



## Oregon State Lottery Annual Legislative Rules Report

Rules Adopted, Amended, Suspended, or Repealed from February 1, 2021, to January 31, 2022

Submitted as Required by [ORS 183.403](#) and [192.245](#)

**1. The number of administrative rules adopted, amended, or repealed in accordance with [ORS 183.335 \(2\) and \(3\)](#):**

The Lottery adopted, amended, or repealed 17 administrative rules in seven permanent rulemaking projects conducted in accordance with [ORS 183.335\(2\) and \(3\)](#). Each of the permanent rulemaking projects the Lottery filed during the time period for this report is summarized in the table below. Each filing is available in its entirety on the [Secretary of State website](#) by searching for Chapter 177 for the applicable time period. You may also request a copy by contacting Kris Skaro at [kris.skaro@lottery.oregon.gov](mailto:kris.skaro@lottery.oregon.gov) or 971-719-0794.

Permanent Project #	Eff. Date	# of Rules	Rulemaking Caption
#1	3/1/21	10	Updating rules about claiming, validating, and paying Lottery prizes and clarifying trade show device regulation
#2	4/20/21	2	Adopting current (and repealing obsolete) Attorney General Model Rules about confidentiality of mediation communications
#3	7/1/21	1	Clarifying internal operating policy adoption for the Oregon State Lottery
#4	7/22/21	1	Converting weekly Video Lottery sales goal from net sales to equivalent amount in dollars-played
#5	8/23/21	1	Adding a third weekly Powerball drawing every Monday starting 8/23/21
#6	11/1/21	1	Correcting the minimum weekly Video Lottery sales requirement
#7	11/1/21	1	Repealing rule about managing Video Lottery Terminals during COVID-19 public health emergency



**2. The number of rules, adopted, amended, or suspended using the procedure described in [ORS 183.335\(5\)](#):**

The Lottery adopted, amended, or repealed 40 administrative rules in seven rulemaking projects using the procedure described in ORS 183.335(5). The rulemaking projects are summarized in the table below, including additional information required by [ORS 183.403](#) including: a list of the rules; the statement of need for each rule; the agency's findings that failure to act promptly would result in serious prejudice; and an explanation of why proceeding with the temporary rulemaking process was the most appropriate method and why it was not appropriate to proceed with the permanent rulemaking process. Each filing is available in its entirety on the [Secretary of State website](#) by searching for Chapter 177 for the applicable time period. You may also request a copy by contacting Kris Skaro at [kris.skaro@lottery.oregon.gov](mailto:kris.skaro@lottery.oregon.gov) or 971-719-0794.

Project #	Eff. Date	# of Rules	Rulemaking Caption
#1	6/24/21	11	Adopting rules governing the new Commission-authorized Lottery game, "Take Your Shot, Oregon!"
	List of Rules		OAR 177-054-0000 Purpose OAR 177-054-0010 Definitions OAR 177-054-0020 Game Description OAR 177-054-0030 Prize OAR 177-054-0040 Eligibility OAR 177-054-0050 Entry Requirements OAR 177-054-0060 Selection of Winners OAR 177-054-0070 Prizes and Odds of Winning OAR 177-054-0080 Winner Validation and Notification OAR 177-054-0090 Prize Claim and Payment OAR 177-054-0100 Governing Law
	Statement of Need		On May 21, 2021, the Oregon State Lottery Commission authorized a new lottery game called Take Your Shot, Oregon! in which eligible Oregonians who have received at least one dose of a COVID-19 vaccine are entered into one or more drawings for a chance to win a prize. Such vaccine incentive lotteries like Take Your Shot, Oregon! have been used to incentivize COVID-19 vaccination. COVID-19 vaccines prevent death and hospitalization from the coronavirus and widespread vaccination is essential to the full resumption of normal economic and social life in Oregon. The return to normal economic activity is critical to the Lottery's ability to meet its constitutional mandate to raise money for public programs like education, veterans' services, state parks, and economic development. Pursuant to the Oregon Constitution, Article XV, § 4 and ORS chapter 461, the Lottery must adopt administrative

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			rules for all Lottery games that, among other things, describe the type of game, state the price of a share, explain how winners are determined, and establish prize claim validation and payment requirements. The rules (OAR 177-054-0000 to 177-054-0100) described in this Temporary Administrative Order meet the need to adopt administrative rules by describing the type of game, stating the price of a share, establishing eligibility and entry requirements, explaining how winners are selected, describing the prize claim validation process, and listing all prize claim requirements. Thus, these rules are needed to allow Take Your Shot, Oregon! to be established and operational by the end of June 2021.
		Statement of Justification (the agency's findings that a failure to act promptly would result in serious prejudice to the public interest of parties concerned)	<p>The Lottery finds that failure to act promptly to immediately adopt these rules will result in serious prejudice to the Lottery, Lottery retailers, Oregonians, and public programs that rely on Lottery funding.</p> <p>Failure to act promptly to adopt these rules would delay the drawings and any incentivization effects on Oregonians by at least 60 days. In other states, vaccine incentive lotteries have been shown to increase vaccinations, which save lives and allow for a full return to normal economic and social activities. Thus, a 60-day delay could hinder Oregon's return to normal economic and social activity and impair the Lottery's ability to meet its constitutional mission to raise funds for public programs like education, veterans' services, state parks, and economic development.</p> <p>Additionally, any incentivization effect should not be delayed because the vaccine can save lives, and thus it is urgent to take immediate action without delay, consistent with the direction from the Oregon State Lottery Commission. By taking prompt action to immediately adopt these rules, as directed by the Commission, the Lottery may immediately partner with other state agencies to offer these incentive drawings and prizes and continue every effort to encourage Oregonians to receive COVID-19 vaccination, which are proven to prevent death and hospitalization from the coronavirus. Such vaccinations are an essential component to a full resumption of normal daily economic and social life in Oregon and help the Lottery and Lottery retailers fully return to effectively selling Lottery products to meet the Lottery's constitutional mission to raise</p>

Project #	Eff. Date	# of Rules	Rulemaking Caption
			money to support education, economic development, state parks and recreation, and veterans' services.
		Explanation of why proceeding under ORS 183.335(5) (i.e. adopting temporary rules) was the most appropriate method for adopting, amending, or suspending the rule and why it was not appropriate to proceed in accordance with ORS 183.335(2) and (3) (i.e. permanent rulemaking process with opportunity for notice and comment)	<p>Oregon public health officials determined that increasing vaccine uptake would allow Oregonians to resume normal economic and social activity. Thus, as stated in the Lottery's statement of justification, the Lottery determined it was best to avoid a 60-day delay associated with the permanent rulemaking process because of the urgent need to incentivize vaccination.</p> <p>To provide transparency and limit the impact to the public, the Lottery discussed the incentive lottery at a public meeting of the Oregon State Lottery Commission, which provides an opportunity for public comment. Additionally, the rules were drafted to allow any person selected to win a prize the ability to decline to participate. (The rules were drafted to require each person's consent before sharing their information for purposes of the vaccine incentive drawings.)</p>
#2	6/30/21	1	Suspending rule about COVID-19 protocols that apply to Video Lottery Terminals
		List of Rules	OAR 177-040-0049 Video Lottery Terminal Management During State of Emergency
		Statement of Need	<p>The Lottery adopted OAR 177-040-0049 to explain that the Lottery would, during the public health state of emergency, actively ensure that Video Lottery terminals (VLTs) were placed, operated, and maintained in full compliance with any public health protocols that apply to VLTs.</p> <p>On June 25, 2021, Governor Brown announced that public health protocols intended to prevent the spread of the coronavirus will be lifted no later than June 30, 2021, with some exceptions that do not apply to VLTs or Video Lottery retailers. This announcement sets Oregon on a path to fully resume normal economic and social life after the devastating coronavirus pandemic.</p> <p>With the removal of any protocols that apply to the placement, operation, and maintenance of VLTs, OAR 177-040-0049 is no longer needed and therefore the rule needs to be suspended to immediately and clearly communicate to Video Lottery retailers that there are no longer any restrictions on VLT operations.</p>

Project #	Eff. Date	# of Rules	Rulemaking Caption
	Statement of Justification (the agency's findings that a failure to act promptly would result in serious prejudice to the public interest of parties concerned)		<p>The Lottery finds that failure to act promptly to immediately suspend OAR 177-040-0049 will result in serious prejudice to the Lottery, Video Lottery retailers, Video Lottery retailer patrons, and public programs that receive revenue from Video Lottery game sales.</p> <p>OAR 177-040-0049 was intended to clearly communicate the importance of following official guidance about the safe placement, operation, and maintenance of Video Lottery terminals (VLTs) during the public health emergency to prevent the spread of coronavirus among Video Lottery retailer staff and patrons. Such protocols are lifted effective June 30, 2021. Failure to immediately suspend OAR 177-040-0049 could cause confusion about whether adherence to such protocols is still necessary. This may unnecessarily delay the resumption of normal VLT operations. Such confusion and delay may limit Video Lottery game sales, Video Lottery retailer commissions, and (in turn) negatively impact the public programs that rely on such revenue and on Video Lottery retailers, who receive a commission on all Video Lottery game sales.</p> <p>Therefore, the Lottery's prompt action to suspend the rule is necessary to clearly communication to Video Lottery retailers that they can and should resume normal business operations with respect to VLTs.</p>
			<p>Explanation of why proceeding under ORS 183.335(5) (i.e. adopting temporary rules) was the most appropriate method for adopting, amending, or suspending the rule and why it was not appropriate to proceed in accordance with ORS 183.335(2) and (3) (i.e. permanent rulemaking process with opportunity for notice and comment)</p> <p>As stated in the Lottery's statement of justification, the protocols referred to in the rule no longer exist and therefore, delaying suspension of the rule for at least 60 days to allow for public comment would provide little substantive benefit to the public as, regardless of this rule, the public health protocols specific to Video Lottery Terminals were suspended by executive action.</p> <p>Additionally, the Lottery determined that keeping the rule active during the public rulemaking process may cause confusion as, again, the protocols referenced are no longer applicable to Lottery retailers and patrons. Thus, the Lottery saw little risk to taking immediate action to suspend the rule.</p>
	#3	7/1/21	2
	List of Rules		<p>Amending rules for vaccine incentive drawing game, "Take Your Shot, Oregon!"</p> <p>OAR 177-054-0020 Game Description OAR 177-054-0090 Prize Claim and Payment</p>

Project #	Eff. Date	# of Rules	Rulemaking Caption
		Statement of Need	The Lottery adopted temporary rules governing the Take Your Shot, Oregon! game on June 24, 2021. Those rules in OAR chapter 177, division 54, authorize drawings in which eligible Oregonians who have received at least one dose of a COVID-19 vaccine are eligible to win a prize. The rules establish eligibility and entry requirements; establish drawing procedures to ensure winners are selected in a secure, fair, and random manner; authorize various prize claim validation activities; and establish prize claim and payment requirements. The drawings are currently underway, but slight adjustments to the rules are needed to reflect current roles, responsibilities, and authority relating to the drawings and prize payment. The minor changes described in this Temporary Administrative Order meet the identified need by clarifying the roles, responsibilities, and authority of state agencies that are participating in the game and paying prizes.
		Statement of Justification (the agency's findings that a failure to act promptly would result in serious prejudice to the public interest of parties concerned)	The Lottery finds that failure to act promptly to immediately amend these rules will result in serious prejudice to: the Lottery; state agencies working together to facilitate drawings and pay prizes; and eligible Oregonians who are entered into the drawings for a chance to win a prize. Failure to act immediately to amend the rules would result in a delay of at least 60 days. This is not practical because the vaccine incentive drawings are already underway. Thus, those entities involved and participants would suffer uncertainty and confusion about roles, responsibilities, and authority with respect to the drawings and prize payments that are authorized under the rules. On the other hand, the Lottery finds that taking prompt action today to amend these rules will ensure the vaccine incentive drawings are conducted and prizes are paid under clear and accurate rules, ensuring no participants will suffer any uncertainty or confusion about roles, responsibilities, or authority.
		Explanation of why proceeding under ORS 183.335(5) (i.e. adopting temporary rules) was the most appropriate method for adopting, amending, or suspending the rule and why it was not appropriate to proceed in accordance with	As explained in the Lottery's justification statement, the drawings were underway and thus it was not practical to delay for at least 60 days to proceed under the normal permanent rulemaking process. Additionally, the changes were minor changes to state agency responsibilities, which do not have much impact on the public.

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	ORS 183.335(2) and (3) (i.e. permanent rulemaking process with opportunity for notice and comment)		
#4	8/16/21	1	Correcting the minimum weekly Video Lottery sales requirement
	List of Rules		OAR 177-045-0030 Video Lottery Game Terminals
	Statement of Need		<p>The Lottery needs to amend OAR 177-045-0030 to correct a typographic error in the dollar amount of the Video Lottery weekly minimum sales requirement. (The correct amount is \$2,667 average dollars played per week, but the rule was filed showing the dollar amount as \$2,776.) The Lottery regrets the error and is immediately correcting the sales goal to avoid any confusion with retailers about the minimum weekly sales requirement for Video Lottery game terminals.</p> <p>BACKGROUND:</p> <p>OAR 177-045-0030 allows the Director to allocate and reallocate Video Lottery Terminals (VLTs) based on various considerations, including a retailer's sales. Specifically, the rule requires retailers to generate an average amount of Video Lottery sales per week per terminal. Failure to meet the minimum sales requirement can result in a retailer losing one or more terminals from a retail location. This requirement is also reflected in each Video Lottery retailer's contract with the Lottery. (See sections 3.1 and 4.4.)</p> <p>On May 21, 2021, the Lottery filed a Notice of Proposed Rulemaking indicating that the Lottery proposed to convert the minimum weekly sales requirement for Video Lottery game terminals (VLTs) from \$200 net sales to \$2,667 dollars played. Dollars played is the sales metric used in the current retailer contract. (See also OAR 177-040-0026, which establishes the dollars-played commission structure for Video Lottery retailers effective June 28, 2020.) The conversion from net sales to dollars played was intended to be an across-the-board conversion based on a prize payout rate of 92.5%:</p> <ul style="list-style-type: none"> <li>• <math>\text{Net revenue} / (100\% - \text{Payout Percentage}) = \text{Dollars Played}</math></li> <li>• <math>\\$200 / (100\% - 92.5\%) = \text{Dollars Played}</math></li> <li>• <math>\\$200 / (7.5\%) = \\$2,666.67</math></li> </ul>

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			<p>As an across-the-board conversion, the change was not intended to substantively impact retailers. (In other words, if a retailer met the \$200 net sales goal, they would likely meet the \$2,667 dollars-played sales goal. Note also that less than one percent of VLTs fall under the average weekly minimum sales floor, regardless of the format.) The Lottery communicated its intent to transition to the \$2,667 dollars-played sales goal to Video Lottery retailers via email on May 4, 2021 and in a presentation to the Oregon State Lottery Commission on May 21, 2021.</p> <p>However, in the rule text included with the Notice, the figure for the new minimum weekly sales goal was mistakenly entered as \$2,776, which is \$103 higher than intended. Unfortunately, the Permanent Administrative Order filed on July 22, 2021 also included the incorrect figure. The Lottery regrets the error and, to avoid any confusion, needs to immediately amend OAR 177-045-0030 to clarify that, effective July 22, 2021, the weekly minimum sales requirement for Video Lottery game terminals is \$2,667 dollars played. This figure is consistent with Lottery's intent and public communications regarding the conversion. The figure is also an across-the-board conversion from the previous goal of \$200 net sales, meaning it should not have any substantive impact on Video Lottery retailers.</p>
		Statement of Justification (the agency's findings that a failure to act promptly would result in serious prejudice to the public interest of parties concerned)	<p>The Lottery finds that failure to act promptly to amend OAR 177-045-0030 will result in serious prejudice to the Lottery and Video Lottery retailers because the current rule incorrectly states the minimum weekly sales requirement. A retailer's average weekly sales is an important metric for the Lottery and for Video Lottery retailers. Whether a retailer meets the minimum weekly sales requirement is an important guide to the Lottery in making determinations about where to place Video Lottery terminals to maximize revenue for public programs, and the sales minimum provides a guide for retailers to know if they are meeting their contractual obligations, which includes meeting the sales requirement in OAR 177-045-0030. Therefore, taking immediate action to correct the average weekly sales requirement avoids unnecessary confusion and ensures the Lottery and retailers are working toward the same weekly sales target.</p>



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		<p>Explanation of why proceeding under ORS 183.335(5) (i.e. adopting temporary rules) was the most appropriate method for adopting, amending, or suspending the rule and why it was not appropriate to proceed in accordance with ORS 183.335(2) and (3) (i.e. permanent rulemaking process with opportunity for notice and comment)</p>	<p>As stated in the Lottery's justification for the temporary rulemaking, it is important that retailers know the correct minimum Video Lottery sales goal. Due to an administrative error, the amount was incorrect in the previous Notice and Permanent Administrative Order. However, the Lottery did not intend to enforce the higher incorrect sales requirement; the Lottery always intended (and communicated) that Lottery was not substantively changing (higher or lower) the sales goal, but was merely converting the old goal (\$200 weekly net sales) to the same amount in the new structure (\$2,667 weekly dollars played). On the other hand, if the Lottery left the incorrect rule in place and actually enforced the incorrect amount, several more retailers would not meet the weekly goal, which could lead to a retailer having terminals removed. Therefore, Lottery determined it was appropriate to proceed with the temporary rulemaking process and avoid the 60-day delay associated with the normal rulemaking process.</p> <p>(Note, the Administrative Procedures Act provides for a way to correct typographic errors; see ORS 183.335(7). However, the type of correction Lottery needed to make did not meet the list of reasons to make a minor statutory correction in the law, even though, arguably, this rule change is more akin to a correction of a typographic error than to a substantive change in Lottery practice.)</p>
#5	12/6/21	1	Clarifying process for waiving disclosure for Lottery retailer applicants and making Tribally owned applicants eligible
	List of Rules		OAR 177-040-0001 General Application Requirements
		<p>Statement of Need</p>	<p>The Lottery needs to amend OAR 177-040-0001 about Lottery retailer application requirements to allow the Lottery to use an alternative disclosure process for Lottery retailer applicants that are wholly owned by an Oregon tribe. The rule as currently written does not allow these applicants to qualify for waiver of disclosure. However, when a business entity is owned by a tribe and applies to be a Lottery retailer, the required scope of disclosure under current rule may be overly burdensome and require, for example, disclosure of all tribal members or disclosure of all members of tribal governing bodies. These disclosures may pose an unreasonable burden on the tribe, while offering little benefit to the Lottery. This confusion around the required scope of disclosure is a barrier to what</p>

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			<p>could otherwise be a mutually beneficial partnership between a tribally owned business entity and the Lottery.</p> <p>The proposed amendment to OAR 177-040-0001 would allow the Director to propose an alternative disclosure process for these applicants, subject to review and approval by the Commission, as allowed by ORS 461.300(2)(b). The proposed alternative disclosure process could, for example, be limited to persons related to the business entity itself and those involved in management and the daily functions and operations of the business. If the Director determined at any time that additional disclosure is required to ensure the fairness, integrity, security, and honesty of the Lottery, the Director could require such additional disclosures as needed. Thus, this amendment would not jeopardize the Lottery's ability to ensure the fitness of potential Lottery retailers, and the proposed amendment is consistent with the authority and discretion granted to the Director and the Commission in ORS 461.300(2)(b).</p> <p>Additionally, the Lottery needs to amend OAR 177-040-0001 to clarify the timing of Commission approval. The rule as currently written requires the Lottery to complete the security investigation prior to obtaining Commission approval of the alternative disclosure process. The Lottery is amending the rule to require Commission approval of the proposed alternative prior to the security investigation. This ensures Commission oversight and approval from the start, and the intent is that this sequence will avoid surprises or reversals late in the retailer application, background investigation, and contracting processes.</p>
		<p>Statement of Justification (the agency's findings that a failure to act promptly would result in serious prejudice to the public interest of parties concerned)</p>	<p>The Lottery finds that failure to immediately amend OAR 177-040-0001 would result in serious prejudice to the Lottery and Lottery retailer applicants that are wholly owned by one of Oregon's nine federally recognized tribes. The consequence of failure to act immediately is continued uncertainty regarding the required scope of personal disclosure for tribally owned businesses. This uncertainty prevents tribally owned businesses and the Lottery from moving forward in the contracting process. The resulting contracts could prove to be financially beneficial to the tribally owned business (and, by extension, tribal members) and to the Lottery (and, by extension, public programs that receive Lottery funding). But any financial benefit from the sales of Lottery products would be delayed for at least</p>

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			<p>60 to 90 days while the Lottery undertakes its normal permanent rulemaking process.</p> <p>The Lottery finds that it is unnecessary for these tribally owned businesses to delay moving forward with the contract application process because (1) Oregon law already authorizes unnecessary disclosures to be waived; and (2) several safeguards remain in place in the rule as amended, consistent with ORS 461.300(2)(b), to protect the fairness, integrity, security, and honesty (FISH) of the Lottery including: (a) the requirement that the director determine that any waiver of disclosure will not jeopardize the FISH; (b) the requirement that the Commission agree with the Director's determination and approve the waivers; and (c) the director maintains the authority to require disclosures at any time if determined they are necessary to ensuring the FISH.</p> <p>Thus, the Lottery has determined that taking immediate action to amend the rule to allow tribally owned businesses to qualify for the alternative disclosure process would permit any currently interested applicants to proceed with the retailer contract application process, because they would be assured that tribal members will not have to undergo burdensome disclosures, so long as those disclosures are determined by the director and Commission to be unnecessary to ensuring the FISH of the Lottery. Any benefits that result from this contract process will accrue to the parties sooner than if the Lottery failed to take this immediate rulemaking action.</p>
		<p>Explanation of why proceeding under ORS 183.335(5) (i.e. adopting temporary rules) was the most appropriate method for adopting, amending, or suspending the rule and why it was not appropriate to proceed in accordance with ORS 183.335(2) and (3) (i.e. permanent rulemaking process with opportunity for notice and comment)</p>	<p>Proceeding under ORS 193.335(5) was the most appropriate method for amending the rule because the Lottery had currently pending retailer applications from businesses that are wholly owned by an Oregon tribe. However, the scope of required disclosure was a barrier to moving forward with the contracting process. While Oregon law allows Lottery to waive unnecessary disclosures, the Lottery's administrative rule is narrower, reflecting that in the past, the Lottery has only waived disclosure for large multi-state chain retailers. It was not appropriate to proceed in accordance with ORS 183.335(2) and (3) because, for the Lottery, this would probably take until early February 2022, meaning that the pending applications would be in limbo during that time, and it's possible some of the application materials would expire and need to be resubmitted. This seems unnecessary, as the only risk for waiving disclosure</p>

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			<p>requirements is to the Lottery, and Lottery has preserved many security features within the amended administrative rule including: (1) that the Director must recommend alternative disclosure based on a determination that waiver will not jeopardize the fairness, integrity, security, or honesty (FISH) of Lottery; (2) the Commission must approve the alternative disclosure process at a public meeting; and (3) regardless of whether the alternative disclosure process is approved, the Director maintains at all times the authority to require additional disclosures if needed to ensure the FISH. And, thus, the risk of proceeding without the normal public comment process seemed low to the general public, but moving forward with temporary rules provides significant benefit to pending applicants and the Lottery, all while preserving the authority and responsibility to maintain the FISH.</p> <p>As to delaying public input, the Lottery determined that tribally owned businesses would be most interested in and impacted by the rule change and, therefore, contacted each of Oregon's nine federally recognized tribes and provided an opportunity for comment prior to adopting the temporary rule. In this way, the Lottery hoped to reduce the risk of delaying the public comment process. Additionally, the Lottery opened the public comment period and scheduled a public rulemaking hearing shortly after adopting the temporary rule and did again discuss the topic at a public meeting of the Oregon State Lottery Commission, providing additional transparency into the agency's policy choices regarding this change.</p>
#6	12/17/21	23	Rulemaking to support contract with DraftKings to provide Lottery's digital sports betting game
		List of Rules	<p>OAR 177-010-0003 Definitions  OAR 177-010-0115 Data Privacy and Security Policy  OAR 177-046-0015 Definitions  OAR 177-046-0022 Player Account  OAR 177-046-0027 Funding Account  OAR 177-046-0060 Cancellation of Lottery Tickets and Shares  OAR 177-046-0100 Ownership of Lottery Tickets and Shares  OAR 177-046-0110 Payment of Prizes  OAR 177-046-0120 Prizes Payable after Death  OAR 177-046-0155 Responsible Gaming  OAR 177-092-0005 Scoreboard To Be Disabled and Status of Player Accounts</p>

Project #	Eff. Date	# of Rules	Rulemaking Caption
			<p>OAR 177-093-0000 Purpose</p> <p>OAR 177-093-0005 Definitions</p> <p>OAR 177-093-0010 General Game Description</p> <p>OAR 177-093-0015 Eligibility</p> <p>OAR 177-093-0020 Purchasing a Share and Placing a Bet</p> <p>OAR 177-093-0025 Price</p> <p>OAR 177-093-0030 Method for Validating Bets and Determining Winners</p> <p>OAR 177-093-0035 Pools</p> <p>OAR 177-093-0040 Prizes</p> <p>OAR 177-093-0045 Voided Bets, Refunds, and Resettlements</p> <p>OAR 177-093-0050 Prohibited Conduct</p> <p>OAR 177-093-0055 Disputes and Decisions of the Director</p>
		Statement of Need	<p>The Lottery needs to adopt, amend, and suspend rules as described in this temporary administrative order to support the transition of the Lottery's digital sports betting game from the SBTech platform to the DraftKings platform.</p> <p>BACKGROUND AND DISCUSSION:</p> <p>Since October 2019, the Lottery has offered a digital sports betting game, Scoreboard, through its provider, SBTech. Scoreboard is available to players through a downloadable mobile application and online at the Scoreboard website. The digital sports betting game has, since its launch in 2019 and despite the worldwide pause on sporting events in the summer of 2020, resulted in the transfer of over \$10 million dollars to the state to fund public programs, including Lottery's constitutional beneficiaries (education, state parks, veterans' services, etc.) and the specific statutory dedication of the net proceeds of sports betting to the Employer Incentive Fund (EIF), which provides matching funds to public employers to offset public pension costs.</p> <p>In 2020, DraftKings, a well-known digital gaming provider, purchased the Lottery's sports betting provider, SBTech. The acquisition prompted the Lottery to explore contracting directly with DraftKings to provide the platform for Lottery's digital sports betting game. The Lottery determined that contracting with DraftKings would benefit the Lottery, Oregon sports betting players, and public programs that rely on Lottery funds. Benefits include, but are not limited to, improved customer experience, more attractive interface and features, simpler flow</p>

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			<p>of funds through the player account, and reduced need for third-party vendors to conduct certain activities.</p> <p>Pursuant to the director's authority in ORS 461.440 and specific authorization from the Oregon State Lottery Commission on August 26, 2021, the Lottery has negotiated a contract with DraftKings. Pursuant to this contract, DraftKings will be the Lottery's provider for digital sports betting games authorized by the Commission and offered by the Lottery.</p> <p>The Lottery's digital sports betting game on the DraftKings platform will look very similar to players and many of the basic features of the game will continue. However, there are changes to the offering that must be reflected in the Lottery's rules prior to execution of the contract and in preparation for the launch of the new platform and simultaneous disablement of the Scoreboard platform. (For example, but not limited to, Oregon laws require the Lottery to adopt rules that, among other things: specify the types of games to be conducted by the Oregon State Lottery; specify the number and value of prizes in each lottery game; specify the retail sales price for tickets or shares in each lottery game; specify the method for determining winners in each lottery game; establish a system for verifying the validity of tickets or shares claimed to win prizes and to effect payment of such prizes; and specify the manner and distribution, dissemination, or sale of lottery tickets or shares directly to the public. See, for example, ORS 461.210, 461.220, 461.230, 461.240, 461.250, and 461.260.) Thus, to support the contract, the launch of the new digital sports betting platform, and the disablement of game play on the Scoreboard platforms, the Lottery needs to immediately adopt, amend, and suspend rules to reflect changes to how the digital sports betting game will work on the new platform.</p> <p>In addition to the general foregoing needs, the rule changes meet the following additional specific needs:</p> <ul style="list-style-type: none"> <li>The Lottery needs to amend OAR 177-010-0003 about definitions and repeal OAR 177-010-0115 about Lottery's data privacy and security policy because the rules no longer meet their intended need and may, instead, cause confusion about whether digital sports betting players may consent to share their information. When the Lottery originally adopted OAR 177-010-0115</li> </ul>

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			<p>and the related definitions in OAR 177-010-0003, the purpose was to bring additional transparency to the Lottery's information handling practices and to provide guidance to Lottery personnel about how to handle the increase in personal information the Lottery would have upon the launch of non-anonymous game play. (Previous to Scoreboard, game play was anonymous. The Lottery obtained only limited personal information from players if they claimed a prize that required tax withholding and reporting and debt offsets.) The Lottery wanted to provide reassurance to our players about how we would handle and share their information, as well as direction to Lottery personnel about what types of personal information might require protection. In practice, however, in the two years since the launch of Scoreboard, the Lottery has relied on Oregon laws like the Oregon Consumer Information Protection Act (OCIPA; see ORS 646A.600 et seq.) and Oregon's Public Records Law (see ORS 192.311 et seq.), as well as the Attorney General Public Record Manual to make decisions about handling, sharing, and releasing information. The Lottery has provided transparency about these practices through our Privacy Policy, which is a public statement available online and on all Lottery mobile applications that discloses to the public what information the Lottery collects and how that information is stored, used, and shared so that the public can make an informed decision about whether to share information with the Lottery. Additionally, the rule is unclear as to whether players could personally consent to share their own information, which is a requirement to establish a digital player account, through which funds can be deposited and used to play games digitally and receive prize payment. (The Lottery does not directly hold or manage player funds.) Therefore, the Lottery is repealing those definitions and the rule itself to avoid any confusion and allow the DraftKings contract and transition to proceed. As noted, the Lottery provides detailed disclosures to the public and players in its Privacy Policy available at <a href="https://www.oregonlottery.org/about/legal/">https://www.oregonlottery.org/about/legal/</a>. The Lottery's Privacy Policy is currently being revised and will be available to players and the public online when</p>



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			<p>the DraftKings Sportsbook platforms are launched. In the meantime, both privacy policies are available upon request to the Lottery.</p> <ul style="list-style-type: none"> <li>• The rules throughout division 046 set out general principles of game play and prize claim, validation, and payment that apply to most Lottery games. Each general provision often has an exception that applies when the game is played digitally. For example, for digital game play, a personal digital player account is required, and prize claiming and payment is all conducted through the digital player account. (This is in contrast to most traditional Lottery games where tickets are purchased in person at a retailer and players can claim their prize in person at a Lottery retailer or at the Lottery.) Lottery has reviewed these rules, and needs to amend the following rules to reflect how the various general Lottery game provisions will apply in the case of the new DraftKings platform: OAR 177-046-0015 about definitions; OAR 177-046-0022 about digital player accounts; OAR 177-046-0027 about funding the player account; OAR 177-046-0060 about cancellation of Lottery tickets and shares; OAR 177-046-0100 about ownership of Lottery tickets and shares; OAR 177-046-0110 about payment of prizes; OAR 177-046-0120 about prizes payable after death; and OAR 177-046-0155 about responsible gaming.</li> <li>• The Lottery needs to adopt OAR 177-092-0005 to provide notice to players about the status and governance of the Scoreboard digital platform during the transition period (after the DraftKings contract has been signed, but before the DraftKings platforms have launched) and after the DraftKings Sportsbook platforms are launched.</li> <li>• The Lottery needs to adopt a new division of rules, division 093, to comply with various Oregon laws that require the Lottery to adopt rules that: specify the types of games to be conducted by the Oregon State Lottery; specify the number and value of prizes in each lottery game; specify the retail sales price for tickets or shares in each lottery game; specify the method for determining winners in each lottery game; establish a system for verifying the validity of tickets or shares claimed to win prizes and to effect payment of such</li> </ul>



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			<p>prizes; and specify the manner and distribution, dissemination, or sale of lottery tickets or shares directly to the public. See, for example, ORS 461.210, 461.220, 461.230, 461.240, 461.250, and 461.260. The rules described in this Order (OAR 177-093-0000 about the purpose of the rules in division 093; OAR 177-093-0005 about definitions of terms used in division 093; OAR 177-093-0010 about the general description of the digital sports betting game that will be offered on the DraftKings platforms; OAR 177-093-0015 about the requirements a person must meet to play the game; OAR 177-093-0020 about how to purchase a share and place a valid bet; OAR 177-093-0025 about the price a person must pay for a chance to win a prize; OAR 177-093-0035 about prize pools; OAR 177-093-0040 about prizes; OAR 177-093-0045 about Lottery authority to void, refund, and resettle bets; OAR 177-093-0050 about prohibited conduct; and OAR 177-093-0055 about disputes and decisions of the director) meet all statutory requirements applicable to Lottery games and ensure players are aware of how the sports betting game will operate and describe the rights and responsibilities of players and the Lottery on the new platforms.</p>
		<p>Statement of Justification (the agency's findings that a failure to act promptly would result in serious prejudice to the public interest of parties concerned)</p>	<p>The Lottery finds that failure to act promptly to immediately adopt, amend, and suspend rules as described in this temporary administrative order would result in serious prejudice to the Lottery, digital sports betting players, and public programs that rely on Lottery revenue.</p> <p>Failure to take immediate action to adopt, amend, and suspend these rules would delay the contract and launch of the DraftKings Sportsbook platform by at least 60 days. Delay would negatively impact the Lottery by delaying the contract and launch of the improved platform which is expected to be more attractive to Oregon digital sports betting players. This would negatively impact the Lottery's ability to maximize revenue for public programs, as directed in the Oregon Constitution and ORS 461.200.</p> <p>Delay would also negatively impact digital sports betting players in the state of Oregon. The Lottery believes players will prefer the new DraftKings Sportsbook platform. The delay would</p>

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			<p>deprive players of the use of the platform and the improved customer service and player experience provided by the DraftKings Sportsbook. Things like improved user interface and more convenient flow of funds would be delayed during the 60-day time period.</p> <p>Lastly, delay may negatively impact public programs that receive Lottery proceeds. The Legislature has directed the net proceeds for sports betting (after funds are allocated to the Lottery's constitutional beneficiaries) to the Employer Incentive Fund (EIF), which offsets public pension costs for public employers including local school districts, universities, cities, and counties. These entities that may be eligible for funds from the EIF would be denied any increased revenue that may be raised from the successful launch of the improved digital sports betting platform.</p> <p>The Lottery is committed to public transparency and providing opportunities for the public and stakeholders to comment. The Lottery has discussed the DraftKings proposed contract and planned transition at several public meetings of the Oregon State Lottery Commission, most of which provide the opportunity for the public to comment directly to the Oregon State Lottery Commission. Upon adoption of these temporary rules, the rules will be available to the public immediately online and also distributed directly to the Oregon State Lottery Commission, the Lottery's interested parties list, and certain media and legislative contacts as required by law. The Lottery will begin the public rulemaking process shortly thereafter to allow the public and stakeholders to review and comment on the proposed rules without unnecessarily delaying the launch of the platform.</p>
		<p>Explanation of why proceeding under ORS 183.335(5) (i.e. adopting temporary rules) was the most appropriate method for adopting, amending, or suspending the rule and why it was not appropriate to proceed in accordance with ORS 183.335(2) and (3) (i.e. permanent rulemaking)</p>	<p>As stated in Lottery's statement of justification, the Lottery needed to adopt these rules to allow the contract with DraftKings and the transition to the DraftKings platform to proceed. Adopting, amending and repealing rules under ORS 183.335(2) and (3) would take at least 60 days. The Lottery determined this delay was unnecessary for several reasons.</p> <p>First, the rules adopted to authorize the contract and transition are like the rules governing the current digital sports betting game offered on the Scoreboard platform. Therefore, the Lottery determined there would be quite minimal impact to the</p>

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	process with opportunity for notice and comment)		<p>small percentage of the public that plays Lottery's sports betting game and thus are subject to the rules.</p> <p>Second, the Lottery thinks players will prefer the DraftKings platform and that it is, in fact, responsive to player demands for an improved interface, simplified payment options, and more sophisticated betting options. It seems unnecessary to delay launch when the Lottery expects players to prefer the new platform.</p> <p>Third, Lottery thinks the contract with DraftKings means a more attractive product that costs less to offer, which means more revenue (possibly) that Lottery can return to the state to fund important programs, including all of Lottery's constitutional beneficiaries (schools, state parks, veterans' services, etc.) as well as the Employer Incentive Fund, which receives sports betting revenue pursuant to legislative action in SB 1049 (2019).</p> <p>Lastly, the Lottery has discussed the rulemaking, contract, and transition at several public meetings that provided the opportunity for public comment. The Lottery plans to begin the permanent rulemaking process shortly that will include additional opportunities for public comment.</p> <p>All these factors weighed in favor of moving ahead with immediate action, rather than waiting 60-90 days to complete the full permanent rulemaking process.</p>
#7	1/14/22	1	Lottery pause on accepting applications for new Video Lottery locations and terminal installations
		List of Rules	OAR 177-045-0035 Temporary Pause on Additional Video Lottery Retailer Locations
	Statement of Need		<p>The Lottery is currently experiencing a Video Lottery Terminal (VLT) inventory shortage. The Lottery is well-equipped to support current Video Lottery retailers and terminals in the field. However, the current inventory is not sufficient to support new locations and installations. Therefore, to responsibly manage limited inventory, the Lottery has instituted a temporary pause on accepting applications for new Video Lottery retail locations. This temporary pause is effective as of December 20, 2021 and applies, with limited exception, to applications from new Video Lottery retailer applicants and requests from current Video Lottery retailers to add one or</p>

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			<p>more Video Lottery retail locations or terminals. Applications already in process may be placed on a waitlist and processed when Lottery determines inventory is sufficient. The Lottery will continue to accept applications for traditional Lottery product sales and will process sale of business, change of ownership, and 100 percent stock buyouts for Video Lottery retailers as normal.</p> <p>The decrease in available terminals has several causes. In 2021, due to strong sales, retailers easily met sales thresholds to qualify for additional terminals and fewer retailers have closed and returned equipment than in prior years. Additionally, some of the Lottery's VLT's currently in inventory are reserved to replace obsolete equipment and are therefore not available to be installed in new locations. The Lottery does not currently have money budgeted to purchase additional terminals and financial constraints (relating to the loss of revenue during the pandemic and other unexpected expenses) are impacting purchasing decisions at this time. Regardless, purchasing terminals (especially a substantial number) takes time and therefore is not an immediate solution, although the Lottery will consider this as a potential long-term solution.</p> <p>The pause is a change to normal practice, and thus, the Lottery needs to adopt the rule described in this Order to clearly communicate the pause to the public and to current and prospective Video Lottery retailers. This will ensure current and prospective retailers have accurate information for business planning purposes and ensures Lottery has clear authority to responsibly manage limited inventory and respond appropriately to dynamic economic conditions. (The Lottery has also used other methods to communicate with retailers, including contacting pending applicants, emailing all current Video Lottery retailers, and posting information on the Lottery's website.)</p> <p>The rule described in this Order meets the need by stating the effective date of the pause, explaining the status of initiated applications, and describing generally the circumstances that may cause the Director to rescind the pause on accepting applications.</p>

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			The Lottery also needs to adopt the rule to authorize the Director to make an exception for applications submitted by tribally owned businesses that may qualify for the alternative disclosure process described in OAR 177-040-0001(4)(a)(B). The Lottery only recently created this pathway for tribally owned business entities and thus, if VLT supply is adequate, OAR 177-045-0035 is adopted to authorize the Director to accept applications from such applicants.
		Statement of Justification (the agency's findings that a failure to act promptly would result in serious prejudice to the public interest of parties concerned)	<p>The Lottery finds that failure to act promptly to adopt OAR 177-045-0035 will result in serious prejudice to the Lottery and current and prospective Video Lottery retailers.</p> <p>The Lottery has determined that most of its current VLT inventory is allocated and unavailable to be installed in new retail locations. The Lottery has also determined that it is not feasible to immediately procure additional terminals. Continuing to accept applications when there is insufficient inventory to meet demand would put further pressure on limited inventory and may cause confusion for retailers. Thus, immediate action is necessary to clearly communicate to retailers (current and prospective) that Lottery will not be installing additional terminals at this time but, rather, is working to support current retailers while trying to resolve inventory shortfalls.</p> <p>On the other hand, the permanent rulemaking process takes 60 to 90 days, during which time, without prompt action, there may be uncertainty for the Lottery and retailers (current and prospective) about whether the Lottery is currently accepting applications for new Video Lottery retail locations. This uncertainty may lead retailers (current and prospective) to plan to offer Video Lottery games at their businesses, when in fact, supply issues may prevent the VLTs from being installed. Taking immediate action provides clarity for current retailers and prospective applicants by communicating that the Lottery will not be accepting applications until further notice that inventory limitations have been resolved. Taking immediate action also provides Lottery with clear authority to stop processing applications and focus on supporting current retailers and terminals currently in the field, while working diligently to resolve inventory issues.</p>

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			<p>The Lottery determined proceeding under ORS 183.335(5) was the most appropriate method for adopting the rule and it was not appropriate to proceed in accordance with ORS 183.335(2) and (3) because of the time sensitivity of the circumstances and the need for clear and timely communication of the Lottery's decision to pause accepting applications to responsibly manage limited inventory.</p> <p>To explain further, the Lottery does not have terminals in inventory to install in new retailer locations. The Lottery does not have an immediate solution to the inventory shortfall. The prudent course, as determined by the Lottery, is to stop processing applications in an effort to responsibly manage limited inventory and provide clarity to retailers (current and prospective) about the inventory situation.</p> <p>While this choice is authorized and required by Oregon law (the Lottery must operate responsibly so as to be self-supporting and revenue generating), it does impact current and prospective retailers, so the Lottery determined an administrative rule was needed to explain and communicate the change in practice. Delaying for the 60-days (minimum) to adopt permanent rules may leave retailers (current and prospective) uncertain about the current availability of terminals. If Lottery continued to accept applications during the rulemaking period, without sufficient inventory, applicants could plan to have terminals installed in their business, when those terminals may not actually be available to install. This confusion is avoided by taking prompt action to clearly communicate the Lottery's policy choice, and allows the Lottery to focus on resolving inventory issues promptly.</p>