

TREASURY - GENERAL

DIVISION OF STATE LOTTERY

Rules of the Lottery Commission

Proposed Readoption with Amendments: N.J.A.C. 17:20

Authorized By: New Jersey Lottery Commission, William T. Jourdain, Acting Executive
Director

Authority: N.J.S.A. 5:9-7

Calendar Reference: See Summary below for explanation of exception to calendar
requirement

Proposal Number: PRN 2008 -354

Submit written comments by January 2, 2009 to:

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The agency proposal follows:

Summary

In accordance with the sunset provisions of N.J.S.A. 52:14B-5.1c, N.J.A.C. 17:20
expires on March 31, 2009. The Division of State Lottery has reviewed the rules and

with the exception of the rules amended in this proposal has determined them to be necessary, reasonable, efficient, understandable and responsive for the purpose for which they were originally promulgated. The Division proposes to readopt these rules with several technical amendments.

Rules of the State Lottery Commission govern lottery ticket sales, the payment of prizes, licensing procedures and related operations. The State Lottery Commission is proposing several technical amendments in conjunction with the present readoption.

The following summarizes the current rules and the proposed amendments:

Subchapter 1, General Provisions, contains general provisions and includes a description of those persons who are prohibited from purchasing tickets or shares.

N.J.A.C. 17:20-1.1 describes the scope of the rules.

N.J.A.C. 17:20-1.2 specifies the erroneous or mutilated tickets provisions. The term “gaming system generated” was added before “lottery ticket” in N.J.A.C 17:20-1.2(a) to reflect the broader technology of how tickets are processed now and in the future. N.J.A.C. 17:20-1.2(b) was recodified as N.J.A.C. 17:20-1.2(c) and a new N.J.A.C. 17:20-1.2(b) was added to clarify another form of lottery products, instant game tickets, that can be voided by an agent as permitted by game rules.

N.J.A.C. 17:20-1.3 specifies persons prohibited from purchasing tickets or shares. N.J.A.C. 17:20-1.3(a)2 was amended in order to broaden the scope of those who are prohibited from purchasing lottery tickets, by adding any State officer or employee, or State contractual vendor, who participates in the oversight of a New Jersey Lottery game.

N.J.A.C. 17:20-1.4 requires background investigations as a condition of employment and access. In N.J.A.C. 17:20-1.4(a), (a)4 and (a)5, the reference to

applicants was changed to “candidate” clarify the difference between an applicant for a lottery license and a person applying for employment. In N.J.A.C. 17:20-1.4(a), the term “but not limited to” was added to broaden the scope of background inquiries to ensure the integrity of the Lottery employment process. In N.J.A.C. 17:20-1.4(a)1, the phrase “criminal background investigation checks” was added to revise the previous terminology and be consistent with terminology used in other Treasury divisions for the same process.

Subchapter 2, Definitions, contains the definitions used in the rules.

N.J.A.C. 17:20-2.1 contains new definitions for “candidate,” “claim,” “gaming system” and “validation.”

The word “candidate” was added to mean any person seeking employment with the Division of State Lottery. This was added to distinguish between those applying to become a lottery agent and those applying for employment. This word can be found in N.J.A.C. 17:20-1.4.

The word “claim” was added to mean a process for submitting a ticket for prize payment subject to applicable Lottery claims processing procedures. This word can be found extensively in the “Definitions” in N.J.A.C.17:20-2.1 and in 3.1, 7.3, 7.4, 7.5 and 7.12.

The term “gaming system” was added to mean the infrastructure necessary to produce a point of sale terminal generated lottery ticket. This infrastructure includes the central wagering system, the point on sale ticket terminal and the network connectivity between the central system and point of sale terminals. This term can be found in N.J.A.C. 17:20-1.2(a), 7.12 and 10.2.

The definition for “validation” was added to mean a successful authorization of a winning ticket pursuant to game rules and subject to claim processing procedures. This word can be found in other definitions in N.J.A.C. 17:20-2.1 and in the following other sections, including N.J.A.C.17:20-7.4, 7.12 and 10.2(b)11.

The definition for “machine agent” has been amended for consistency to reflect the use of “gaming system” as it applies to Lottery’s technological infrastructure. Also, language has been amended in this definition to broaden the scope of equipment and devices associated with gaming system technology. This expanded term can be found in other definitions in N.J.A.C. 17:20-2.1 and in N.J.A.C. 17:20-4.4(a) and 4.8.

Subchapter 3, Director, outlines the role of the Director in resolving disputes of lottery ticket ownership and validity.

Subchapter 4, Lottery Agent’s Application and License, outlines the processes and requirements to apply for and renew a lottery license.

N.J.A.C. 17:20-4.1 describes the manner in which a person applies for a Lottery license. Failure to disclose this information may cause denial of a New Jersey Lottery license.

N.J.A.C. 17:20-4.2 states the eligibility of an applicant for licensure.

N.J.A.C. 17:20-4.3 describes the procedures involved in processing an application.

N.J.A.C. 17:20-4.4 specifies the conditions for issuing a license. In N.J.A.C. 17:20-4.4(f), the term “business purpose” was added to expand the reporting of additional information relative to the Lottery licensure. This amendment was made to ensure that the business purpose is consistent with State Lottery Law, N.J.S.A. 5:9-11. This

amendment also reinforces that licensure information shall be reviewed and approved by the Director. In addition, a provision is added which stipulates that all changes in status will be subject to the review and approval of the Director and this approval will be consistent with the standards used in the initial license approval.

N.J.A.C. 17:20-4.5 describes the license renewal process. This section was amended to change the renewal period from an annual period to a biennial period. This amendment is being made to reduce both the burden to the Lottery and the retail agents of completing a license renewal on an annual basis. Licensing information is kept current by retailers because of another rule, N.J.A.C. 17:20-4.4, that requires all changes in licensing information to be reported within 10 days of occurrence to the Director for approval.

N.J.A.C. 17:20-4.6 specifies that the Lottery license be displayed. This section was amended to reflect a change in Lottery business practices. N.J.A.C. 17:20-4.6(b) that requires decals to be mounted in the window of the agent business location was deleted. N.J.A.C. 17:20-4.6(c) was divided into three paragraphs.

N.J.A.C. 17:20-4.7 specifies that Lottery agents submit a bonding fee.

N.J.A.C. 17:20-4.8 describes the conversion of an instant-only agent to a machine agent or vice versa.

N.J.A.C. 17:20-4.9 states that Lottery tickets can only be sold at specific locations.

N.J.A.C. 17:20-4.10 describes the rules for special or seasonal Lottery agents.

N.J.A.C. 17:20-4.11 states the procedures for the transfer of ownership of licensed locations. N.J.A.C. 17:20-4.11(b), (f) and (g) were amended to remove "Lottery

Commission” and replace it with “Director” to reflect the statutory delegation of this function by the Lottery Commission and ensure review by the Director.

Subchapter 5, Denial Revocation or Suspension of License, details the reasons for and the procedures to follow when an application is denied or a license is suspended, revoked or a civil penalty imposed on an agent.

N.J.A.C. 17:20-5.1 states the reasons for the denial, revocation and suspension of a license and the imposition of civil penalties. N.J.A.C. 17:20-5.1(a)17 was amended to add the title of the statutory provisions cited, “New Jersey Conflicts of Interest Law” for ease of identification.

N.J.A.C. 17:20-5.2 states the termination procedures for an agent. At N.J.A.C. 17:20-5.2(a) the word “lottery” was inserted before “property” to describe the property to be returned.

N.J.A.C. 17:20-5.3 describes the disciplinary procedures for an agent.

N.J.A.C. 17:20-5.4 describes the procedures for agent administrative hearings. N.J.A.C. 17:20-5.4(e) has been amended to provide that the hearings are at Lottery Headquarters and N.J.A.C. 17:20-5.4(f) is amended to indicate that hearings are “recorded” rather than “audiotaped.” Subsection (f) is further amended to provide that the Director will produce a transcript of the hearing internally or may send it out for transcription services.

N.J.A.C. 17:20-5.5 states the provisions for reapplication for a lottery license after revocation.

N.J.A.C. 17:20-5.6 states the conditions for permanent revocation.

Subchapter 6, Distribution and Sale of Lottery Tickets and Deposit of Lottery Monies, contains the rules which govern the distribution and sale of lottery tickets, the method for reporting stolen tickets and associated disciplinary procedures.

N.J.A.C. 17:20-6.1 refers to the distribution of tickets and the conduct of business. This section is amended to delete the word “delegee” and replace it with the term “agent’s delegate” as the person authorized by the agent in N.J.A.C. 17:20-6.1(a) to be responsible for transaction with lottery tickets. N.J.A.C. 17:20-6.1(c) was amended to further clarify the conditions under which the agent accepts all tickets for the Lottery as an express trust relationship and states that failure to remit the face value of the tickets to the Lottery, less any commissions, bonuses and reimbursements for redeemed tickets to which the agent is entitled will be considered a fraud or defalcation by a fiduciary.

N.J.A.C. 17:20-6.2 states the requirements for the sale and redemption of lottery tickets. N.J.A.C.17: 20-6.2(b) has been amended to delete “legal” and insert “authorized” in referring to New Jersey State Lottery tickets. N.J.A.C.17: 20-6.2(f) was amended to revise “losing tickets” as “non-winning tickets.”

N.J.A.C. 17:20-6.3 describes the procedures for the deposit of Lottery monies. In N.J.A.C. 17:20-6.3(b), “express” was added to clarify the legal trust relationship between the Lottery and the agent.

N.J.A.C. 17:20-6.4 states how agents are to deal with lost or stolen tickets. N.J.A.C. 17:20-6.4(c) amended to add the reporting timeframe of within two hours of discovery for notifying the Lottery of lost or stolen tickets.

N.J.A.C. 17:20-6.5 describes the distribution of promotional items and the authorization by Lottery of agents to manufacture, sell and distribute such items.

N.J.A.C. 17:20-6.6 contains prohibitions for the acquisition and distribution of counterfeit items.

N.J.A.C. 17:20-6.7 requires compliance with this subchapter and describes disciplinary procedures by cross-referencing N.J.A.C. 17:20-5.3.

Subchapter 7, Payment of Prizes, outlines the procedure a claimant must follow to claim a prize, including a statement which permits the Lottery to use the names, addresses, prize amounts and photographs of winners and outlines procedures for assignments.

N.J.A.C. 17:20-7.1 describes information required from a prize claimant. A minor amendment is made to this section which does not change the intent of this section.

This amendment eliminates the word “data” and indicates that information and proof required must be provided by the claimant.

N.J.A.C. 17:20-7.2 states that the Director may ask for additional information from a prize claimant.

N.J.A.C. 17:20-7.3 describes the time for awarding prizes. N.J.A.C. 17:20-7.3(c) is amended to stipulate that upon the death of a prize winner and presentation of a short certificate issued within six months, payment will be made to the executor or administrator of the decedent’s estate. Further, a “short certificate” as referenced in N.J.S.A. 22A:2-30 is defined as a sealed document issued by the Surrogate’s Court indicating that the named person was previously appointed by the Surrogate’s Court as the fiduciary for the estate and the fiduciary’s appointment is still in effect.

N.J.A.C. 17:20-7.4 refers to the procedures for the payment of prizes. The amendments to this section reflect the recent passage of legislation which requires the claimant with a prize share greater than \$600.00 to be subject to the offset law and

regulations identified in N.J.S.A. 5:9-13.17 and 13.18. This section applies to group and individual prize winners and the awarding of non cash prizes. N.J.A.C. 17:20-7.4(c) was amended to reflect the authority of the Director to liquidate a non-cash prize amount to satisfy any eligible debts owed pursuant to N.J.S.A. 5:9-13.17 and 13.18.

N.J.A.C. 17:20-7.5 specifies the discharge of the State's liability upon the payment of an award.

N.J.A.C. 17:20-7.6 states the disposition of unallocated prize money.

N.J.A.C. 17:20-7.7 refers to the information that must be disclosed about lottery winners.

N.J.A.C. 17: 20-7.8 sets out the criteria to evaluate all voluntary assignments approved prior to May 15, 1998. Parties in the transaction shall present evidence to the Lottery or the court that the assignment was approved prior to May 15, 1998 and that the parties have agreed jointly in writing that the assignment or transaction is binding and shall be relied upon by the Lottery.

N.J.A.C. 17:20-7.9 specifies the processing of voluntary assignments pursuant to an appropriate judicial order. This section includes a description of the payment process, timeframes for the payment, requirements for "consent to release" forms by the assignee, assignor's responsibility to notify the Lottery regarding any liens or offsets, procedures to be used to calculate the payment to the assignee and how payments are processed when there is a dispute. Also, this section contains the structure that the Lottery will use to assess fees to process assignments. In keeping with current practice, no fees will be charged for payment of a prize to the estate of a deceased prizewinner.

N.J.A.C. 17:20-7.10 authorizes the creation of security interests in Lottery winnings consistent with the procedures involving assignments outlined in N.J.A.C. 17:20-7.9.

N.J.A.C. 17:20-7.11 gives the Director of the Lottery the authority to develop forms consistent with the governing statute and these rules for implementing the assignment legislation.

N.J.A.C.17:20-7.12 has been added to stipulate the authorized payment periods and procedure for lottery prize awards and define what one year means when the draw date is on February 29 in leap year. All winners can be paid (for up to one year from the drawing date for gaming system generated games and throughout the selling period up to one year after the announced close of an Instant Lottery game) up to \$599.50, by an official New Jersey Lottery Agent after proper gaming system validation.

Subchapter 8, Lottery Vendors' Code of Ethics, contains provisions regarding a code of ethics for lottery vendors. N.J.A.C. 17:20-8.1 requires that each Lottery vendor adhere to a code of ethics. In N.J.A.C. 17:20-8.1(a), the definition of "Lottery vendor" was amended to include "Lottery retailer." That subsection was also changed to eliminate the phrase "having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by the Lottery." This broadens the restriction of hiring by a vendor consistent with the New Jersey Conflicts of Interest Law. The name of the law was added to the statutory reference in the subsection. N.J.A.C. 17:20-8.1(b) was amended and N.J.A.C. 17:20-8.1(c) eliminated to delete the provision which allows the Commissioner, officer or employee of the Lottery to seek future employment with the approval of the Director, as this provision is not consistent with the New Jersey Conflicts

of Interest Law. Removal of N.J.A.C. 17:20-8.1(c) resulted in the recodification of the remaining subsections. In recodified N.J.A.C. 17:20-8.1(e), “New Jersey Conflicts of Interest Law” was added to identify the statutory references. Also the reference to the Executive Commission on Ethical Standards was changed to State Ethics Commission to reflect a name change. N.J.A.C.17:20-8.1(g) was deleted since the requirements for lottery retailers was addressed in the amendments to N.J.A.C.17:20-8.1(a). N.J.A.C.17:20-8.1(i) was recodified as N.J.A.C.17:20-8.1(g) and amended to remove language which is inconsistent with the New Jersey Conflicts of Interest law prohibition of gifts from vendors.

Subchapter 9, Civil Penalties and Sanctions, outlines the penalties and sanctions, and appeal processes for violations against the rules contained in this chapter.

N.J.A.C. 17:20-9.1 covers penalties not exceeding \$10,000. An amendment is made to add the statutory reference, “pursuant to N.J.S.A. 5:9-12.1(a).”

N.J.A.C. 17:20-9.2 describes the Director’s restitution power and the enforcement of cease and desist orders. An amendment is proposed to change the Public Law statutory reference to the more specific N.J.S.A. 5:9-12.1(b) and (c).

N.J.A.C. 17:20-9.3 states the procedures for conducting hearings involving civil penalties. The proposed amendment modifies the rules referenced from N.J.A.C. 17:20-5.3 to N.J.A.C. 17:20-5.3 through 5.6.

Subchapter 10, Division of State Lottery Mission, Organization and Public Access, explains the Division’s mission, organizational structure and how to contact the Public Information Office to request information.

N.J.A.C.17:20-10.1 describes the mission of the New Jersey Lottery.

N.J.A.C. 17:20-10.2 describes the Division of State Lottery organization. There is a minor amendment to rename “Operations” to “Operations and Organization Support” and amendments to include the function of that unit through this subsection. N.J.A.C. 17:20-10.2(b)2 is amended to add the phrase “with the assistance of deputy directors and managers” to reflect the structure in place for the Deputy Executive Director’s responsibilities. N.J.A.C. 17:20-10.2(b)4 was amended to expand the role of the Public Information Officer to include coordination and support of the promotional events and activities. N.J.A.C. 17:20-10.2(b)11 was amended to further describe the expanded responsibilities of the Operations and Organizational Support Unit to include reconciliation of instant ticket returns, pool closings processes, coordination of human resources matters with the Department of Treasury and oversight of the Information Management Services. N.J.A.C. 17:20-10.2(c) is added to advise that a detailed list of current organization positions is posted on the Division of State Lottery website.

N.J.A.C. 17:20-10.3 provides information how members of the public can access public information and general policies pertaining to the New Jersey Lottery.

Subchapter 11, Public Notice and Public Comments regarding Division Rulemaking; Calendars; Additional Opportunities to Be Heard; and Petitions for Rulemaking, outlines the procedures for rulemaking and petitions for rulemaking by the public. This subchapter conforms to the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

N.J.A.C. 17:20-11.1 describes the public notice process regarding the Lottery’s rulemaking. It identifies four types of public notice in accordance with the New Jersey Administrative Procedure Act and the Office of Administrative Law Rules for Agency

Rulemaking, N.J.A.C. 17:20-11.1(b), (c) and (d) were amended to add the Department of the Treasury web site as part of the publication for notification of rule proposed.

N.J.A.C. 17:20-11.2 outlines the procedures for public comments on existing rules and proposed rulemaking.

N.J.A.C. 17:20-11.3 outlines provisions for a rulemaking calendar. It identifies the information in the rulemaking calendar, process for handling amendments and requirement that the rulemaking calendar be filed with the Office of Administrative Law, be available on the web site and to the media through the State House Press Office.

N.J.A.C. 17:20-11.4 describes the cost to obtain copies of documents filed with the Office of Administrative Law by the Lottery. This section is amended to delete specific costs to obtain copies of documents and establishes the fee schedule pursuant to Open Public Records Law, N.J.S.A. 17:1A-1 through 13. The term “Open Public Records Law” was added to reference the statutory citation.

N.J.A.C. 17:20-11.5 describes the procedures for extension of the public comment period by the Division when sufficient public interest warrants this extension.

N.J.A.C. 17:20-11.6 outlines the procedures for conducting a public hearing by the Lottery.

N.J.A.C. 17:20-11.7 requires that the Lottery take appropriate action regarding petitions for rulemaking.

N.J.A.C. 17:20-11.8 outlines the procedures for the public to petition the Lottery to adopt a new rule or change existing rules.

N.J.A.C. 17:20-11.9 specifies the action the Lottery should take when receiving a petition from the public.

As the Office of the Executive Director of the Division of State Lottery has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

These rules aid and assist the Lottery's community of players and retailers in performing their various tasks insofar as they clarify the function of the State Lottery. They have the general beneficial impact of making governmental operations open, regular, and comprehensible. Once readopted and amended, the rules will continue to provide thorough guidelines for the administration and operation of the State Lottery. The proposed technical amendments to the Lottery rules will better clarify definitions and responsibilities of the Lottery's 6,100 retailers and improve the Director's ability to manage the Lottery's over \$2.5 billion business in the State. The new amendments clarify some of the rules for the public affecting claims, offset procedures, public notice and give the public insight into the Lottery organizational structure and where to find current information on this subject. The social impact of the Lottery's program is broad. In Fiscal Year 2008, the Lottery gave over \$1.468 billion to almost 106.8 million winners. Lottery retailers received over \$139.6 million in commissions and bonuses. In addition, the Lottery returned over \$880 million to the State Treasury to fund various

education programs and State institutions. The programs and institutions serve the citizens of the State including children, veterans, and the disabled and small businesses.

Subchapters 1, 2, 3 and 8 have some social impact on the public. Subchapter 1 deals with general provisions and includes a description of those persons who are prohibited from purchasing tickets or shares. Subchapter 2 provides definitions and is general in nature. Subchapter 3 deals with disputes regarding ownership or validity of winning tickets and only affects winners of lottery prizes. Subchapter 8, which outlines the Lottery Vendor Code of Ethics, applies to any person, firm or corporation or Lottery retailer engaging or seeking to engage in business with the Division of the State Lottery. It affects the public in that it ensures the integrity of the Lottery and its products. While it does not affect the public at large, it assures adherence to a standard of behavior on the part of the vendors to preserve the integrity of the Lottery and is consistent with the provisions of the New Jersey Conflicts of Interest Law and its recent amendments.

More specifically, Subchapter 4 describes the application process to follow to be licensed as a retailer of the Division of State Lottery, excluding minors, the review procedures of such application including frequency (with continued protection for the public) and the terms and conditions for issuance. Subchapter 5 details the reasons for and the procedures to follow should an application be denied or a license be suspended, revoked or a civil penalty imposed on a retailer. Subchapter 6 addresses the daily conduct of business including to the distribution, sale and redemption of lottery tickets. The deposit of lottery monies and the procedures for reporting lost or stolen tickets are also addressed.

Subchapter 7 outlines the procedure a claimant must follow to claim a prize, including a statement that permits the Lottery to use the names, addresses, prizes amounts and photographs of winners, as well as the procedure to process voluntary assignments. Currently, there are approximately 675 Lottery prizewinners receiving annuity payments many of them are affected by the assignment portion of this subchapter. Only a small portion of these winners who choose to assign their prize winnings in the future will be affected. This subchapter also affects several State agencies. The Division of State Lottery in the Department of the Treasury participates in the administrative aspects of the assignments. The Division of Law in the Department of Law and Public Safety addresses the legal aspects of the assignments requiring judicial orders and the Department of Human Services, Office of Student Assistance and participating agencies and departments through the State SOIL project administered by the Division of Revenue in the Department of the Treasury evaluates all assignments to determine if the assignor owes any obligation that is subject to an offset. Subchapter 7 will not affect the public as a whole. However, all group Lottery winners whose winnings are greater than \$600.00 are affected by the offset requirements contained in the amendments in this subchapter. All winners are affected by the new section in this subchapter regarding ownership of claimed tickets and the designation of the one year period to claim a winning ticket.

The terms and conditions under which the Director may impose civil penalties and sanctions are discussed in Subchapter 9 and will only affect Lottery retailers. Subchapter 10 that outlines the mission and organizational structure of the Lottery gives the public information about the organizational structure of the Lottery and how to

request information about the Lottery and the fees to do so. Subchapter 11 outlines the procedures for rulemaking and petitions for rulemaking by the public.

Economic Impact

The rule proposed for readoption and the amendments to N.J.A.C. 17:20-1 through 11 have minimal economic impact. These rules describe the operation of the Lottery and the Lottery's relationship with the Lottery players and the business relationship with the Lottery retailers. To the extent that these operations are made more efficient, there is an indirect impact that occurs when additional money is made available by procedures that are more efficient and applied to the designated purposes of the Lottery: aid to education and State institutions. The total amount provided in Fiscal Year 2008 was \$880 million. This amount is expected to increase in Fiscal Year 2009.

The Lottery charges no fees to the public in general or to the applicants/retailers for the administration of these rules. The retailers, however, are required to be bonded, at a cost of \$100.00 per year. The required security check involves an \$18.00 fee paid to the New Jersey State Police. This fee is set by the State Police. Retailers whose licenses are suspended or are revoked may incur lost commissions or may have civil penalties imposed due to the lack of compliance with State Lottery law and these rules. A proposed amendment to this section clarifies the items to be surrendered upon termination of a lottery retailer license to include the Lottery terminal and instant tickets. While these items were always surrendered under the term "other lottery property," the change better defines the current situation, and the worth of these items warranted specific mention.

The public may be affected by N.J.A.C. 17:20-7.4. This section states that installment winners with gross winnings \$5,000 and over may request the issuance of separate checks. This provision ensures that the minimum Federal tax will be withheld. For non-installment winners in a multiple ownership the rule requires that a group representative be appointed. The winner will not be penalized in this instance, since the Lottery does not impose any fees for processing winnings and the Lottery stands to gain in efficiency.

Subchapter 7, which discusses voluntary assignments, will have an economic impact on winners choosing to assign or reassign their winnings. The fee structure in this subchapter is minimal in comparison to the complexity of the transaction and staff time required to process assignments. A fee of \$100.00 is charged by the Lottery to the assignor for processing each assignment. An additional \$50.00 will be charged to each assignor for each installment affected by any partial assignment and a processing fee of \$50.00 shall also be payable by the assignor in connection with a change in the terms of the assignment pursuant to N.J.S.A. 5:9-13p. This fee structure remains the same in the readoption. Only top Lottery prizewinners or assignment companies who choose to assign or reassign their winnings will incur a minimal fee in conjunction with the processing of their assignment requests. Assignments will not be processed unless the fee is paid in advance. In keeping with current practice, no fees will be charged for assignments required because of a payment of a prize to a decedent's estate.

There is no increased economic impact on applicants or retailers even though there is a penalties section. These penalties are required to maintain the integrity of the Lottery. These penalties have been not increased since established in 1984.

There is minimal economic impact associated with Subchapter 11 as it affects rules to govern rulemaking and petitions for rulemaking. The charges for copies specified in N.J.A.C. 17:20-11.4 is as established under N.J.S.A. 47:1A-2 of the Right to Know Law.

Additional funding is not required to implement the proposed amendments and maintain these rules.

Federal Standards Statement

A Federal standards analysis is not required because the rules of the Lottery Commission are governed by N.J.S.A. 5:9-7. The rules proposed for readoption and the proposed amendments are not subject to any Federal regulations or standards.

Jobs Impact

The rules proposed for readoption and the proposed amendments are not expected to create or reduce jobs in the State of New Jersey. The Division of State Lottery will continue to use existing staff to administer the Lottery. Any amendments proposed are designed to improve the administration of the Lottery and communication with the public.

Agriculture Industry Impact

The rules proposed for readoption and the proposed amendments will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

Since the proposed amendments are minor and impose no major requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the proposed amendments to these rules have some impact, but no adverse impact on small business. The existing rules may affect small business, since such entities comprise a majority of the approximately 6,100 Lottery retailers.

The lottery network by its very nature has a direct effect on small and minority businesses in that most of the retailers come directly from this category. Strict compliance to the amended rules as outlined in the Summary will impose neither hardship nor additional financial burden among these businesses. (See Economic Impact above)

Businesses applying for licensure with the New Jersey State Lottery are required to provide the application information set forth in revised Subchapter 4. Should an application be denied, appeal procedures are set forth in amended Subchapter 5. Further direction with respect to the conduct of business as a retailer for the New Jersey State Lottery is described in amended Subchapters 6 and 7. Amendments to Subchapter 4 require agents to notify the Director regarding a change in the “business purposes” of their business. This will not be an additional regulatory burden in that the Lottery

requires agents to notify the Director regarding other changes. No professional services will need to be employed in order to comply with these rules.

The Division considers these rules and amendments to be fair and equitable to all applicants, retailers and the community of players of the New Jersey Lottery.

The State Lottery Commission has determined that the rules proposed for readoption, amendments embody the minimum amount of regulatory structure that is consistent with the efficient operation of the Lottery and the maintenance of its integrity. No differentiation can therefore be permitted based upon business size.

Smart Growth Impact

The Division of State Lottery anticipates that the rules proposed for readoption and the proposed amendments will have no impact on the achievement of smart growth in New Jersey or on the implementation of the New Jersey State Development and Redevelopment Plan.

Housing Affordability Impact

The Division of State Lottery anticipates that the rules proposed for readoption and the proposed amendments will have no impact on any aspect of housing, including its affordability, as they regulate the State Lottery.

Smart Growth Development Impact

The rules proposed for readoption and the proposed amendments would not result in a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the rules proposed for readoption and the amendments regulate the State Lottery and have nothing to do with housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere in the State of New Jersey.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:20.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

17:20-1.2 Erroneous or mutilated tickets

(a) [Lottery]**Gaming system generated lottery** tickets made out in error or mutilated in any way prior to purchase shall be voided by the agent.

(b) **Instant Game tickets that are stolen, unissued, unreadable, mutilated, altered, counterfeit in whole or in part, miscut, misregistered, multiply-printed, defective, printed or produced in error, blank or partially blank shall be voided by the agent, as permitted by game rules.**

[(b)] **(c)** (No change in text.)

17:20-1.3 Persons prohibited from purchasing tickets or shares

(a) In addition to those affected by N.J.S.A. 5:9-16, the following are prohibited from purchasing tickets or shares in any New Jersey State Lottery and no prize shall be paid to:

1. (No change in text.)

2. Any officer or employee of the State, or State contracted vendor, who participates in the design, [or] manufacture **or oversight** of a New Jersey Lottery game; or

3. (No change.)

17:20-1.4 Background investigations as a condition of employment or access

(a) The Division may conduct background inquiries on [applicants] **candidates** for Division positions, and on other individuals seeking access to secure areas of the Division's offices, to ensure that only qualified individuals of good character are appointed, or given access to secure areas of the Division's offices, and to ensure that information contained on Division employment applications is accurate and complete. The inquiry shall be conducted and the acquired information shall be kept confidential in accordance with any applicable laws (and, in the case of applicants for employment, in

accordance with the Civil Service Act (N.J.S.A. 11A:1-1 et seq.)), and may include, **but is not limited to**, the following:

1. Appropriate [checks of records of criminal convictions and pending criminal charges] **criminal background investigation checks**;

2. – 3. (No change.)

4. In the case of [applicants] **candidates** for employment, confirmation of any education listed on a candidate’s application; and

5. In the case of [applicants] **candidates** for employment, other inquiries, including interviews, which stem from the above inquiries and which directly relate to criminal convictions or pending charges, employment history, references, education, or other qualifications for the position sought.

17:20-2.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

...

“Candidate” means any person seeking employment with the Division of State Lottery.

“Claim” means a process for submitting a ticket for prize payment subject to applicable Lottery claims processing procedures.

...

“Gaming system” means the infrastructure necessary to produce a point of sale terminal generated lottery ticket. This infrastructure includes the central wagering system, the point on sale ticket terminal and the network connectivity between the central system and point of sale terminals.

...

"Machine agent" means a person who has been licensed under the Act to sell lottery tickets and in addition has been authorized by the Director to sell certain tickets through the Lottery's [vendor online] **designated gaming system(s), terminals and other authorized equipment**. When "person" is a corporation, the term includes officers, directors, and shareholders (holding greater than a 10 percent interest thereof). When "person" is a limited liability company, the term includes any person holding greater than a 10 percent interest therein.

...

“Validation” means successful authorization of a winning ticket pursuant to game rules and subject to claim processing procedures.

17:20-4.4 Issuance of license; conditions

(a) - (e) (No change.)

(f) All agents shall report any change in status, such as ownership, control, address, **business purpose** or other data relevant to licensure, within 10 days of occurrence. Failure to do so shall be cause for discipline under N.J.A.C. 17:20-5.1. **All such changes in status will be subject to the review and approval of the Director, consistent with the standards used in the initial license approval.**

17:20-4.5 License renewal

The Director shall require license renewal applications on [an annual] **a biennial** basis, to insure continuing compliance with the Act and with this chapter. The agent shall provide such other information as the Director may deem necessary for the proper administration of the Division's activities. Information required by the Division shall include tax, employment, credit history, criminal history and wage records from both private and governmental agencies. The Lottery may procure and exchange information with other agencies regarding information required of applicants or agents as provided by law.

17:20-4.6 Display of license

(a) Every agent shall prominently display in an area visible to the general public:

1. The license; [and]
2. Lottery promotional materials [.];

3. Betting slips;

4. Game flyers; and

5. Other related circulating material.

[(b) In addition, the "Authorized Lottery Agent" decal shall be mounted on a prominent public window of the agent's premises.

(c) The agent shall maintain and display all Lottery flyers, betting cards and other circulating material in an area open to the public.]

3. Betting slips;

4. Game flyers; and

5. Other related circulating material.

17:20-4.11 Changes and transfers of ownership (of licensed premises)

(a) (No change.)

(b) The [Lottery Commission] **Director** shall be notified in writing at least 30 days prior to any change in ownership of the following: a sole proprietorship, corporate stock transfer of 10 percent or more or change in the ownership interest of a limited liability company of 10 percent or more. Immediate written notice is also due when an agent lists, advertises or offers for sale the primary business. Failure to comply with this requirement may result in immediate suspension or revocation.

(c) - (e) (No change.)

(f) An agent shall notify the [Lottery Commission] **Director** within five days of receipt of any notice received or served pertaining to an eviction or foreclosure of the licensed premises.

(g) Any holder of a financial interest in a mortgage, lease, or rental agreement of a licensed premise shall notify the [Lottery Commission] **Director** of any intention or attempt to evict or foreclose on the agent immediately upon commencing such action for eviction or foreclosure.

17:20-5.1 Reasons for denial, revocation, suspension, renewal rejection or imposition of civil penalties

(a) An application may be denied, or a license suspended, revoked or its renewal rejected by the Director for any one or more of the following reasons:

1. - 16. (No change.)

17. Whenever an agent has made any offer or agreement to pay or has made payment either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee as defined by **the New Jersey Conflicts of Interest Law** (N.J.S.A. 52:13D-13b and c[,]) in the Department of Treasury or any other agency with which such an agent transacts and offers or proposes to transact business, or to any member of the immediate family as defined by **the New Jersey Conflicts of Interest Law** (N.J.S.A. 52:13D-13i[,]) of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of **the New Jersey Conflicts of Interest Law** (N.J.S.A. 52:13D-13g) under circumstances from which it might reasonably be inferred that such offer, agreement or payment was made for the purpose of influencing the recipient as to the discharge of official duties regarding the agent by the recipient or by any person affiliated with the recipient within the meaning of **the New Jersey Conflicts of Interest Law** (N.J.S.A 52:13D-13b, 13(c) or 13(d));

18. – 20. (No change.)

(b) - (e) (No change.)

17:20-5.4 Hearings

(a) – (d) (No change.)

(e) All hearings and contested cases will be held [in the Main Lottery Office] **at Lottery headquarters** unless otherwise specified by the Director or unless referred to the Office of Administrative Law.

(f) All proceedings before the Director shall be [audiotaped] **recorded**. Upon receipt of a request for a transcript of a hearing held before the Director and recorded [on audio tape], the Director [shall] **will provide a transcript of the hearing internally or may** send the appropriate [tape or tapes] **recording** to an outside transcribing service for preparation of the transcript. The cost of preparing said transcript shall be billed to the party making the request, who shall also be responsible for any deposit which may be required by the transcriber or by administrative rule.

17:20-6.1 Distribution of lottery tickets; conduct of business

(a) An agent may delegate authority to an employee regarding transactions with the Lottery or distribution network. However, the agent shall remain liable to the Lottery regardless of what the [delegee] **agent's delegate** may do or fail to do.

(b) (No change.)

(c) The [agency] **agent** accepts all tickets in trust for the Lottery. Tickets in the hands of an agent are the agent's sole responsibility and it is the agent's sole duty as a fiduciary of the Lottery either to return the tickets to the Lottery within the specified time or to remit the face value of the tickets to the Lottery, less any commissions, bonuses and reimbursements for redeemed tickets to which the agent is entitled. Tickets shall remain the property of the Lottery. **The agent understands that this is an express trust relationship between the Lottery and the agent with respect to tickets and sale**

proceeds and any failure to remit the face value of the tickets to the Lottery, less any commissions, bonuses and reimbursements for redeemed tickets to which the agent is entitled, will be considered a fraud or defalcation by a fiduciary.

17:20-6.2 Sale and redemption of lottery tickets

(a) (No change.)

(b) The agent shall sell only [legal] **authorized** New Jersey State Lottery tickets. No other lottery tickets or facsimiles thereof shall be sold by any agent.

(c) - (e) (No change.)

(f) Lottery ticket sales shall not be combined with the sale of any other product or service without the express written approval of the Director. This prohibition shall not apply to promotions, conducted entirely at the expense of the agent, involving [losing] **non-winning** tickets, tickets for which the drawing date or claiming period has expired, or other tickets which no longer have value for lottery purposes.

(g) (No change.)

17:20-6.3 Deposit of lottery monies

(a) (No change.)

(b) Monies received by an agent from the sale of lottery tickets are the property of the Lottery and are held by the agent in trust for the Lottery. The agent shall immediately segregate all monies received from the sale of lottery tickets, and shall hold such monies in **express** trust for the Lottery in a bank account specifically designated as a New Jersey Lottery account.

(c) - (h) (No change.)

17:20-6.4 Lost, stolen or cancelled tickets

(a) - (b) (No change.)

(c) Agents shall [make prompt] report[s] to the Lottery **within two hours of discovery** regarding any theft from, or unauthorized entry upon, licensed premises, whether or not any lottery monies or property appear to be missing at the time and shall supplement such report regarding any lottery monies and property (including full and partial pack numbers and ticket sequence numbers) that are missing.

(d) (No change.)

17:20-7.1 Information to be furnished by prize claimant

(a) - (c) (No change.)

(d) If more than one person claims ownership of a winning ticket, that fact must be shown on the ticket or claim form submitted to the Lottery, and each claimant must provide the **information and proof** required [data] **by this section.**

(e) (No change.)

17:20-7.3 Time of award of prizes

(a) - (b) (No change.)

(c) Upon the death of a prize winner, all monies or any portion thereof that remain payable to the winner's estate shall be paid either to an executor (executrix) or administrator (administratrix) of the decedent's estate, **upon presentation of a short**

certificate issued within six months, in accordance with the provisions of N.J.S.A. 54:35-19 and individual game rules. **A “short certificate” as referenced in N.J.S.A. 22A:2-30 is a sealed document issued by the Surrogate’s Court indicating that the named person was previously appointed by the Surrogate’s Court as the fiduciary for the estate and the fiduciary’s appointment is still in effect.**

1. - 2. (No change.)

(d) - (e) (No change.)

17:20-7.4 Manner of payment of prizes

(a) (No change.)

(b) In cases of multiple ownership, the following shall apply:

1. Single payment (non-installment) prize winners shall be issued one check to the group representative designated on the claim form **unless an appropriate document is submitted requesting a split of the prize.** The individual designated to represent the group shall be responsible for filing the appropriate Internal Revenue Service forms with the Lottery and distributing the monies to the co-winners. **All individuals in the group with prize shares greater than \$600.00 will be subject to offset regulations identified in N.J.S.A. 5:9-13.17 and 13.18.**

2. Installment prize winners may request the issuance of separate checks. The gross (pre-tax) value of each separate check, however, must be \$5,000 or greater. **All individuals in the group with prize shares in excess of greater than \$600.00 will be subject to offset regulations identified in N.J.S.A. 5:9-13.17 and 13.18.**

(c) Non-cash prizes such as **trips**, tickets to theaters or other places of amusement, meals or tangible property shall be awarded by the Director in such manner as is consistent with the dignity and integrity of the Lottery, the convenience of the winner and of the provider of the prize. The Director may establish time limits for the filing of claims for prizes where the event is one of limited duration. **The Director may authorize the liquidation of a non-cash prize in order satisfy any eligible debts owed as per N.J.S.A. 5:9-13.17and 13.18.**

17:20-7.12 Authorized payment period for Lottery prize award

All winners can be paid (for up to one year from the drawing date for gaming system generated games and throughout the selling period up to one year after the announced close of an Instant Lottery game) up to \$599.50, by an official New Jersey Lottery agent after proper gaming system validation. Validated and paid tickets less than \$600.00 will not be returned to the winner. If the winning ticket entitles the holder to a prize that is more than \$599.50, the agent shall validate the ticket via the gaming system, the claimant and agent shall fill out a claim form issued by the agent, and the claimant will mail the completed claim form, validated winning ticket and validation receipt to Lottery headquarters in the claim form mailer envelope. Once a winning ticket and claim form are received and verified by the Lottery, the winning ticket is considered “claimed,” will be retained by the New Jersey Lottery and will not be returned to the winner. For tickets validated and scanned at an authorized New Jersey Lottery agent within the one-year claim period, and then sent to Lottery headquarters for verification and claim processing,

said ticket must be received at the headquarters' office on or before the close of business on the 30th day after the expiration of the official claim period in order to be paid. One year means the anniversary date of the draw unless the draw date is February 29 in which case the anniversary is considered to be March 1.

17:20-8.1 Lottery vendors' code of ethics

(a) No Lottery vendor shall employ any person or maintain any business relationship with any person who is a Lottery Commissioner, officer or employee [having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to the Lottery] or [with] his or her immediate family or with any person, firm or entity with which he or she is employed or associated or in which he or she has an interest within the meaning of **the New Jersey Conflicts of Interest Law** (N.J.S.A. 52:13D-13g). As used in this section, Lottery vendor means any person, firm or corporation, **or Lottery retailer** engaging or seeking to engage in business with the Division of the State Lottery.

(b) The maintenance of a business relationship shall be deemed to include, but not be limited to, any interest, financial or otherwise, direct or indirect, any business transaction or professional activity involving a Commissioner, officer or employee, including the sale of any interest in the vendor. [However, it shall not be a violation of this paragraph for a Lottery Commissioner, officer or employee to seek future outside employment or to correspond with a Lottery vendor with respect thereto, provided that:

1. The Director is promptly informed of such activities; and

2. They are not violative of State law or such other ethical standards as may apply. (Lottery Commissioners and Division Officers and employees are covered by a separate Code of Ethics. See (i) below.)

(c) Any relationships subject to (b) above shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.]

Recodify existing (d) and (e) as **(c) and (d)** (No change in text.)

[(f)] **(e)** No Lottery vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, to any Lottery Commissioner, officer or employee or to any member of the immediate family, as defined by **the New Jersey Conflicts of Interest Law** (N.J.S.A. 52:13D-13i), of any such person, or any partnership, firm, or corporation with which such person is employed or associated, or in which such person has an interest within the meaning of **the New Jersey Conflicts of Interest Law** (N.J.S.A. 52:13D-13g), any fee, commission, compensation, gift, favor, service or other thing of value under circumstances from which it might be reasonably inferred that such gift, service or other thing of value was given or offered for the purpose of influencing the recipient in the discharge of his or her official duties. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any Commissioner, officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the Attorney General and the [Executive Commission on Ethical Standards] **State Ethics Commission**.

[(g) This Code of Ethics shall also apply to any licensed agent of the New Jersey State Lottery.]

[(h)] **(f)** (No change in text.)

[(i)] **(g)** This code is intended to augment and not replace existing administrative orders and pertinent codes of ethics. [It shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate. If any part of this Code shall be found ineffective or inoperative, such finding shall not affect the other parts of the Code.]

17:20-9.1 Penalties not exceeding \$10,000

(a) The Director may, after notice and hearing, impose civil penalties on licensed agents in an amount up to \$10,000 per incident for violations of the Act or this chapter **pursuant to N.J.S.A. 5:9-12.1(a)**.

(b) - (c) (No change.)

17:20-9.2 Restitution; cease and desist orders

(a) The Director shall exercise the power to order restitution and/or enter cease and desist orders pursuant to [P.L. 1983, c. 429] **N.J.S.A. 5:9-12.1(b) and (c)**.

(b) (No change.)

17:20-9.3 Hearing; procedures

All determinations under this subchapter shall be made in conformity with N.J.A.C. 17:20-5.3 **through 5.6.**

17:20-10.2 Division of State Lottery organization

(a) (No change.)

(b) The Division of State Lottery consists of the Executive Director, Deputy Executive Director, Legislative Liaison, Public Information Officer and the operating units consisting of Administration, Security and Licensing, Marketing, Sales, Finance, Information Systems, Operations **and Organization Support**, and Game Research and Development.

1. (No change.)

2. The Deputy Executive Director, who is second in command, is responsible for the day-to-day administration of Lottery operations, and oversees the following organizational units of Administration, Security and Licensing, Marketing, Sales, Finance, Information Management Systems, Operations **and Organization Support**, and Game Research and Development **with the assistance of Deputy Directors and managers.**

3. (No change.)

4. The Public Information Officer processes information requests from the public and press regarding matters related to public information and general policies **and coordinates and supports promotional events and activities.**

5. - 8. (No change.)

9. Finance insures the financial integrity of the Division of State Lottery by performing the routine audit of the [on-line] gaming system to verify financial accountability to the Agent sales network and the State of New Jersey. The Finance Unit also reports on the results of Lottery operations in conformance with generally accepted auditing standards.

10. (No change.)

11. Operations **and Organization Support** ensures the validation and timely processing of winners' claims[,], **and reconciliation of instant ticket returns**, oversees the games [drawing] **pool closing** processes; **coordinates human resources matters with the Department of the Treasury; oversees information management services** **and** maintains all warehouse activities and records retention[; and supports promotional events and activities].

12. (No change.)

(c) A detailed list of the current organizational positions of the Division of State Lottery is posted on the Division of State Lottery website.

17:20 –11.1 Public notice regarding proposed rulemaking

(a) The Division shall provide for the following four types of public notice for all rule proposals in accordance with the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Office of Administrative Law Rules for Agency Rulemaking, N.J.A.C. 1:30:

1. (No change.)

2. The notice of the rule proposal, as filed with the Office of Administrative Law, or a statement of the substance of the proposed rulemaking, shall be posted and made available electronically on the Division's web[-]site **and the Department of the Treasury web site;**
3. The news media maintaining a press office in the State House Complex shall be provided notice of the rule proposal, as posted and made available electronically on the Division's web site **and the Department of the Treasury web site;** and
4. The notice of the rule proposal, as filed with the Office of Administrative Law, or a statement of the substance of the proposed rulemaking and its availability on the [Lottery] **Division's** [website] **web site and the Department of the Treasury web site,** shall be made available to the public through a press release and distributed to the newspapers and radio stations not represented in the State House Press Office to inform those persons most likely to be affected or interested in the proposed rulemaking.

17:20-11.4 Copies of documents; fees

[(a)] Any person may obtain copies of documents filed with the Office of Administrative Law from the Division, in accordance with the provisions of **Open Public Records Law,** N.J.S.A. 47:1A-[2 et seq.]**1through 13,** as amended, upon payment of **the then current fee schedule for the documents produced pursuant to Open Public Records Law,** **N.J.S.A 17:1A-1 through 13.** [a fee as follows:

1. First page to 10th page: \$.75 per page;
2. Eleventh page to 20th page: \$.50 per page; and
3. All pages over 20: \$.25 per page.]