

1/30/03

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Revenue		IRRC Number: 2329
(2) I.D. Number (Governor's Office Use) 15-422		
(3) Short Title Daily Number and Big Four Games		
(4) PA Code Cite 61 Pa. Code §§ 815.45 and 815.235	(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. <p>The amendments to §§ 815.45 and 815.235 will allow the Department to employ emerging technologies to enhance a drawing methodology that has not changed since the introduction of the Daily Number game in 1977 and the Big Four game in 1980. At that time, bingo hall ping-pong ball drawing machines were considered the most familiar to players and could produce a reliable result. Since that time, technology and the players have changed dramatically. Lottery players are now routinely utilizing electronics to obtain money, pay for gas, purchase merchandise and pay bills. The Department is interested in exploring new drawing styles that can take advantage of this change in the marketplace.</p>		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. <p>Statutory authority for the regulation is contained in section 303 of the State Lottery Law (72 P.S. § 3761-303).</p>		

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(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?

The amendments to §§ 815.45 and 815.235 will allow the Department to employ emerging technologies to enhance a drawing methodology that has not changed since the introduction of the Daily Number game in 1977 and the Big Four game in 1980.

(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.

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(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 Daily Number and Big Four games 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 will be listed in the Department's next Agenda of Regulations and will be 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.

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(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 will have a one-time cost of approximately \$100,000 to the Commonwealth.

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(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
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	N/A					
COSTS:						
Regulated Community						
Local Government						
State Government	\$100,000					
Total Costs	\$100,000					
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A					

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

The savings from implementing this regulation are insignificant. The Department will have a one-time cost of approximately \$100,000 to implement the regulation.

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

Program	FY -3	FY -2	FY -1	Current FY
General Operations Lottery Administration	\$44,115,000	\$45,235,000	\$46,840,000	

(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.

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 the Daily Number and Big Four 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.

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(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.

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

RECEIVED
JAN 20 11 21 AM '03
LEGISLATIVE REFERENCE BUREAU
HARRISBURG, PA

1/30/03

2329

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. 15-422

Date of Adoption: _____

By: Gregory C. Hajt
Gregory C. Hajt
Acting Secretary of Revenue

Title: _____
(Executive Officer, Chairman or Secretary)

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

By: [Signature]
2/10/03
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 §§ 815.45 and 815.235

State Lotteries

Daily Number and Big Four Game

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 815. Plans, Games and Drawings, sections 815.45 and 815.235 (relating to time, place and manner of conducting drawings).

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

The amendments to §§ 815.45 and 815.235 will allow the Department to employ emerging technologies to enhance a drawing methodology that has not changed since the introduction of the Daily Number game in 1977 and the Big Four game in 1980. At that time, bingo hall ping-pong ball drawing machines were considered the most familiar to players and could produce a reliable result. Since that time, technology and the players have changed dramatically. Lottery players are now routinely utilizing electronics to obtain money, pay for gas, purchase merchandise and pay bills. The Department is interested in exploring new drawing styles that can take advantage of this change in the marketplace.

An example of an "other selection methodology" the Department could use is a random number generator. A random number generator

is a secure manner to generate numeric results using a certified computer program loaded on a piece of computer equipment. Currently Delaware and Indiana are utilizing the random generator without negative impact. In addition, the Department successfully employed this technology with the on-line game Hearts and Diamonds which ran from 1994 to 1996.

Explanation of Regulatory Requirements

Sections 815.45(c) and 815.235(c) are amended by adding language to allow the Department to select the Daily Number and Big Four Number with the aid of mechanical devices or any other selection methodology as authorized by the Secretary.

Fiscal Impact

The Department has determined that the regulations will have a one-time cost of approximately \$100,000 to the Commonwealth.

Paperwork

The regulations will not generate additional 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 February 20, 2003, 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 §§ 815.45 and 815.235 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.

GREGORY C. FAJT
ACTING SECRETARY OF REVENUE

1/24/03

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 815.
Plans, Games and Drawings.

Subchapter C. Daily Number Game

§ 815.45. Time, place and manner of conducting drawings.

* * *

(c) Manner of conducting drawings. The objective of The Daily Number Game drawing is to select, at random, one three-digit number with the aid of mechanical [drawing equipment] devices or any other selection methodology as authorized by the Secretary. This one three-digit number will be used in determining Daily Number Game winners.

* * *

Subchapter K. The Big Four Game Drawing

§ 815.235. Time, place and manner of conducting drawings.

* * *

(c) Manner of conducting drawings. The objective of the Big Four game drawing is to select, at random, one four-digit number with the aid of mechanical [drawing equipment] devices or

any other selection methodology as authorized by the Secretary.
This one four-digit number will be used in determining Big Four
game winners.

* * *

09/26/02

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

I.D. NUMBER: 15-422
 SUBJECT:
 AGENCY: DEPARTMENT OF REVENUE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- 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

RECEIVED
 DEPARTMENT OF REVENUE
 FEB 10 2003

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
2/20/03	P. Macaul	HOUSE COMMITTEE ON FINANCE
	Sara Leach	SENATE COMMITTEE ON FINANCE
2-20-03		
2-20-03	Elena Pagan	INDEPENDENT REGULATORY REVIEW COMMISSION
2-20-03	Melvin	ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

February 10, 2003