

3/27/02

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Revenue		2002 APR 11 PM 2:49 REGULATORY REVIEW COMMISSION
(2) I.D. Number (Governor's Office Use) 15-429		IRRC Number: 2268
(3) Short Title Powerball		
(4) PA Code Cite 61 Pa. Code §§ 871.1 – 871.22	(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. The regulation establishes and details the procedures that will be followed in operating and administering the Powerball game. As provided for in § 871.2 (relating to game description and purpose), the objective of the Powerball game is for a player to select in a single play on a ticket five numbers and the Powerball number that match the numbers and the Powerball number drawn for the game in which the ticket is participating. A Powerball ticket shall cost \$1 per play. The power play option may be exercised, at the discretion of the player, for an additional \$1 per play. The power play option as provided for in § 871.20 (relating to power play promotion), can increase all set prizes as much as five times. Individual ticket prize payments will be paid entirely in cash with the exception of the grand prize category as provided in § 871.9 (relating to Powerball prize payments). The grand prize shall be paid by an annuity except that a player may elect to receive the grand prize in a single cash payment provided the cash election is made by the player within 60 days of the date the Lottery determines the player is entitled to the prize.		
(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).		

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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?

Chapter 871 (relating to Powerball) establishes and details the procedures that will be followed in operating and administering 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.

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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 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. 670 (February 2, 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 costs 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 does not increase costs or savings to state government by any significant amount.

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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						
Total Costs	N/A					
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 of introducing a new game are insignificant. The costs of implementing the new Powerball game 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 ¹	\$622,443	\$623,392	\$720,347	\$827,491

(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 implementation of a multi-state game could increase revenues available to older Pennsylvanians.

(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.

¹ These amounts represent monies expended from the Lottery Fund for programs to benefit older Pennsylvanians.

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?

Currently, Powerball is sold in the following states: Arizona, Colorado, Connecticut, Delaware, District of Columbia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Mexico, Oregon, Rhode Island, South Dakota, West Virginia and Wisconsin.

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

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(Pursuant to Commonwealth Documents Law)

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3/27/02

#2268

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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
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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. 15-440

Date of Adoption: _____

By: _____
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: _____

3/28/02
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 §§ 871.1 - 871.22

State Lotteries

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, adds Chapter 871. Powerball, sections 871.1 - 871.22.

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 regulation establishes and details the procedures that will be followed in operating and administering the Powerball game.

Powerball is a multi-state lottery game that combines a big jackpot with the chance to win eight other prizes. The minimum jackpot is \$10 million. Currently, Powerball is sold in the following states: Arizona, Colorado, Connecticut, Delaware, District of Columbia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Mexico, Oregon, Rhode Island, South Dakota, West Virginia and Wisconsin.

The Powerball game is administered by the Multi-State Lottery Association, a non-profit government-benefit association entirely owned and operated by the member state lotteries. Powerball is a

50% prize payout game which means that 50 cents of every one dollar is paid out in prizes. The state lottery pays the cash prizes directly to the players in its state and then sends the percentage share for the jackpot prize back to the association where it is held until there is a winner. The state that sells a ticket keeps all of the profit from that ticket. Profits from Powerball tickets go for the purposes required by state law.

Explanation of Regulatory Requirements

As provided for in § 871.2 (relating to game description and purpose), the objective of the Powerball game is for a player to select in a single play on a ticket five numbers and the Powerball number that match the numbers and the Powerball number drawn for the game in which the ticket is participating. A Powerball ticket shall cost \$1 per play. The power play option may be exercised, at the discretion of the player, for an additional \$1 per play. The power play option as provided for in § 871.20 (relating to power play promotion), can increase all set prizes as much as five times.

Individual ticket prize payments will be paid entirely in cash with the exception of the grand prize category as provided in § 871.9 (relating to Powerball prize payments). The grand prize shall be paid by an annuity except that a player may elect to receive the grand prize in a single cash payment provided the cash election is made by the player within 60 days of the date the Lottery determines the player is entitled to the prize.

Fiscal Impact

The Department of Revenue has determined that the regulations will have no adverse fiscal impact on the Commonwealth and that the game described by the regulations could increase revenues available to older Pennsylvanians.

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 *April 11, 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 adding Chapter 871, sections 871.1 - 871.22 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

03/15/02

CONTINUATION SHEET
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(Pursuant to Commonwealth Documents Law)

ANNEX A

Title 61. Revenue, Part V. State Lotteries, Chapter 871.
Powerball.

§ 871.1. Creation.

Under the act and this part, there is created a numbers game, called Powerball, which will commence at the discretion of the Secretary, and will continue until the Secretary publicly announces a suspension or termination date.

§ 871.2. Game description and purpose.

(a) Powerball is a 5 out of 49 plus 1 out of 42 on-line lottery game which pays the grand prize on an annuitized, parimutuel basis. Except as provided in this regulation, all other prizes are paid on a set cash basis.

(b) The purpose of the Powerball game is to determine winners from ticket holders matching five numbers from 1 through 49, and matching the separately drawn Powerball number, or a designated combination thereof, within a single play, with the five winning numbers and the Powerball number to be randomly drawn. Drawings will be conducted twice a week or as publicly announced by the Secretary.

(c) The object of the game is for a player to select, in a single play on a ticket five numbers and the Powerball number

that match the numbers and the Powerball number drawn for the game in which the ticket is participating. Correctly matching the six winning numbers consisting of the 5 numbers drawn plus the Powerball number drawn, and meeting other validation criteria, shall entitle the ticket holder to the grand prize identified in § 871.8 (relating to expected prize payout percentages).

§ 871.3. Definitions.

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

Apparent winning ticket - A ticket which has not been validated by the Lottery.

Basic play - Each set of six numbers consisting of five numbers from 1 through 49 and the Powerball number on a ticket purchased without the selection of any promotion, representing a single entry for a Powerball drawing and designated by a letter from A to E on a Powerball ticket.

Cash election - A method of payment that the player selects, within 60 days of the date the Lottery determines the player is entitled to the Powerball grand prize, to receive a parimutuel share of the prize money allocated to the grand prize category as a one-time, lump-sum cash payment rather than as an annuity.

Drawing - The process of selecting winning numbers that determines the winners for each prize category of the game.

First set numbers - The first group of numbers, from 1 through 49, appearing in the top grid of a Powerball game panel.

Grand prize winnings pool - An amount constituting 29.1942% of gross sales from all participating states for a particular Powerball game drawing for the purpose of paying winning grand prizes in that drawing. The grand prize winnings pool includes prize money allocated to the grand prize category from prior Powerball game drawings in which there were no winning grand prize tickets. A portion of this pool is used to fund prize reserve accounts until those accounts achieve maximum balances.

Gross sales - The total amount of sales from all participating states for a particular Powerball game drawing for the purpose of determining the grand prize winnings pool and the set prize winnings pool in that drawing.

MUSL - The Multi-State Lottery Association.

MUSL Board - The governing body of MUSL which is comprised of the chief executive officer of each party lottery.

MUSL Powerball Product Group - The group of lotteries that have joined together to offer the Powerball lottery game under the terms of the MUSL agreement and MUSL Powerball Product Group rules.

On-line retailer - A person who is properly licensed and authorized by the Lottery to sell Powerball tickets.

Panel or game panel - One of five areas of the Powerball bet slip that contains two number grids. The upper grids (first set

numbers) contain 49 squares, each numbered 1 through 49 and the lower grids (second set numbers) contain 42 squares, each numbered 1 through 42. Each panel is lettered either A, B, C, D or E, and when used to purchase a ticket, corresponds to the numbers selected and printed on the ticket adjacent to that letter.

Party lottery - A State lottery or lottery of a political subdivision or entity which has joined MUSL and, in the context of the Powerball Group Rules, which has joined in selling the Powerball game.

Powerball bet slip - A card having five game panels labeled A through E, used by a player to select numbers to play the game.

Powerball number or second set number - The number selected from the second group of numbers, from 1 through 42, appearing in the lower grid of a Powerball game panel.

Promotion - A method used by the Lottery to aid in the sale of its products; for example, an option a player may exercise by purchase to increase the prize paid on a winning ticket or to increase the chance of winning a prize.

Quick pick - The random selection by the Lottery's computer system of five numbers from 1 through 49 and a Powerball number from 1 through 42 that appear on a ticket in the Powerball game.

Second set numbers - The second group of numbers, from 1 through 42, appearing in the lower grid of a Powerball game panel.

Set prize tiers - All prizes except the grand prize that are advertised to be paid by a single lump-sum payment and, except in instances outlined in this regulation, will be equal to the prize amount established by the MUSL Board for the prize level.

Set prize winnings pool - An amount constituting 20.8058% of gross sales for the current drawing and any monies carried forward from previous draws.

Terminal - A device which is authorized by the Lottery to function in an on-line, interactive mode with the Lottery's computer system, for the purpose of issuing lottery tickets and entering, receiving and processing lottery transactions, including making purchases, validating tickets and transmitting reports.

Ticket - A Powerball ticket, produced by an on-line terminal from a licensed on-line retailer in an authorized manner, containing a letter prefix followed by five selected numbers from 1 through 49 and a single selected Powerball number from 1 through 42 for each basic play, ticket validation number data, drawing date, amount bet and any applicable promotion exercised by the player. Each set of five numbers and the Powerball number constitutes a basic play of which there may be one or more, up to five on a ticket.

Winning numbers - Six numbers, the first five numbers from 1 through 49, and the Powerball number from 1 through 42, selected

at a Powerball drawing and subsequently validated by MUSL, which shall be used to determine the winning Powerball plays.

Winnings pool - Constitutes 50% of each prize drawing period gross sales. A portion of the pool is contributed to the grand prize winnings pool. The remainder constitutes the set prize winnings pool. Monies carried forward from previous draws are combined with the pool as directed in MUSL rules.

§ 871.4. Ticket sales retailers.

(a) Powerball game ticket sales may only be made through licensed on-line retailers the Director will appoint and contract with as provided in § 815.42 (relating to ticket sales agents).

(b) The Lottery may terminate sales by a retailer without prior notice to the retailer if the retailer becomes delinquent in payment of proceeds due the Lottery, fails to handle Lottery funds in the prescribed manner, if the retailer breaches the contract or an addendum thereof, this part or procedures established governing the sale of tickets or if the Lottery deems it to be in the best interest of the Commonwealth.

§ 871.5. Ticket price.

A Powerball ticket shall cost \$1 per play. The power play option may be exercised, at the discretion of the player, for an additional \$1 per play.

§ 871.6. Powerball bet slip and ticket characteristics and restrictions.

(a) For each basic play the player shall select, or request quick pick selection by the computer, five numbers and a single Powerball number, in one or more of the game panels on a Powerball bet slip. Powerball bet slips shall be available at no cost to the player. The minimum entry is \$1. For \$1, play game A; for \$2, play games A and B; for \$3, play games A, B and C; for \$4, play games A, B, C and D; for \$5, play games A, B, C, D and E. Players are also given the option to select a promotion verbally or on the bet slip at the time of purchase for an additional \$1 for each play. Game panels shall be played in alphabetical order in accordance with the instructions printed on the Powerball bet slip. A Powerball bet slip has no pecuniary or prize value and does not constitute evidence of the purchase of a ticket or the numbers selected.

(b) To purchase a ticket, players shall, in addition to the purchase price, submit a completed Powerball bet slip, or request number selections either by quick pick or manual terminal entry to an on-line retailer to have a ticket issued. The ticket shall contain five selected numbers and a single selected Powerball number for each play, ticket validation number data, drawing date, amount bet and any applicable promotion exercised by the player. This ticket shall be the only valid receipt for claiming a prize. The ticket shall only be valid for the drawing date or dates printed on the ticket. Retailers are not permitted to

allow the attachment of any remote devices to a lottery terminal to enter plays except as otherwise provided in MUSL rules.

(c) If Powerball bet slips are unavailable, number selections may be given to an on-line retailer in groups of five number selections and one Powerball number selection per game section for each \$1 wagered as a basic play. The retailer shall manually enter the selections into the computer terminal.

(d) A Powerball ticket may not be canceled or voided once printed by the Lottery terminal, even if the ticket is printed in error.

(e) It shall be the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. The placing of plays 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.

(f) A player may select numbers for up to 26 drawings, specifically the next drawing and the 25 subsequent drawings.

(g) No ticket may be issued for a drawing after the specified sales cut-off time prior to the drawing, as announced by the Secretary or his designee.

§ 871.7. Time, place and manner of conducting drawing.

(a) Time of drawing. A Powerball drawing will be held twice a week or as publicly announced by the Secretary.

(b) Place of drawing. A Powerball drawing will be conducted in a location selected by MUSL in West Des Moines,

Iowa, or other such location as may be selected by MUSL for promotional or other reasons.

(c) Manner of conducting drawings. MUSL will draw at random five numbers from a set of balls numbered 1 through 49 and one Powerball number from a set of balls numbered 1 through 42 with the aid of mechanical drawing equipment. All drawings will be observed by security personnel and independent auditors and the validity of a drawing will be solely determined by MUSL.

\$ 871.8. Expected prize payout percentages.

(a) Determination of expected prize payout percentages is as follows:

Tickets Containing The Following, In One Single Lettered Game Section	Prize Category	Prize Payment	Approximate Percentage of Winnings Pool Allocated to Prize Category**
Five first set numbers and the Powerball number	Grand Prize	Grand Prize	58.3884%
Five first set numbers	Second Prize*	\$100,000	10.2386%
Four first set numbers and the Powerball number	Third Prize*	\$5,000	2.747%
Four first set numbers	Fourth Prize*	\$100	2.2524%
Three first set numbers and the Powerball number	Fifth Prize*	\$100	2.3624%
Three first set numbers	Sixth Prize*	\$7	6.7800%
Two first set numbers and the Powerball number	Seventh Prize*	\$7	2.3152%
One first set number and the Powerball number	Eighth Prize*	\$4	6.7800%
The Powerball number	Ninth Prize*	\$3	8.1360%

* Indicates a set prize.

** Fifty percent of Powerball gross sales are allocated to the winnings pool for the payment of prizes.

(b) Prize money allocated to the grand prize category will be paid on a parimutuel basis, divided equally by the number of plays determined by MUSL to be the winners of the grand prize.

(c) The number of plays determined by MUSL to be winners of the second through ninth prize categories will be paid as set cash prizes, except as provided in paragraphs (1) and (2).

(1) If the total of the set prizes awarded in a Powerball drawing exceeds the set prize pool which is 20.8058% of gross sales, then the amount needed to fund the set prizes shall be drawn from the following sources in the following order:

(i) The amount allocated to the set prize tiers and carried forward from previous draws, if any.

(ii) An amount from the MUSL set prize reserve account, if available, not to exceed \$25,000,000 per Powerball drawing.

(2) If the sources set forth in paragraph (1) are depleted and there still are not sufficient funds to pay the set prizes for a particular Powerball drawing, then the highest set prize shall become a parimutuel prize. If the amount of the highest set prize, when paid as a parimutuel prize, is less than or equal to the next highest set prize and there are still not sufficient funds to pay the remaining set prizes, then the next highest set prize shall become a parimutuel prize. If necessary, and under the same test conditions set forth in the preceding sentence, each succeeding set prize level shall be converted to a

parimutuel prize, in order, until all set prizes become parimutuel. If all set prizes are converted to parimutuel prizes, the money available from the funding sources listed in paragraph (1) shall be divided among the winning plays in proportion to their respective prize percentages.

(3) If all, or any portion of the set prize pool is not awarded in the current Powerball drawing, that portion of the set prize pool shall be carried forward to subsequent Powerball drawings.

§ 871.9. Powerball prize payments.

(a) Individual ticket prize payments will be paid entirely in cash with the exception of the grand prize category.

(b) A grand prize shall be paid by an annuity except that a player may elect to receive the grand prize in a single cash payment provided the cash election is made by the player within 60 days of the date the Lottery determines that a grand prize winning ticket has been sold and that a player is entitled to the prize.

(1) An election to receive the grand prize by annuity or cash made by the player after the player becomes entitled to the prize is final and cannot be revoked, withdrawn or otherwise changed.

(2) Shares of the grand prize shall be determined by dividing the cash available in the grand prize pool equally among

all winners of the grand prize. A winner who elected cash payment shall be paid the share in a single cash payment.

(3) The annuitized prize shall be determined by multiplying a winner's share of the grand prize by the MUSL annuity factor.

(c) The MUSL annuity factor is determined by the best total securities price obtained through a competitive bid of qualified, pre-approved brokers made after it is determined that the prize is to be paid as an annuity prize or after the expiration of 60 days of the date that the player becomes entitled to the prize.

(d) Neither MUSL nor the Lottery shall be responsible or liable for changes in the advertised or estimated annuity prize from the time the drawing occurs and the date that the player makes the election regarding method of prize payment.

(e) All annuitized prizes shall be paid in 25 payments with the initial payment being made in cash, to be followed by 24 equal payments funded by the annuity. The initial payment of an annuitized prize may be made by the Lottery upon validation of the winning ticket.

(f) If the individual shares of the cash held to fund an annuity is less than \$250,000, the MUSL Powerball Product Group, in its sole discretion, may elect to pay the winners their share of the cash held in the grand prize pool as a lump sum.

(g) If more than one winning ticket for the grand prize is determined, upon meeting the requirements of §§ 871.12 and 871.13

(relating to ticket validation requirements, and procedures for claiming and payment of Powerball prizes), each is entitled to a prorated payment share of the total grand prize category.

(h) A winning Powerball play is entitled only to the highest prize won by those numbers.

(i) The number of prize categories, the allocation of prize money among the prize categories and the annuity term may be changed at the discretion of MUSL and the change will be announced by public notice. Such changes will only apply prospectively to Powerball drawings as of the date specified in such public notice.

(j) Retailer incentive and marketing promotion programs, including the use of funded free tickets, may be implemented at the discretion of the Secretary. Funds for the programs, if needed, will be drawn from the Lottery fund.

(k) If the grand prize is not won in a drawing, the prize money allocated for the grand prize shall roll over and be added to the grand prize pool for the following drawing.

(l) Prize claims must be submitted within one year of the drawing date.

(m) Annuitized payment of the grand prize or a share of the grand prize may be rounded to facilitate the purchase of an appropriate funding mechanism. Breakage on an annuitized grand prize win shall be added to the first cash payment to the winner or winners. Prizes other than the grand prize, which under these

rules may become single-payment, parimutuel prizes, may be rounded down so that prizes can be paid in multiples of whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

§ 871.10. Funding of guaranteed prizes.

The MUSL Powerball Product Group may offer guaranteed minimum grand prize amounts or minimum increases in the grand prize amount between drawings or make other changes in the allocation of prize money where the MUSL Powerball Product Group finds that it would be in the best interest of the game. If a minimum grand prize amount or a minimum increase in the grand prize amount between drawings is offered by the Product Group, then the grand prize shares shall be determined as follows:

(1) If there are multiple grand prize winners during a single drawing, each selecting the annuitized option prize, then a winner's share of the guaranteed annuitized grand prize shall be determined by dividing the guaranteed annuitized grand prize by the number of winners.

(2) If there are multiple grand prize winners during a single drawing and at least one of the grand prize winners has elected the annuitized option prize, then the best bid submitted by MUSL's pre-approved qualified brokers shall determine the cash pool needed to fund the guaranteed annuitized grand prize.

(3) If no winner of the grand prize during a single drawing has elected the annuitized option prize, then the amount

of cash in the grand prize pool shall be an amount equal to the guaranteed annuitized amount divided by the average annuity factor of the most recent three best quotes provided by MUSL's pre-approved qualified brokers submitting quotes.

(4) In no case shall quotes be used which are more than two weeks old, and if less than three quotes are submitted, then MUSL shall use the average of all quotes submitted.

(5) Changes in the allocation of prize money shall be designed to retain approximately the same prize allocation percentages, over a year's time, as set forth in § 871.8 (relating to expected prize payout percentages). Minimum guaranteed prizes or increases may be waived if the alternate funding mechanism as set forth in § 871.8 becomes necessary.

§ 871.11. Ticket responsibility.

(a) A ticket is a bearer document deemed to be owned by the person holding the ticket, except that if a signature is contained on the ticket, the person so named will, for all purposes, be considered the owner of the ticket.

(b) The Commonwealth will not be responsible for lost or stolen tickets.

(c) The purchaser of the ticket has the sole responsibility for checking the accuracy and condition of the data printed on the ticket.

(d) The Commonwealth will not be responsible for tickets redeemed in error.

§ 871.12. Ticket validation requirements.

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

(1) The ticket validation number shall be present in its entirety and shall correspond, using the computer validation file, to the selected numbers printed on the ticket for the date printed on the ticket.

(2) The ticket shall be intact.

(3) The ticket shall not be mutilated, altered, reconstituted or tampered with.

(4) The ticket shall not be counterfeit or an exact duplicate of a winning ticket.

(5) The ticket shall have been issued by the Lottery through a licensed on-line retailer.

(6) The ticket shall not have been stolen.

(7) The ticket shall be validated in accordance with § 871.13 (relating to procedures for claiming and payment of Powerball prizes).

(8) The player-selected or computer-selected numbers on the ticket shall be in individual groups of five first set numbers and one second set number each associated with a single letter, A, B, C, D or E. The numbers and the associated letter shall constitute a single play.

(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.

(10) The player-selected or computer-selected numbers, promotion selection, if applicable, the validation number data and the drawing date of an apparent winning ticket shall appear on the official file of the winning tickets; and a ticket with that exact data shall not have been previously paid.

(11) The ticket shall not be misregistered, defectively printed, or printed or produced in error.

(12) The ticket shall pass other confidential security checks of the Lottery.

(13) By submitting a ticket for validation, the player agrees to abide by the provisions of this chapter.

(14) There may not be another violation of this part in relation to the ticket.

(b) Invalid or defective tickets - disputes. A ticket not passing the validation checks in subsection (a) will be considered invalid and will not be paid.

(1) In cases of doubt, the determination of the Secretary is final and binding. The Secretary may replace an invalid ticket with a ticket of equivalent sale price from a current Lottery game.

(2) If a defective ticket is purchased or if the Secretary determines to adjust an error, the sole and exclusive

remedy will be the replacement of the defective or erroneous ticket with a ticket of equivalent sale price from a current Lottery game.

(3) If a ticket is not paid by the Lottery and a dispute occurs as to whether the ticket is a winning ticket, the Lottery may replace the ticket as provided in paragraph (2). This is the sole and exclusive remedy of the holder of the ticket.

§ 871.13. Procedures for claiming and payment of Powerball prizes.

(a) Pennsylvania Powerball prizes shall be claimed only through a licensed on-line Pennsylvania Lottery retailer beginning on the day following the drawing. The Lottery is not authorized to accept claims or pay prizes for Powerball tickets purchased in other jurisdictions.

(b) An on-line retailer is authorized and required to make payment of a prize of \$2,500 or less on an individual Powerball winning ticket, if the ticket is presented within a designated time period as announced by the Secretary and if the retailer has sufficient funds available for payment.

(c) The holder of an apparent winning Powerball ticket containing one or more winning lettered play selections representing combined prizes of \$2,500 or less will be paid by participating on-line retailers as provided in subsection (b), if the ticket validation requirements in § 871.12 (relating to

ticket validation requirements) have been met, a proper validation pay ticket has been issued by the retailer's computer terminal, and other retailer procedures have been met.

(d) The holder of an apparent winning Powerball ticket containing one or more winning lettered play selections representing combined prizes in excess of \$2,500, with the exception of the grand prize category, shall first validate the apparent winning ticket at the participating Pennsylvania Lottery on-line retailer to receive a validation receipt, complete a claim form and display appropriate identification and then surrender the winning ticket and the original claim form to the retailer for transmittal to Lottery Headquarters for payment under Chapter 811 (relating to prizes).

(e) The holder of an apparent winning Powerball ticket containing one or more winning lettered play selections representing a grand prize category prize shall present, in person, the apparent winning ticket to the Pennsylvania Lottery Headquarters for validation under Chapter 811.

(f) In the event of the death of a Powerball grand prize winner and upon petition of the estate of the prize winner, the MUSL Powerball Product Group may accelerate payment of all remaining proceeds from the winning ticket to the estate of the winner by transferring to the estate the securities and or cash being held to satisfy the prize requirements, or paying the estate the present value of the remaining payments of the

winner's prize. The valuation of the securities and determination of the present value of the accelerated lottery payments shall be at the sole discretion of the MUSL Powerball Group. The payment of a set prize to a person who dies before receiving any or all of a particular prize and to a person under 18 years of age will be paid under §§ 811.16 and 811.27 (relating to prizes payable after death of prize winner; and payment of prizes to persons under 18 years of age).

(g) The Commonwealth will be discharged of liability after payment of prizes as provided in § 811.26 (relating to discharge of State liability upon payment).

(h) The Lottery may delay payment of the prize pending a final determination by the Secretary if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize; if there is any question regarding the identity of the claimant; if there is any question regarding the validity of the ticket presented for payment; or if the claim is subject to any setoff for delinquent debts owed by the claimant under Pennsylvania statute. The Lottery may delay payment of a grand prize pending a claimant election of payment method as provided under § 871.9(b) (relating to Powerball prize payments). The Lottery may delay payment of a grand prize for up to 15 days as permitted by MUSL rules.

§ 871.14. Parimutuel prize pool.

(a) The prize pool for all prize categories shall consist of 50% of each drawing period's sales after the prize reserve accounts are funded to the amounts set by the MUSL Powerball Product Group. Any amount remaining in the prize pool at the end of the game shall be carried forward to a replacement game or expended in a manner as directed by the MUSL Powerball Product Group in accordance with state law.

(b) An amount equal to up to 2% of a party lottery's sales shall be deducted from a party lottery's grand prize pool and placed in trust in one or more prize reserve accounts until the party lottery's share of the prize reserve accounts reaches the amounts designated by the MUSL Powerball Product Group. Once the party lottery's share of the prize reserve accounts exceeds the designated amounts, the excess shall become part of the grand prize pool. The MUSL Powerball Product Group, with the approval of the Finance and Audit Committee, may establish a maximum balance for the prize reserve accounts. The shares of a party lottery may be adjusted with refunds to the party lottery from the prize reserve accounts as may be needed to maintain the approved maximum balance and shares of the party lotteries. Any amount remaining in a prize reserve account at the end of this game shall be carried forward to a replacement prize reserve account or expended in a manner as directed by the MUSL Powerball Product Group in accordance with state law.

(c) If the prize pool for a drawing is not sufficient to fund an announced minimum grand prize, the prize pool will be increased as necessary in accordance with MUSL rules.

§ 871.15. Unclaimed prize money.

Prize money on a winning Powerball play may be retained by the Secretary for payment to the person entitled to it. If within one year of the drawing date on the ticket, no claim is made on a winning play, as determined by the Secretary, the right to claim prize money terminates. For set prizes, the prize money will be paid into the State Lottery Fund and used for purposes otherwise provided for by statute. Unclaimed grand prize funds will be distributed among all MUSL Lotteries in proportion to each lottery's sales for the grand prize drawing.

§ 871.16. Withholding.

Federal withholding taxes will be withheld by the Lottery for the prize payments in amounts required in accordance with applicable provisions of law.

§ 871.17. Purchase and prize restrictions.

(a) A Powerball ticket may not be purchased in Pennsylvania by, and a prize will not be paid to, an officer or employee of the Pennsylvania Lottery or any of the Lottery's professional services contractors or subcontractors who are involved in the operation of the on-line lottery games system or its associated drawings, or to a spouse, child, brother, sister or parent residing in the same household of the above individuals.

(b) In addition to the individuals identified in subsection (a), the following persons are not eligible to purchase a Powerball ticket and shall be ineligible to be paid a prize for a Powerball ticket:

(1) An employee, officer or director of MUSL.

(2) A person under contract with MUSL to conduct a financial or security audit of MUSL.

(3) An employee, partner, shareholder, or owner of an independent accounting firm under contract with MUSL to observe drawings and site operations.

(4) A relative living in the same household of a person described in paragraphs (1), (2) or (3).

(c) Except as provided in subsection (b), the individuals identified in subsection (a) are not prohibited from purchasing a ticket or winning a prize from a MUSL member lottery other than the Pennsylvania Lottery.

(d) A Lottery retailer authorized to sell lottery tickets for on-line games, or an employee of a retailer may not request, demand or accept gratuities or additional compensation from any person, or agent thereof, in exchange for the purchase of Powerball lottery tickets. A retailer authorized to sell lottery tickets for on-line games must make Powerball lottery tickets available for sale to the public during the hours that sale of Powerball tickets are authorized to be sold and that business is open to the public. A retailer may only sell Powerball lottery

tickets on the premises described in the retailer's contract, except as specially authorized in writing by the Director. No transaction, or any part thereof, of Powerball lottery tickets may be made at the general corporate office of any retailer unless that office is open to the public and has contracted with the Lottery as a separate Lottery retailer. A Lottery retailer authorized to sell lottery tickets for on-line games may not enter into any special agreement with any person, group of persons, or agent thereof, for the purchase of over \$500 of Powerball lottery tickets for any one drawing. A retailer must immediately report to the Lottery any attempt made by any person, or group of persons, or an agent thereof, to purchase more than 50% of the number combinations for Powerball for any one drawing. A retailer must obtain the name and address of any person purchasing more than \$5,000 in Powerball lottery tickets for any one drawing and report the information to the Lottery before the sale. A person may not purchase a ticket or combination of tickets and a lottery retailer may not directly or knowingly sell a ticket or combination of tickets to any person which would guarantee the purchaser a grand prize win.

§ 871.18. Governing law.

(a) In purchasing a ticket, the purchaser agrees to comply with and abide by applicable laws, this part, instructions, conditions, final decisions of the Secretary, and procedures

established by the Director or by MUSL for the conduct of Powerball.

(b) Decisions made by the Secretary or MUSL, including the declaration of prizes and the payment thereof or interpretation of this part are final and binding on players and persons making a claim in respect thereof.

§ 871.19. Probability of winning.

The probability of winning is as follows:

Tickets Containing The Following, In One Single Lettered Game Section	Prize Category	Probability of Winning per Play
Five first set numbers and the Powerball number	Grand Prize	1:80,089,128
Five first set numbers	Second Prize	1:1,953,393.3659
Four first set numbers and the Powerball number	Third Prize	1:364,041.4909
Four first set numbers	Fourth Prize	1:8,879.0608
Three first set numbers and the Powerball number	Fifth Prize	1:8,466.0812
Three first set numbers	Sixth Prize	1:206.4898
Two first set numbers and the Powerball number	Seventh Prize	1:604.7201
One first set number and the Powerball number	Eighth Prize	1:117.9942
The Powerball number	Ninth Prize	1:73.7464

§ 871.20. Power play promotion.

(a) The power play promotion shall be available in association with the Powerball game and will continue until the Secretary publicly announces a suspension or termination therefore. The power play promotion will be conducted in accordance with the Powerball rules except that players may

purchase the power play option for the chance to multiply set prizes won as a result of a Powerball drawing by a number ranging from one to five. The Powerball grand prize shall not be eligible for multiplication under the power play promotion.

(b) At the time of purchasing a Powerball ticket from an on-line Lottery retailer, a player may choose the power play option for one additional \$1 per play for each play on the Powerball ticket. If a player chooses the power play promotion feature for any play on a ticket, then every play on that ticket must participate in the promotion.

(c) At the time of each Powerball drawing, MUSL shall conduct a power play drawing under the supervision of security and an independent auditor which shall result in the selection of the power play number from among the following series of numbers: 1, 1, 2, 2, 3, 3, 4, 4, 5, 5, 5 and 5.

(d) Powerball tickets that contain the power play option and one or more plays eligible for Powerball set prizes (but not the grand prize) identified in § 871.8(a) (relating to expected prize payout percentages) shall be entitled to a total set prize calculated by multiplying each Powerball set prize by the power play number.

(e) The prize pool for power play set prizes shall consist of up to 48.5% of power play sales after Powerball prize reserve accounts are funded to the amounts set by MUSL. The prize pool percentage allocated to power play set prizes shall be carried

forward to subsequent power play drawings if all or a portion of such percentage is not required to pay the set prizes for the current power play drawing.

(f) An additional 1.5% of power play sales may be collected and placed in prize reserve accounts until the prize reserve accounts meet the amounts designated by MUSL. Any amount remaining in prize reserve accounts at the end of the power play promotion shall be carried forward to a replacement prize reserve account or expended in a manner as directed by the MUSL Powerball Product Group in accordance with state law.

(g) If, with respect to a single Powerball drawing and associated power play drawing, the total of the Powerball set prizes without the power play option and the Powerball set prizes multiplied by the power play number exceeds the percentage of the prize pools allocated to the set prizes, then the amount needed to fund those combined set prizes shall be drawn from the following sources in the following order:

(1) The amount allocated to the set prizes and carried forward from previous Powerball drawings and power play drawings, if any.

(2) An amount from the Powerball set prize reserve account, if available, not to exceed \$25,000,000 per drawing.

(h) If the sources set forth in subsection (g) are depleted and there still are not sufficient funds to pay the set prizes for a particular Powerball drawing and associated power play

drawing, then the highest set prize, including the multiplied set prize, shall become a parimutuel prize. If the amount of the highest set prize, when paid as a parimutuel prize, is less than or equal to the next highest set prize and there are still not sufficient funds to pay the remaining prizes, then the next highest set prize, including the multiplied set prize, shall become a parimutuel prize. If necessary under the same test set forth in the preceding sentence, each succeeding set prize level shall be converted to a parimutuel prize, in order, until all set prizes become parimutuel. If all set prizes are converted to parimutuel prizes, the money available from the funding sources listed in subsection (g) shall be divided among the winning plays in proportion to their respective prize percentages.

(i) Power play set prizes which become parimutuel may be rounded down so that they can be paid in multiples of whole dollars. Funds remaining after rounding shall be carried forward to the prize pool for the next power play drawing.

(j) Except as otherwise provided, all power play set prizes shall be paid in single, lump-sum payments determined by multiplying the Powerball set prize by the number selected in the power play drawing as follows:

Prize Level	Powerball Set Prize Amount	Power Play Multiplier and Set Prize Amount				
		5	4	3	2	1
Second Prize	\$100,000	\$500,000	\$400,000	\$300,000	\$200,000	\$100,000
Third Prize	\$5,000	\$25,000	\$20,000	\$15,000	\$10,000	\$5,000
Fourth Prize	\$100	\$500	\$400	\$300	\$200	\$100
Fifth Prize	\$100	\$500	\$400	\$300	\$200	\$100
Sixth Prize	\$7	\$35	\$28	\$21	\$14	\$7
Seventh Prize	\$7	\$35	\$28	\$21	\$14	\$7
Eighth Prize	\$4	\$20	\$16	\$12	\$8	\$4
Ninth Prize	\$3	\$15	\$12	\$9	\$6	\$3

(k) When the Powerball set prizes become parimutuel, the Powerball set prize amounts will be less than the amount shown and the power play set prizes shall be a multiple of the new Powerball set prize amount.

(l) The odds of various power play numbers being selected in a power play drawing are:

Power Play Multiplier	Odds
One	1:6
Two	1:6
Three	1:6
Four	1:6
Five	1:3

\$ 871.21. Future changes to Powerball.

(a) MUSL reserves the right to modify the Powerball game in order to address changes in player participation or population of member states. Should MUSL decide to make such a change, it will

be publicly announced by MUSL and the Secretary at least 90 days before such change takes effect.

(b) The Secretary will publish notice of the change in the Pennsylvania Bulletin and the change will be codified at § 871.22 (relating to changes to Powerball).

§ 871.22. Changes to Powerball.

Any change to the Powerball regulation, announced by the Secretary by way of a notice published in the Pennsylvania Bulletin, will be codified as a new paragraph in this section.

03/15/02

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

I.D. NUMBER: 15-420
SUBJECT: 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

RECEIVED
2002 APR 11 PM 2:49
INDEPENDENT REGULATORY
REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
4/11/02	<u>P. MacInt</u>	HOUSE COMMITTEE ON FINANCE
4/11/02	<u>Mary Walmer</u>	SENATE COMMITTEE ON FINANCE
4/11/02	<u>Elena Regan</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
4-11-02	<u>Mary Mummert</u>	ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

March 28, 2002