

# Clearinghouse Rule 00-078

## CERTIFICATE

STATE OF WISCONSIN     )  
  ) SS  
DEPARTMENT OF REVENUE )

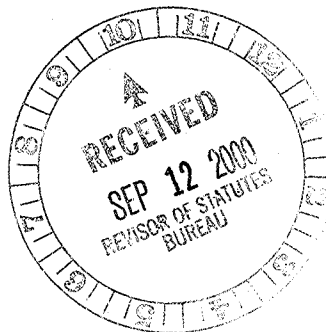
I, Cate Zeuske, Secretary of the Department of Revenue and custodian of the official records, certify that the annexed rule, relating to the Retailer Performance Program (RPP) , was duly approved and adopted by this department on

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and the whole of the original.

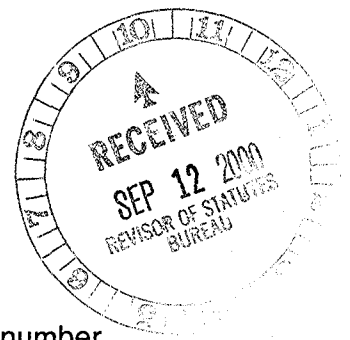
IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 8 day of May, 2000.



\_\_\_\_\_  
Cate Zeuske  
Secretary of Revenue



**ORDER OF THE DEPARTMENT OF REVENUE  
RENUMBERING, AMENDING AND CREATING RULES**



The Wisconsin Department of Revenue hereby adopts an order to: renumber WGC 61.02(1) to (7); amend WGC 61.04(1)(d) and WGC 61.08(11)(c) and (21)(c); and create WGC 61.02(1), (6) and (9) and WGC 61.085, relating to the implementation and maintenance of the retailer performance program of the Wisconsin lottery.

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**Analysis by the Department of Revenue**

Statutory authority: ss. 227.11(2)(a) and 565.10(14)(b)3m., Stats.

Statutes interpreted: ss. 565.02(4)(g) and 565.10(14)(b)3m., Stats., as created by 1999 Wis. Act 9.

SECTION 1. WGC 61.02(1), (2), (3), (4), (5), (6) and (7) are renumbered WGC 61.02(2), (3), (4), (5), (7), (8) and (10), consistent with Legislative Council Rules Clearinghouse standards to insert, in alphabetical order, the definitions in Section 2.

SECTION 2. WGC 61.02(1), (6) and (9) are created, to provide additional definitions relating to the Wisconsin lottery.

SECTIONS 3, 4 AND 5. WGC 61.04(1)(d) and 61.08(11)(c) and (21)(c) are amended and WGC 61.085 is created, to address the implementation and maintenance of the retailer performance program, or "RPP." The RPP is a program intended to provide eligible Lottery retailers an opportunity to earn additional compensation for the achievement of improved sales performance. Retailers will need to qualify for each component of the program before they will receive additional compensation from that component. Additionally, retailers will need to sell \$400 worth of tickets (instead of the current 500 ticket requirement) as part of the eligibility requirements. The RPP was implemented effective January 1, 2000.

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SECTION 1. WGC 61.02(1), (2), (3), (4), (5), (6) and (7) are renumbered WGC 61.02(2), (3), (4), (5), (7), (8) and (10).

SECTION 2. WGC 61.02(1), (6), and (9) are created to read:

WGC 61.02(1) "Administrator" means the administrator of the department's lottery division or any designees.

(6) "Retailer performance program" or "RPP" means a program that is designed to provide additional compensation, above the compensation provided under s.

565.10(14)(b)1. or 2., Stats., to retailers who meet certain performance goals identified by the Wisconsin lottery.

(9) "Winning lottery ticket" or "winning lottery share" means any of the following:

(a) For instant scratch tickets under s. 565.01(6m)(a)1., Stats., the terms mean any ticket that has been validated by the Wisconsin lottery as a ticket that entitles a player to a prize.

(b) For on-line tickets under s. 565.01(6m)(a)2., Stats., the terms mean any ticket that has been identified by a secure method by the Wisconsin lottery as a ticket that entitles a player to a prize.

SECTION 3. WGC 61.04(1)(d) is amended to read:

WGC 61.04(1)(d) The applicant is expected to sell a minimum of ~~500 tickets a month~~ \$400 worth of instant scratch tickets each month, under s. 565.01(6m)(a)1., Stats., which shall be represented in any retailer contract or addenda. The ~~executive director-administrator~~ may deny a contract to an applicant whose anticipated monthly sales will not meet a minimum of ~~500 tickets~~ \$400 worth of instant scratch tickets each month or whose historical monthly sales are less than ~~500 tickets~~ \$400 worth of instant scratch tickets each month.

SECTION 4. WGC 61.08(11)(c) and (21)(c) are amended to read:

WGC 61.08(11)(c) The retailer shall sell at least ~~500 tickets a month.~~ \$400 worth of instant scratch tickets each month, under s. WGC 61.04 (1)(d).

(21)(c) The retailer failed to sell a monthly minimum of ~~500 lottery tickets~~ \$400 worth of instant scratch tickets each month, under s. WGC 61.04 (1)(d);

SECTION 5. WGC 61.085 is created to read:

**WGC 61.085 Retailer performance program. (1) PURPOSE.**

(a) The retailer performance program or RPP is intended to provide additional compensation, above the compensation provided under s. 565.10(14)(b)1. or 2., Stats.,

to retailers who meet certain performance goals identified by the department of revenue. This additional compensation is authorized under ss. 565.02(4)(g) and 565.10(14)(b)3m., Stats.

(b) This program is applicable to lottery retailer sales transactions beginning on January 1, 2000.

(2) DEFINITIONS. In this section:

(a) "Appropriate quarterly sales history" means the historical sales data that is used to calculate performance of a retail location within the RPP. The appropriate quarterly sales history data may be from either the comparable history quarter as defined under par. (b) or the immediately previous quarter as defined under par. (d).

(b) "Comparable history quarter" means the full sales quarter that is one year prior to the current sales quarter in which the RPP is being administered.

(c) "Gross sales" means the sales data as indicated by Wisconsin lottery accounts receivable documentation of weekly invoicing of the purchase of Wisconsin lottery products by retailers.

(d) "Immediately previous quarter" means the full sales quarter immediately prior to the current sales quarter in which the RPP is being administered.

(e) "Retail location" means the place of business at which lottery products such as instant tickets or terminal generated tickets are sold, as selected under s. WGC 61.04.

(f) "Sales goals incentive" means the component of the RPP that pays incentives to retailers who increase gross sales in a specified sales quarter or specified fiscal year, or both, when the sales quarter or fiscal year is compared to an appropriate quarterly sales history as defined under par. (a).

(g) "Sales quarter" means a quarter of the Wisconsin lottery fiscal year that is 13 weeks in length. Beginning in fiscal year 2001, the administrator shall determine the start and end dates of all sales quarters of a fiscal year no later than one month prior to

the beginning of that fiscal year, and upon request shall provide the calendar dates that define each quarter of a fiscal year. A quarter shall start and end on dates that are consistent with the standard billing cycle that the lottery uses to collect revenue from retailer accounts.

(h) "Short-term incentive" means the component of the RPP that pays incentives to retailers who satisfy a performance expectation as established in short-term incentive features and procedures documentation.

(i) "Winning ticket incentive" means the component of the RPP that pays incentives to retailers who sell winning lottery tickets.

(3) ELIGIBILITY. Any retailer may participate in the RPP if it meets all of the following eligibility requirements:

(a) The retailer honors the current retailer contract, including any applicable addenda, and sells a minimum amount of instant tickets as indicated under s. WGC 61.08(11)(c).

(b) The retailer is not a nonprofit organization as defined in s. 565.10(14)(a), Stats.

(c) The retailer satisfies any qualifying requirements specific to each component of the RPP. If a retailer fails to satisfy the requirements specific to a component of the RPP, the retailer may not be considered qualified for that component of the RPP. A retailer qualifies for each component separately, and qualifying for one component of the RPP does not affect qualifying for another component.

(4) DESIGN. The retailer performance program shall consist of 3 components, the winning ticket incentive, the sales goals incentive, and the short-term incentive described as follows:

(a) *Winning ticket incentive.* The expected performance of the winning ticket incentive component of the RPP is the selling of winning lottery tickets. To qualify for the

winning ticket incentive, a retailer shall satisfy the eligibility requirements in sub. (3). An incentive shall be paid to a retailer for selling any winning lottery ticket where the stated prize value of the winning lottery ticket is \$600 or greater. The incentive shall be paid as follows:

1. For winning lottery tickets, 2% of the stated prize value shall be paid on each prize, up to a maximum of \$100,000 per winning lottery ticket.

2. For lottery television program tickets, \$30 shall be paid on each winning lottery ticket.

(b) *Sales goals incentive.* The sales goals incentive component of the RPP shall pay a retailer an incentive based on an increase in the amount of sales over the appropriate quarterly sales history or the appropriate fiscal year in the case of jackpot terminal-generated games under subd. 3. The incentive shall be tracked, measured and paid based on one of 3 product types. For each product type, a retailer shall satisfy eligibility requirements in sub. (3) and qualify for the product type under sub. (5). For the 3 product types, instant ticket sales, non-jackpot terminal-generated sales and jackpot terminal-generated sales, the retailer shall receive incentives calculated as follows:

1. For the instant ticket sales product type, the retailer shall receive an incentive calculated by comparing a sales quarter against the appropriate quarterly sales history as defined under sub. (2)(a) to determine if a sales increase has occurred. If a sales increase has not occurred, no incentive may be paid. If a sales increase has occurred, the retailer shall receive 10% of the sales increase unless the administrator adjusts the payment percentage to a lower percentage under sub. (7) to ensure that appropriate funding authority is maintained within the current fiscal year. Any adjustment made shall consider historical sales and incentive information and shall be applied equally to all

retailers. Information regarding the details of any adjustment shall be made available upon request to the administrator.

2. For the non-jackpot terminal-generated sales product type, the retailer shall receive an incentive calculated by comparing a sales quarter against the appropriate quarterly sales history as defined under sub. (2)(a) to determine if a sales increase has occurred. If a sales increase has not occurred, no incentive may be paid. If a sales increase has occurred, the retailer shall receive 10% of the sales increase unless the administrator adjusts the payment percentage to a lower percentage under sub. (7) to ensure that appropriate funding authority is maintained within the current fiscal year. Any adjustment made shall consider historical sales and incentive information and shall be applied equally to all retailers. Information regarding the details of any adjustment shall be made available upon request to the administrator.

3. For the jackpot terminal-generated sales product type, the retailer shall receive an incentive calculated by comparing a fiscal year against the previous fiscal year to determine if a sales increase has occurred. If a sales increase has not occurred, no incentive may be paid. If a sales increase has occurred, the retailer shall receive 10% of the sales increase unless the administrator adjusts the payment percentage to a lower percentage under sub. (7) to ensure that appropriate funding authority is maintained within the current fiscal year. Any adjustment made shall consider historical sales and incentive information and shall be applied equally to all retailers. Information regarding the details of any adjustment shall be made available upon request to the administrator.

**Note:** For the fiscal year ending June 30, 2000, "fiscal year 2000," the Wisconsin lottery shall use the appropriate historical data from the fiscal year which ended on June 30, 1999, "fiscal year 1999," to determine a one-half fiscal year goal for the jackpot terminal-generated game product type under subd. 3.

(c) *Short-term incentive.* The short-term incentive shall pay a retailer an incentive based on the achievement of expected performance. Short-term incentives shall be

designed to support a certain product or product type or to strengthen sales during certain times of the fiscal year. Performance expectations shall be related to the increasing of sales of lottery products and may be different for each short-term incentive offered to retailers. The administrator may not offer more than 4 short-term incentives in one fiscal year. A short-term incentive may not continue from one fiscal year into another fiscal year. The administrator shall determine whether short-term incentives are offered. The expected performance, and all other information important to the development of a specific short-term incentive, shall be indicated in a document that shall represent the features and procedures of the short-term campaign. The features and procedures document shall be published to the retailers no later than 21 calendar days prior to the start date of the incentive and shall include the following:

1. A statement of the requirements for a retailer to qualify for the program. The requirements for qualification for short-term incentives shall be as consistent as possible with other aspects of the RPP.

2. A statement of the expected performance of a retailer who participates in the short-term incentive.

3. A statement of the start and end dates of the program and the expected time period that the plan will run, not to exceed 13 weeks.

4. A statement of how much funding may be made available for payment under the plan, not to exceed \$100,000 per short-term incentive.

5. A detailed explanation of how the incentive is calculated, to be consistent with other aspects of the RPP where appropriate.

6. A detailed explanation of how incentive payments will be made, and that payments shall be made no later than the last Thursday of the month following the last day of the sales quarter in which the short-term incentive ends.



7. Any other features or procedures determined by the administrator to be appropriate.

(5) QUALIFICATION FOR PRODUCT TYPES. (a) To qualify for the jackpot terminal-generated sales product type, a retail location shall have no less than 52 weeks of sales history in the previous fiscal year.

(b) To qualify for instant ticket sales or non-jackpot terminal-generated sales product type, a retail location shall meet the qualification criteria for that product type. Each product type shall be reviewed separately to determine if an appropriate quarterly sales history as defined under sub. (2)(a) is available to satisfy the criteria. The criteria are as follows:

1. For a retail location, if there is appropriate quarterly sales history as defined under sub. (2)(a), which is based on comparable history quarter sales data as defined under sub. (2)(b), the retailer shall be considered qualified for that product type.

2. If no comparable history quarter exists for a retail location, the administrator shall substitute sales history from the immediately previous quarter.

3. If no appropriate quarterly sales history can be determined, either by using data from a comparable history quarter or from an immediately previous quarter, the retail location may not be considered qualified for the program. The administrator shall review qualification under each product type no less often than quarterly so that retail locations that become qualified may be included for incentive payments as soon as possible.

(6) PAYMENT OF INCENTIVES. The RPP incentives shall be paid in the following manner:

(a) The winning ticket incentive shall be paid no later than the last Thursday of the month following the last day of the quarter in which the incentive is earned. This incentive may be paid more frequently if the administrator determines that a more

frequent schedule is not prohibitive to the effective operation of Wisconsin lottery activities and does not have a negative impact upon the appropriate funding authority of the program.

(b) The sales goals incentive shall be paid no later than the last Thursday of the month following the last day of the quarter in which the incentive is earned, except for the jackpot terminal-generated games which shall be paid no later than the last Thursday of the month following the last day of the fiscal year in which the incentive is earned. The sales goals incentive may be paid more frequently if the administrator determines that a more frequent schedule is not prohibitive to the effective operation of Wisconsin lottery activities and does not have a negative impact upon the appropriate funding authority of the program.

(c) The short-term incentive shall be paid no later than the last Thursday of the month following the last day of the quarter in which the incentive is earned. This incentive may be paid more frequently if the administrator determines that a more frequent schedule is not prohibitive to the effective operation of Wisconsin lottery activities and does not have a negative impact upon the appropriate funding authority of the program.

(7) FUNDING AUTHORITY. The administrator shall monitor the expenditures of the RPP at least quarterly, to ensure that the funding authority is not exceeded. Prior to the payment of incentives under sub. (4)(b), the administrator may implement a pre-payment adjustment to ensure that funding authority for the RPP is not exceeded, by reducing the payment of incentives earned from an unexpectedly large jackpot or from an unexpectedly large increase in instant ticket or non-jackpot ticket sales. Any pre-payment adjustment in any product type shall be implemented as indicated under sub. (4)(b), to limit the incentive paid so that the payments do not exceed the funding

available or negatively impact the payment of earned incentives in the other components of the RPP.

(8) RIGHT TO APPEAL. In the event the administrator terminates the eligibility or qualification of a retailer under the RPP, or in the event the retailer disputes their payments from the RPP, the retailer is entitled to an appeal in accordance with the provisions set forth under s. WGC 61.10.

(9) REPORT. The administrator shall document the total payments made to retailers under the RPP. The report shall include a breakdown of any incentives paid under the winning ticket incentive, the sales goals incentive and the short-term incentive. The report shall be available within 90 days of the completion of a fiscal year.

**Note:** Section WGC 61.085 interprets ss. 565.02(4)(g) and 565.10(14)(b)3m., Stats.

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The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

### Final Regulatory Flexibility Analysis

This order does not have a significant economic impact on a substantial number of small businesses.

DEPARTMENT OF REVENUE

Dated: \_\_\_\_\_

Sept. 3, 2000

By: \_\_\_\_\_

Cate Zeiske  
Secretary of Revenue

EMERGENCY RULE

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL     UPDATED
- CORRECTED     SUPPLEMENTAL

LRB #
INTRODUCTION #
Admin. Rule # WGC 61.02, 61.04, 61.08, and 61.085

Subject  
State Lottery Retailer Performance Program

Fiscal Effect

- State:  No State Fiscal Effect  
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation
- Increase Existing Appropriation     Increase Existing Revenues
  - Decrease Existing Appropriation     Decrease Existing Revenues
  - Create New Appropriation
- Increase Costs - May be Possible to Absorb Within Agency's Budget  Yes  No
- Decrease Costs

Local:  No Local Government Costs

- |  |   |  |
|--|---|--|
| 1. <input type="checkbox"/> Increase Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:<br><input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities<br><input type="checkbox"/> Counties <input type="checkbox"/> Others _____<br><input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
| 2. <input type="checkbox"/> Decrease Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |  |

Fund Sources Affected

- GPR  FED  PRO  PRS  SEG  SEG-S

Affected Ch. 20 Appropriations

20.566 (8) (b) and (r)

Assumptions Used in Arriving at Fiscal Estimate:

The proposed emergency rule order relates to the adoption of the Retailer Performance Program by the Wisconsin lottery. This rule amends existing rules consistent with Legislative Council Clearinghouse standards. WGC 61.02(5) and (8) are created in order to provide definitions relating to the Wisconsin lottery Retailer Performance Program. WGC 61.04(1)(d), 61.08(11)(c) and 21(c) are amended and WGC 61.085 is created to address the implementation and maintenance of the Retailer Performance Program. The proposed emergency rule clarifies the Department's interpretation of recently enacted statutes.

It is expected that the Retailer Performance Program will increase lottery sales revenue; however, retailer compensation costs will likely increase as well. It is expected that every \$1 of additional revenue generated by the incentive program will result in a \$0.25 expense for retailer compensation related to the incentive program and other administrative expenses. However, sufficient data on the outcome of retailer performance programs in Wisconsin and other states do not exist. Thus, the net increase in lottery revenue based upon the potential increase in sales revenue and the corresponding rise in retailer compensation costs is unknown.

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue John T. Stott, (608) 266-9706	Yeang-Eng Braun (608) 266-2700 <i>Yeang Eng Braun</i>	2/24/00

**FISCAL ESTIMATE WORKSHEET**

Detailed Estimate of Annual Fiscal Effect

**1999 Session**

- ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

<b>LRB #</b>	<b>Admin. Rule #</b> WGC 61.02, 61.04, 61.08, and 61.085
<b>INTRODUCTION #</b>	

**Subject**  
State Lottery Retailer Performance Program

**I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringe	\$	\$ -
(FTE Position Changes)	( FTE)	(- FTE)
State Operations-Other Costs	See Text	-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs by Category</b>	\$	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S	See Text	-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S	See Text	-
<b>TOTAL State Revenues</b>	\$ See Text	\$ -

**NET ANNUALIZED FISCAL IMPACT**

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ See Text	\$
NET CHANGE IN REVENUES	\$ See Text	\$

<b>Agency/Prepared by: (Name &amp; Phone No.)</b>	<b>Authorized Signature/Telephone No.</b>	<b>Date</b>
Wisconsin Department of Revenue John T. Stott, (608) 266-9706	Yeang-Eng Braun (608) 266-2700 <i>Yeang Eng Braun</i>	2/24/00



**State of Wisconsin • DEPARTMENT OF REVENUE**

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*Tommy G. Thompson*  
Governor

*Cate Zeuske*  
Secretary of Revenue

Douglas La Follette Secretary of State  
30 W Mifflin St 10th Fl  
Madison WI 53703


Re: Clearinghouse Rule 00-078

Dear Secretary La Follette

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 00-078.

These materials are filed with you pursuant to s. 227.20(1), Stats.

Sincerely,

  
Cate Zeuske  
Secretary of Revenue

CZ:jjj

Enclosure

cc: Deputy Revisor





State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933  
PHONE (608) 266-6466 • FAX (608) 266-5718 • http://www.dor.state.wi.us

Tommy G. Thompson  
Governor

Cate Zeuske  
Secretary of Revenue

Gary L Poulson Deputy Revisor  
131 W Wilson St Ste 800  
Madison WI 53703-3233

2000 SEP 12 AM 9:11  
WISCONSIN LOTTERY

Re: Clearinghouse Rule 00-078


Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to the Retailer Performance Program (RPP).

These materials are filed with you pursuant to s. 227.20(1), Stats.

The rule order has also been e-mailed to you. If you have any questions regarding the rule order, please contact James Amberson at 267-4840 or [jjambers@dor.state.wi.us](mailto:jjambers@dor.state.wi.us).

Sincerely,

  
Cate Zeuske  
Secretary of Revenue

CZ:jjja

Enclosure

cc: Douglas J. La Follette, Secretary of State  
Commerce Clearinghouse, Inc.  
Research Institute of America, Inc.

