payout

The maximum payout percentage for the Lottery's video lottery games is 96 percent. Extended play games may exceed this number.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
 Stats. Implemented: ORS 461.220
 Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LC 9-1993, f. 11-18-93, cert. ef. 12-1-93; LC 9-1994, f. 8-19-94, cert. ef. 9-1-94; LC 1-1995, f. 1-25-95, cert. ef. 3-1-95; LC 7-1995, f. & cert. ef. 7-7-95; LC 3-1996(Temp), f. & cert. ef. 3-27-96; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0065

Video Lottery Game Management

(1) **Video Game Management:** The Director of the Lottery shall manage the video lottery games installed on its video lottery terminals pursuant to ORS 461.200. The Director may revise the Lottery's video lottery games at any time and in any manner. The Lottery is under no obligation to continue to operate existing games and may initiate new or revised games at any time.

(2) **Retailer's Sales:** A retailer's sales of all lottery tickets and shares and sales of non-lottery products are the prime factors considered by the Lottery in managing the games installed on its video lottery equipment. A retailer's sales from video lottery games must comply with the provisions of OAR 177-040-0017 or 177-040-0061 and 177-045-0030.

(3) **Removal of Games:** The Lottery may furnish or remove video games from equipment on a retailer's premises at any time for any reason. The Lottery may limit the amount of time that a game is available at any time for any reason.

(4) **Test Equipment:** With the consent of the retailer, the Lottery may test new or revised games on its equipment on a retailer's premises.

(5) **Operation of Other Laws:** This rule does not preclude the Lottery from removing any or all of its games installed on its equipment or limiting the time or hours the games are operational pursuant to any other applicable law or contract provision.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
 Stats. Implemented: ORS 461.215 & 461.217
 Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03; LOTT 2-2005, f. 4-11-05, cert. ef. 5-1-05

177-200-0070

Requirements for Poker Games

Video lottery terminals offering poker games must meet the following requirements:

(1) Standard decks of 52 playing cards shall be used. Jokers may be added to the decks if the resulting payout percentages meet the requirements of OAR 177-200-0060.

(2) When the deck is shuffled, it must be shuffled randomly and frozen. All cards used for play must be taken in order from the top of the deck. All cards needed for play must be stored in the non-volatile memory of the video lottery terminal. Non-volatile memory is a device that stores information that cannot be erased or destroyed when power is disconnected to the video lottery terminal. The manufacturer need not represent the whole deck in memory. Shuffling is the process of generating the cards possibly used in the play and may be conducted in any manner that satisfies the randomness tests in OAR 177-200-0055.

(3) The program must deal the first cards in the order they are contained in the shuffled deck to the player. For draw poker games or hands, the player must have the option to hold or discard one or more of the cards initially drawn according to the game design. Any auto-hold features that assist players in their decision as to which of the cards to hold and discard for the chance to obtain a winning combination must be displayed. Any cards that are discarded must be replaced by the remaining cards in the deck by a predefined process that draws any additional cards in the order they are contained in the shuffled deck.

(4) If the initial cards dealt constitute a winning hand or hands according to the game's pay table, the video lottery terminal must automatically notify the player of the winning hand or hands, display the kind of hand (e.g., one pair, two pair, three of a kind), and the potential prize amount.

(5) At the conclusion of each game play, the video lottery terminal must display the winning combinations, if any, and the amount won.

(6) An extended play option may be included as long as a prize won under that option does not exceed \$600.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT; LOTT 15-2003, f. & cert. ef. 9-29-03; LOTT 11-2004, 6-23-04, cert. ef. 7-1-04

177-200-0075

Requirements for Video Line Games

(1) **General:** A video line game must meet the following requirements:

(a) **Randomness:** The program must select numbers and symbols that satisfy the randomness requirements of OAR 177-200-0055.

(b) **Multi-Line Game Play:** When more than one line is played during a game play, each individual line that is brought into play by wagering additional credits must be clearly identified on the video lottery terminal screen.

(c) **End of Each Play:** At the end of each game play, the video lottery terminal must display and identify each winning combination of numbers or symbols, if any, and the amount won, if any.

(2) **Configuration:** A game may be configured as a matching game in which the player selects numbers or symbols from a fixed grid or pattern, or a game where randomly selected numbers or symbols line up in a row or other specified shape, or a game where one or more specified numbers or symbols must appear in order to constitute a winning game play.

(3) **Cessation of Movement:** A game may be configured so that after the player initiates game play, the movement of numbers or symbols stops automatically, or the player may manually choose to stop the movement prior to an automatic stop.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.210, 461.215, 461.217, 461.220
Hist.: LOTT 2-2005, f. 4-11-05, cert. ef. 5-1-05

177-200-0080

Discharge of Lottery from Liability

(1) The State of Oregon, its agents, officers, and employees, and the Oregon State Lottery Commission, its agents, officers, and employees, are discharged of all liability upon award of a prize, or, if a cash slip is presented to the Lottery for payment, upon payment of the cash

slip. The State of Oregon, its agents, officers, and employees, and the Oregon State Lottery Commission, its agents, officers, and employees, are not liable for any terminal malfunction nor are they liable for the payment of any cash slip presented to a retailer for payment.

(2) The Director's decisions and judgments regarding award of a prize and the payment of a cash slip are final and binding. If a question arises as to the amount of a prize, the amount of a cash slip, or whether a video lottery terminal malfunctioned, the Lottery may deposit any prize winnings into an interest-bearing escrow fund until it resolves the controversy, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. All interest that may accrue while the prize winnings are on deposit in an interest-bearing fund is and remains the property of the Lottery.

(3) In the event a dispute occurs between the Lottery and a player as to the amount of a prize, the amount of a cash slip, or whether a video lottery terminal malfunctioned, the Director may replace the disputed wager with one of equivalent value. This is the player's sole and exclusive remedy. The Director's decision is final.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.215 & 461.217
Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0090

Governing Law

(1) By playing a game on a video lottery terminal, a player agrees to abide by and comply with Oregon law, including the statutes and administrative rules governing video lottery games and terminals that are in effect and as may be amended, and any additional terms and conditions that may be found on the cash slip. In the event of a conflict between any additional terms and conditions on a cash slip with the Lottery's rules, the rules control.

(2) All materials distributed by the Lottery for playing video lottery games are to be used solely for playing the video games permitted under these rules. Any use or reproduction of the materials for purposes other than those permitted by these rules may constitute a violation of Oregon gambling laws.

(3) All decisions of the Director regarding video lottery games are final.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.215 & 461.217
Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03