

*****DRAFT - NOT FOR FILING*****

3770:1-2-03 Adoption, amendment or rescission of rules by the commission.

- (A) Administrative Procedure Act. The commission **shall**will adopt, amend, rescind and promulgate its rules in accordance with the Administrative Procedure Act, except that rules pertaining to instant lottery games **shall**will be promulgated pursuant to section 111.15 of the Revised Code, but are not subject to division (D) of that section.
- (B) Filing of proposed administrative and on-line game rules:
- (1) The full text of each proposed administrative or on-line game rule, amendment, or rescission **shall**will be filed with the secretary of state, the director of the legislative service commission and the joint committee on agency rule review at least sixty days prior to the date on which the commission, in accordance with paragraph (E) of this rule, issues an order adopting the proposed administrative or on-line game rule, amendment, or rescission. The proposed administrative or on-line game rule, amendment, or rescission **shall**will be available for at least thirty days prior to the date of the public hearing to be held in accordance with paragraphs (C) and (D) of this rule at the headquarter and regional offices of the state lottery in printed or other legible form without charge to any person affected by such proposal.
 - (2) If the commission makes a substantive revision in the text of the proposed administrative or on-line game rule, amendment or rescission after it is filed, the state lottery **shall**will promptly file the full text of the proposed administrative or on-line game rule, amendment, or rescission in its revised form with the secretary of state, the director of the legislative service commission and the joint committee on agency rule review. The latest version of the text of the proposed administrative or on-line game rule, amendment, or rescission **shall**will supersede each earlier version of the text of the same proposed administrative or on-line game rule, amendment, or rescission.
- (C) Filing of proposed instant game rules. The commission **shall**will review the text and form of each new instant game rule and afford an opportunity for comment on the rules by any party present at that commission meeting. Proposed instant game rules **shall**will then be filed pursuant to section 111.15 of the Revised Code, except that division (D) of that section **shall**will not apply. The full text of each proposed instant rule, amendment, or rescission **shall**will be filed with the secretary of state, the director of the legislative service commission and the joint committee on agency rule review.
- (D) Public hearing.
- (1) The state lottery **shall**will conduct a public hearing in accordance with section 119.03 of the Revised Code and other applicable provisions of the Administrative Procedure Act on all proposed adoptions, amendments, or rescissions of any administrative or on-line game rules.
 - (2) The hearing **shall**will be held at a place in the state of Ohio designated by the commission. The hearing will be conducted by a representative of the state lottery. At such hearings, any person affected by the commission's proposed action may appear and be heard to present evidence and argue that the proposed action will be unreasonable or unlawful.

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- (E) Notice of public hearing. The state lottery shall will give reasonable public notice of the commission's proposed action in the register of Ohio pursuant to section 119.03 of the Revised Code at least thirty days prior to the date set for the hearing on the adoption, amendment or rescission of any administrative or on-line game rule. Such notice shall will include, but not be limited to, the following:
- (1) The state lottery may give whatever other notice it reasonably considers necessary to ensure notice constructively is given to all persons who are subject to or affected by the proposed rule, amendment or rescission;
 - (2) The state lottery shall will provide a copy of the notice of the public hearing to any person who requests it and pays a reasonable fee to be determined by the director but not to exceed the costs of copying and mailing. The state lottery shall will mail a copy of the notice to any person who requests to be placed on a mailing list for the purpose of receiving such notices, and shall will also mail a copy of such notice in any addressed, stamped envelope provided by a person requesting the notice; and
 - (3) The notice of the hearing shall will contain a statement of the commission's intention to consider adopting, amending or rescinding an administrative or on-line game rule; a synopsis of the proposed administrative or on-line game rule, amendment or rescission or a general statement of the subject matter to which such proposed administrative or on-line game rule relates; a statement of the reason or purpose for adopting, amending or rescinding the administrative or on-line game rule; and the date, time and place of hearing on the commission's proposed action which shall will not be earlier than thirty days after the proposed administrative or on-line game rule, amendment, or rescission is filed as provided in paragraph (B)(1) of this rule.
- (F) Adoption, promulgation and effectiveness.
- (1) After compliance with paragraphs (B), (D) and (E) of this rule, and when the time for review and invalidation under sections 106.021, 106.023, 106.031, 106.04 and 106.041 of the Revised Code have expired, the commission may issue an order adopting the proposed administrative or on-line game rule, amendment or rescission, modified as the commission may determine, but consistent with the synopsis or general statement included in the original public notice of the hearing. With respect to instant game rules adopted pursuant to paragraph (C) of this rule, the commission may issue an order adopting the proposed instant game rule, amendment or rescission, modified as the commission may determine. Such orders of the commission shall will designate the effective date of the rule, amendment or rescission adopted, which date shall will not be earlier than the tenth day after said rule, amendment or rescission has been filed in its final form with the secretary of state, the director of the legislative service commission and the joint committee on agency rule review as provided in section 119.04 or 111.15 of the Revised Code, whichever is applicable.
 - (2) Prior to the effective date of a rule, amendment or rescission, the state lottery shall will make a reasonable effort to inform those affected thereby and to have available to those requesting it the full text of the rule as adopted or amended. In order to carry out the intent of this paragraph, the state lottery shall will mail a first class letter to each person who appeared at the hearing and offered evidence or arguments against the commission's proposed action.

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