

8/22/02

Regulatory Analysis Form		This space for use by IRRC
(1) Agency  Revenue		2002-07-2 AM 11:24 REVENUE COMMISSION
(2) I.D. Number (Governor's Office Use)  15-421		IRRC Number: 2287
(3) Short Title  Cash 5, Super 6 Lotto and Powerball		
(4) PA Code Cite  61 Pa. Code §§ 816.106, 816.110, 870.3, 870.5, 870.6, 870.8, 870.10 and 871.21	(5) Agency Contacts & Telephone Numbers  Primary Contact: Anita M. Doucette (717) 787-1382  Secondary Contact: Douglas A. Berguson (717) 787-1382	
(6) Type of Rulemaking (check one)  <input type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input checked="" type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language.  This regulation amends the Cash 5 and Super 6 Lotto regulations to make the rules relating to ticket cancellation consistent with the rule set forth in the Powerball game. The uniform treatment of ticket sales will provide consistency among the on-line games available to Commonwealth players. In addition, the Super 6 Lotto regulation is amended by establishing a new minimum jackpot of \$500,000. The change in the minimum jackpot amount was done to accommodate the addition of the Powerball game to the lineup of jackpot games available to Commonwealth players.  An amendment to the Powerball regulation is necessary to allow the Department adequate time to publish a notice of future changes to the Powerball game.		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  Statutory authority for the regulation is contained in section 303 of the State Lottery Law (72 P.S. § 3761-303).		

### Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated by federal or state law, court order or federal regulation.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

This regulation amends the Cash 5 and Super 6 Lotto regulations to make the rules relating to ticket cancellation consistent with the rule set forth in the Powerball game. The Super 6 Lotto regulation is amended by establishing a new minimum jackpot of \$500,000. The change in the minimum jackpot amount was done to accommodate the addition of the Powerball game to the lineup of jackpot games available to Commonwealth players.

An amendment to the Powerball regulation is necessary to allow the Department adequate time to publish a notice of future changes to the Powerball game.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no public health, safety, environmental or general welfare risks associated with nonregulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Programs benefiting older Pennsylvanians will benefit as a result of Lottery sales.

## Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No parties should be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All players of the Cash 5, Super 6 Lotto and Powerball and all on-line retailers will be required to comply with the regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

A copy of the regulation was forwarded to the Pennsylvania Bar Association; the Pennsylvania Institute of Certified Public Accountants; the Pennsylvania Society of Public Accountants and the Pennsylvania Chamber of Business and Industry. The regulation was listed in the Department's Agenda of Regulations published at 32 Pa.B. 3276 (July 6, 2002) and was forwarded to interested parties upon request.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

There are no cost and/or savings to the regulated community associated with this regulation.

### Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

This regulation does not increase costs or savings to local governments. No legal, accounting or consultant procedures are required by the regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

This regulation does not increase costs or savings to state government by any significant amount.

### Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>	N/A					
<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>	N/A					
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>	N/A					

(20a) Explain how the cost estimates listed above were derived.

The savings from implementing this regulation are insignificant. The costs of implementing this regulation are minimal.

## Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Lottery <sup>1</sup>	\$623,392	\$720,347	\$827,491	\$859,278

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The costs associated with this regulation are minimal. The regulation is needed for operational enhancements to the games offered by the Pennsylvania Lottery.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no nonregulatory alternatives associated with the regulation.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no alternative regulatory schemes associated with the regulation.

<sup>1</sup> These amounts represent monies expended from the Lottery Fund to programs to benefit older Pennsylvanians. (Dollar amounts in thousands).

### Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no federal standards associated with this regulation.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The amendments in this regulation are specific to on-line games played in this Commonwealth. The regulation will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation does not affect any other existing or proposed regulations of the Department or any other state agency.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Department has not scheduled any public hearings or informational meetings to discuss the regulation.

## Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

This regulation does not change existing reporting, record keeping or other paperwork requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special groups are affected by the regulation.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

This regulation will be effective upon final publication in the Pennsylvania Bulletin. There are no permits, licenses or other approvals required by the regulation.

(31) Provide the schedule for continual review of the regulation.

This regulation is scheduled for review within five years of final publication. No sunset date has been assigned.



CDL-1

**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)**

RECEIVED  
SEP-9 11:24  
REVENUE COMMISSION

8/22/02

#2287

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

By: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

\_\_\_\_\_  
DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections  
attached.

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

PA Department of Revenue

(Agency)

Document/Fiscal Note No. 15-421

Date of Adoption: \_\_\_\_\_

By: Larry P. Williams

Larry P. Williams  
Secretary of Revenue

Title: \_\_\_\_\_  
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

By: John V. Turner

8/29/02  
Date of Approval

(Deputy General Counsel)  
(~~Chief Counsel, Independent Agency~~)  
(~~Strike inapplicable title~~)

Check if applicable. No Attorney  
General approval or objection  
within 30 days after submission

NOTICE OF FINAL-OMITTED RULEMAKING

DEPARTMENT OF REVENUE

61 Pa. Code §§ 816.106, 816.110,  
870.3, 870.5, 870.6, 870.8,  
870.10 and 871.21

State Lotteries

Cash 5, Super 6 Lotto and Powerball

## PREAMBLE

The Secretary of Revenue (Secretary), under the authority contained in section 303 of the State Lottery Law (72 P.S. § 3761-303), by this notice of proposed rulemaking omitted, amends Chapter 816. Cash 5, sections 816.106 and 816.110, Chapter 870. Super 6 Lotto, sections 870.3, 870.5, 870.6, 870.8 and 870.10 and Chapter 871. Powerball, section 871.21 to read as set forth in Annex A.

Because of time constraints associated with the establishment, operation and administration of lottery games, the Department of Revenue (Department), under section 204 of the act of July 31, 1968 (P.L. 769, No. 240) (CDL) (45 P.S. § 1204) and the regulation thereunder, 1 Pa. Code § 7.4, finds that notice of proposed rulemaking is under the circumstances impracticable and, therefore, may be omitted.

The Department's justification for utilizing the proposed rulemaking omitted process is based upon the time constraints associated with the establishment, operation and administration of lottery games. The efficient and successful operation of the Lottery requires that the Lottery implement the latest innovations and trends in the lottery industry. The inability to adapt marketing strategies quickly may lead to a reduction in lottery revenues. The necessity of the Lottery to react quickly to market forces has been recognized in the past as an appropriate justification for utilizing the proposed rulemaking omitted process as evidenced by the approval of these types of regulations in the past.

### Purpose of Regulation

This regulation amends the Cash 5 and Super 6 Lotto regulations by deleting language that allowed for the cancellation of a ticket to make the rules relating to ticket cancellation consistent with the rule set forth in the Powerball game. The uniform treatment of ticket sales will provide consistency among the on-line games available to Commonwealth players. In addition, the Super 6 Lotto regulation is amended by establishing a new minimum jackpot of \$500,000. The change in the minimum jackpot amount is done to accommodate the addition of the Powerball game to the lineup of jackpot games available to Commonwealth players.

An amendment to the Powerball regulation is necessary to allow the Department adequate time to publish a notice of future changes to the Powerball game.

#### Explanation of Regulatory Requirements

Section 816.106(d) and (e) are amended by deleting language that allowed for the cancellation of a ticket. Language is added to § 816.106(d) which specifically states that a Cash 5 ticket may not be canceled or voided once printed. Explanatory language that the placing of bets is done at the player's own risk is added to subsection (e). Language relating to the cancellation of a ticket is also deleted from § 816.110(a)(6), (9) and (11) (relating to ticket validation requirements).

Minor editorial changes were made to the definition of ticket in § 870.3 (relating to definitions), to § 870.5 (relating to ticket price) and to § 870.6(c) (relating to Super 6 Lotto bet slip and ticket characteristics and restrictions). Section 870.6(d) and (e) are amended by deleting language that allowed for the cancellation of a ticket and adding language which specifically states that a Super 6 Lotto ticket may not be canceled or voided once printed and explains that the placing of bets is done at the player's own risk.

Section 870.8(g) (relating to determination of prize winners) is amended by revising paragraph (4) to provide that the new minimum jackpot will be at least \$500,000. Other revisions were made to paragraphs (2), (4) and (5) to clarify the cash and annuity payment options. The provisions set forth in subsection (1) relating to the reallocation of monies from the Wild Card Lotto and Keystone Jackpot games are no longer necessary and are deleted from the regulation.

Section 870.10(a)(6) and (9) (relating to ticket validation requirements) are amended by deleting language that allowed for the cancellation of a ticket.

Section 871.21(a) (relating to future changes to Powerball) is amended by changing the public announcement period to 30 days before the change takes effect. As the Department worked through its first change to the Powerball rules with the Multi-State Lottery Association (MUSL), it became apparent that the 90-day period set forth in the original rulemaking was not feasible due to the fact that the MUSL and its member lotteries must respond to changes in market dynamics quickly. In addition, the MUSL is removed from the public announcement process because as a member

of the MUSL Powerball Product Group, the Commonwealth's notice of such a change is notice by the MUSL.

#### Fiscal Impact

The Department of Revenue has determined that the regulations will have no significant adverse fiscal impact on the Commonwealth and that the games described by the regulations will produce an undetermined net revenue. The change in the minimum jackpot for Super 6 Lotto is expected to affect sales of tickets for that particular game. However, this reduction is estimated to be offset by sales of Powerball game tickets.

#### Paperwork

The regulations will not generate substantial paperwork for the public or the Commonwealth.

#### Effectiveness/Sunset Date

The regulations will become effective upon publication in the Pennsylvania Bulletin. The regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

#### Contact Person

The contact person for an explanation of the regulations is Anita M. Doucette, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, Pennsylvania 17128-1061.

#### Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on *September 9, 2002*, the Department submitted a copy of the regulations with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101 - 732-506). In accordance with section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), the regulations were (deemed) approved by the Committees on . IRRC met on and (deemed) approved the regulations under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)).

## Findings

The Department finds that the regulations are necessary and appropriate for the administration and enforcement of the authorizing statute. Under section 204 of the CDL, the Department also finds that the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) are impracticable because of the time constraints associated with the establishment, operation and administration of lottery games.

## Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 61 Pa. Code, are amended by amending sections 816.106, 816.110, 870.3, 870.5, 870.6, 870.8, 870.10 and 871.21 to read as set forth in Annex A.

(b) The Secretary shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(c) The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the Pennsylvania Bulletin.

LARRY P. WILLIAMS  
SECRETARY OF REVENUE

07/21/02

CONTINUATION SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

ANNEX A

Title 61. Revenue, Part V. State Lotteries, Chapter 816. Cash 5.

§ 816.106. Cash 5 bet slip and ticket characteristics and restrictions.

\* \* \*

(d) [A standard game ticket may only be canceled by a player upon the occurrence of the following:

(1) The player produces the ticket.

(2) The player returns the ticket to the selling agent.

(3) The retailer cancels the ticket within the time limits established by the Lottery prior to the drawing.] A Cash 5 ticket may not be canceled or voided once printed by the Lottery terminal, even if the ticket is printed in error.

(e) It is the sole responsibility of the ticket purchaser or holder to verify the accuracy and condition of data printed on the standard game ticket. The placing of bets is done at the player's own risk through the on-line retailer who is acting on behalf of the player in entering the play or plays. [The sole remedy of the purchaser or holder is cancellation as described in subsection (d).]

§ 816.110. Ticket validation requirements.

(a) Valid tickets. To be a valid Cash 5 ticket and entitled to a prize, the following conditions shall be met:

\* \* \*

(6) The ticket may not have been stolen [or canceled].

\* \* \*

(9) The ticket data shall have been recorded on the central computer system prior to the drawing and the ticket data shall match the computer record in every respect [and may not have been cancelled].

\* \* \*

(11) The player selected or quick pick numbers, the validation number data and the drawing date of the winning ticket shall appear on the official file of winning plays; and a ticket with that exact data may not have been previously paid [or cancelled].

\* \* \*

#### Chapter 870. Super 6 Lotto.

##### § 870.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \*

Ticket - A Super 6 Lotto ticket, produced by a licensed retailer in an authorized manner, containing a letter prefix followed by six selected numbers from 1 through 69 and followed

by 2 additional sets of six numbers from 1 through 69 each preceded by a letter prefix quick picked as bonus selections, a drawing date, the amount bet, cash option selection, if applicable, and validation number data. Each set of six numbers constitutes a play, of which there may be three or more [plays], in multiples of three up to fifteen on a ticket.

\* \* \*

§ 870.5. Ticket price.

Tickets may be purchased for \$1 per ticket, which ticket shall consist of three individual game plays, one of which, at the owner's option can be the numbers selected by the player[,]; the remaining two number plays are quick pick selections. Additional tickets may, at the discretion of the player, be purchased in increments of three individual game plays per \$1 wagered.

§ 870.6. Super 6 Lotto bet slip and ticket characteristics and restrictions.

\* \* \*

(c) If Super 6 Lotto bet slips are unavailable, number selections may be given to an on-line retailer in groups of six number selections, one for each game section, for each \$1 wagered. The selections shall be manually entered into the computer terminal by the retailer.

(d) [A ticket may only be canceled by a player if he produces the ticket, returns the ticket to the selling agent, and



the retailer cancels the ticket within the time limits established by the Lottery prior to the drawing and if no drawing applicable to the ticket has previously been held.] A Super 6 Lotto ticket may not be canceled or voided once printed by the Lottery terminal, even if the ticket is printed in error.

(e) It is the sole responsibility of the ticket holder to verify the accuracy and condition of data printed on the ticket. [The sole remedy of the purchaser or holder is cancellation as described in subsection (d).] The placing of bets is done at the player's own risk through the on-line retailer who is acting on behalf of the player in entering the play or plays.

§ 870.8 Determination of prize winners.

\* \* \*

(g) Super 6 Lotto prizes will be paid as follows:

\* \* \*

(2) Prizes payable to the first prize category winners will be paid either by an initial cash payment plus equal annual payments over a specified term of 25 years or a [one time] one-time cash payment if the owner selected the cash option at the time of purchase.

\* \* \*

(4) For first prize category payments, the total [of initial] one-time cash [payments and annual payments over the term] payment for the first prize category will be [at least \$3 million,] in an amount which is the greater of either the cash

available in the winnings pool for the first prize category or the announced cash option amount; or, if the [cash] annuity option is selected at the time of purchase, [a one time cash payment in an amount equal to the funds that would be necessary, as determined by the Lottery, to purchase an annuity of at least \$3 million if the annuity were to] the total of the initial and annual payments over the term for the first prize will be the greater of either the announced annuity jackpot or the annuity that could be purchased with the cash available in the winnings pool for the first prize category. The minimum jackpot will be at least \$500,000. The annuity will be paid in an initial cash payment plus equal annual payments over a specified term of 25 years. If more than one winning play is determined, each is entitled to a prorated share of the total first prize category as provided in paragraph (3).

(5) For first prize category payments, the Secretary may elect to make payment entirely as a [one time] one-time cash payment, if public notice is given in accordance with subsection (j). This [one time] one-time cash payment shall be the amount equal to the [funds that would be necessary, as determined by the Lottery, to purchase an annuity of at least \$3 million if the annuity were to be paid in an initial cash payment plus equal annual payments over a specified term of 25 years] greater of either the cash available in the winnings pool for the first prize category or the announced cash option jackpot.

\* \* \*

[(1) If, at the suspension of the Wild Card Lotto drawings, prior to the start of the Super 6 Lotto, there are no plays on Wild Card Lotto standard game tickets which qualify for a particular prize category as set forth in §§ 817.111 - 817.127 (relating to Wild Card Lotto), the prize money allocated to the particular Wild Card Lotto prize category will be reallocated and added to the amount allocated to the Super 6 Lotto first prize category and that amount shall be divided in accordance with subsection (b). If, at the suspension of the Keystone Jackpot Game drawings, prior to the start of the Super 6 Lotto Game, there are no plays on Keystone Jackpot standard game tickets which qualify for a particular prize category as set forth in Chapter 868 (relating to Keystone Jackpot), the prize money allocated to the particular Keystone Jackpot prize category will be reallocated and added to the amount allocated to the Super 6 Lotto first prize category and that amount will be divided in accordance with subsection (b).]

§ 870.10. Ticket validation requirements.

(a) Valid tickets. To be a valid ticket, the following conditions shall be met:

\* \* \*

(6) The ticket may not have been stolen [or canceled].

\* \* \*

(9) The ticket data shall have been recorded on the Lottery's central computer system prior to the drawing and the ticket data shall match this computer record in every respect [and may not have been canceled].

\* \* \*

Chapter 871. Powerball.

§ 871.21. Future changes to Powerball.

(a) The MUSL reserves the right to modify the Powerball game in order to address changes in player participation or population of member states. If the MUSL decides to make a change, it will be publicly announced by [the MUSL and] the Secretary at least [90] 30 days before the change takes effect.

\* \* \*

07/08/02

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 15-421  
SUBJECT: Cash 5, Super 6 Lotto and Powerball  
AGENCY: DEPARTMENT OF REVENUE

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- X Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
9/9/02	<i>Janita Hoffman</i>	HOUSE COMMITTEE ON FINANCE
9/9/02	<i>Cheryl Taylor</i>	SENATE COMMITTEE ON FINANCE
9/9/02	<i>Elena Pagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
9-9-02	<i>Mary Mummert</i>	ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

August 30, 2002