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Final Regulation Agency Background Document

Agency name	Virginia Lottery
Virginia Administrative Code (VAC) Chapter citation(s)	11 VAC 5-90
VAC Chapter title(s)	Casino Gaming
Action title	Promulgation of casino gaming regulations
Date this document prepared	January 12, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The intent of this action is to submit the final regulations for Casino Gaming.

11 VAC 5-90 establishes:

- how the Virginia Lottery will issue casino licenses and permits;
- casino facility and gaming security and control standards;
- rules and guidelines for slot machine, mechanical casino games and table games and on-premises mobile casino gaming;
- reporting requirements;
- facility, employee, and equipment investigation procedures and non-monetary sanctions and penalties for violations, and
- procedures for payment of taxes, fees, and penalties.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

N/A

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Virginia Lottery Board adopted the proposed permanent Casino Gaming regulations as final regulations on January 12, 2022.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

The impetus for this regulatory action is to make final the Casino Gaming regulations previously submitted as proposed. No other changes.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The Virginia Lottery Board is promulgating these regulations pursuant to Chapter 1248 of the 2020 Virginia Acts of Assembly. The Board derives its authority to regulate casino gaming from Virginia Code § 58.1- 4102(2), which states: The Board shall have the power and duty to: ... 2. Adopt regulations regarding the conditions under which casino gaming shall be conducted in the Commonwealth and all such other regulations it deems necessary and appropriate to further the purposes of this chapter. Virginia Code § 58.1- 4101.A states: The Board is vested with control of all casino gaming in the Commonwealth, with authority to prescribe regulations and conditions under this chapter.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

These regulations are being promulgated pursuant to legislative mandate and to replace the existing Emergency Regulations and to ensure that the regulations are clearly written in response to certain public comment received during the 60-day comment period associated with the Proposed stage.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

This regulation establishes:

- how the Virginia Lottery will issue casino licenses and permits;
- casino facility and gaming security and control standards;
- rules and guidelines for slot machine, mechanical casino games and table games and on-premises mobile casino gaming;
- reporting requirements;
- facility, employee, and equipment investigation procedures and non-monetary sanctions and penalties for violations, and
- procedures for payment of taxes, fees, and penalties.

Based on input from Lottery staff and in response to comments received during the 60-day public comment period, the final permanent regulations differ from the Emergency Regulations in the following ways:

- (1) Certain content that may have been unclear has been amended;
- (2) Certain industry requested changes have been made with respect to:
 - (a) notices of violation;
 - (b) central monitor and control system;
 - (c) mandatory player exclusion;
 - (d) surveillance department operating procedures;
 - (e) security department operating procedures;
 - (f) internal audit operating procedures and standards;
 - (g) cashiers' cage accounting controls;
 - (h) funds withdrawal from a player account;
 - (i) time frame for maintaining a record of unredeemed gaming tickets;
 - (j) facility operator's internal controls;
 - (k) player complaints;
 - (l) promotional nongaming chips; and
 - (m) envelopes/containers to hold/transport cards and pai gow tiles.
- (3) Pertinent and applicable edits have been made to include:
 - (a) a change to the "Manufacturer" definition to correct "Commission" to "Department";

- (b) the addition of a new definition (“Facility operations manager”) and the global replacement of “Chief executive officer” with “Facility operations manager”;
- (c) the removal of information and procedures not necessary or industry standard for opening a player accounts
- (d) the allowance of the department review of casino-specific procedures while allowing for flexibility at each facility;
- (e) the removal of language pertaining to trial periods of equipment, systems, or software since the department will not be involved;
- (f) the replacement of the entire section pertaining to cards/decks of cards in order to simplify and clarify the requirements;
- (g) the reduction of the minimum bet at a table game in order to satisfy industry request while still conforming to the statutory requirement to set minimum/maximum wagers in regulation; and
- (h) to allow a dealer to hand-shuffle cards.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

Virginia Code § 58.1-4101.A sets forth the General Assembly’s intent in enacting the underlying legislation:

Casino gaming shall be licensed and permitted as herein provided to benefit the people of the Commonwealth. The Board is vested with control of all casino gaming in the Commonwealth, with authority to prescribe regulations and conditions under this chapter. The purposes of this chapter are to assist economic development, promote tourism, and provide for the implementation of casino gaming operations of the highest quality, honesty, and integrity and free of any corrupt, incompetent, dishonest, or unprincipled practices.

The primary advantage of the stage is to replace Emergency Regulations with Final Regulations.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

N/A

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

Virginia State Police; Virginia Department of Behavioral Health and Developmental Services; Virginia Department of Social Services; Virginia Department of Taxation; Regional Improvement Commission and the Virginia Criminal Sentencing Commission.

Localities Particularly Affected

The cities of Bristol, Danville, Norfolk, Portsmouth, and Richmond.

Other Entities Particularly Affected

Federal Bureau of Investigation

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
Trey Peace	Support for casino gambling without excessive regulation and regulations that promote economic development.	Evaluated and incorporated into or edited into the final regs if applicable, advisable, and legally permitted.
Alex W. West	Support/request for lower (than \$5) minimum bet for table games including poker.	
Erika DiNapoli, BMM Testlabs	Request for a specific maximum duration (specific # of days vs. a duration deemed appropriate by department) for prototype / modification testing in live gaming environment.	
Preferred Casino Gaming Operators (Headwaters, Caesars, Rivers, Hard Rock)	Request for flexibility with 180 day jackpot claims, reduction of 5-year reinvestment plan frequency to at the time of license renewal; suggested department review/ruling procedures when operator contests host city compliance determination; suggestion to replace term "chief executive officer" with "facility general manager"; request for flexibility (by adding "or their designee") with which positions are authorized to sign required reports; suggested change to audit time frame of certain operational areas; suggested language changes regarding individual player bonus accrual; requested removal of requirement for subsequent approvals of remote access for a manufacturer; requested reduction in	

	specificity pertaining to decks of cards; request for lower than \$5 minimum bet; and language tweaks.	
Giesecke+Devrient Currency Technology America, Inc.	Request for the inclusion of currency counting machines and reciprocal licensing definitions; request for the extension of supplier permit portability to all licensed casino facilities in the CoV; and question regarding the issuance of service permits to the employees of manufacturer suppliers.	
Caesars Virginia	Request that the definition of "adjusted gross receipts" exclude free play; suggestion that the requirement of an applicant to submit changes be for material changes only; suggested bond cap of \$5,000,000 (vs. \$50,000,000) and a suggested application fee of between \$5,000 and \$10,000 (vs. \$50,000); question as to the extension of an allocation fee to an acquiring party; suggestion that suspension/revocation of a license be restricted to material violations of law; suggestion that audits be coordinated to allow time for licensees to provide requisite information; suggested flexibility pertaining to capital investment plans; request to have contractors be local and M/WBE certified vendors (vs. those having to meet specified requirements); suggestions components to include in the voluntary exclusion program; the suggestion to allow for a state-wide voluntary exclusion list with checks tied to certain interactions; request clarification pertaining to surveillance system; request that removal of intoxicated persons be opened to include the facility hotel (vs. removal from entire facility); request that email address and SSN only be provided in certain transactions; requested flexibility pertaining to verification of player deposits/withdrawals; request clarification of possible typographical error in 11VAC5-90-110.U.9; request to reduce the retention period of unredeemed gaming tickets from two years to six months; suggestion of a second verifier of jackpots between \$5,000 and \$15,000; suggestion for expansion of post-count verification procedures and the extension for reporting variances from 72 hours to one week; request for confirmation pertaining to payout percentages; question as to how to meet the requirement re: all possible combinations being independent of one another; question as to whether a blanket request may be used for maximum bets on a single game event; request to allow for the insertion of cash or ticket into the electronic gaming device itself (vs. at a dealer-controlled electronic table); suggestion of a single compartment drop box (vs. 3-compartment); request to allow for bets under \$5.00; request to allow for hand shuffling as an option; and language tweaks.	
Rivers Portsmouth	Suggestions for re-wording of certain definitions; requests ability to waive application requirement;	

	suggestion to remove the term "all principals" since it may not make sense for non-gaming vendors; request for EFT to be used by players to redeem counter checks; suggestion that tokens, chips, etc. also be allowed for tipping; the addition of the U.S. Treasury and the Financial Crimes Enforcement Network to those entities to which the voluntary exclusion list may be provided; suggestion that the ability to confiscate winnings of anyone on the voluntary exclusion list; suggestion that records inspection time frames correlate to the operating hours of the accounting department; suggestion for flexibility in titles (e.g. replace CEO with Senior Operating Officer); request that the aggregate be increased to \$200,000 (from \$50,000) for multiple player checks and that the limit for personal checks be increased to \$10,000 (from \$5,000); request that the ability of a player to present a payroll or payout check be removed; clarification of 90-110-S.5.a requested; suggestion that a committee of employees with no incompatible functions be added to the list of those who can authorize a write off of returned checks; the suggested removal of specific sections of the annuity jackpot section; suggested removal of the term "poker rake chip"; suggested language re: plaques (to make less specific); suggested addition of language pertaining to the retirement of chips/tokens; request that envelopes to hold/transport dice and pai gow tiles be constructed with latches; suggested clarifying language re: dice and the request that sets of five dice used at craps/mini-craps tables be changed after 25 hours or less of use (vs. once every 24 hours); suggested change to frequency of poker cards deck replacement (when any card in the deck shows wear, damage, etc. vs. when in play for four months); suggested clarifying language for damaged/discard card decks; suggested overhaul of section pertaining to the inspection of cards; suggested clarifying language in section pertaining to dealer controlled electronic table game system procedures; suggestion to record coupon beginning and end serial numbers only for coupons with retail value in excess of \$20 (vs. all); the request that a change to the minimum/maximum wager be announced 10 minutes in advance of the change (vs. 30 minutes); and language tweaks.	
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Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
11VAC5-90-10		Definition added	<p>"Facility General Manager" means an individual who is:</p> <ol style="list-style-type: none"> 1. Based for employment purposes at a casino gaming facility; 2. The holder of a supplier permit as key manager; and 3. Ultimately responsible for the daily conduct of all operations at the facility. <p>"Facility general manager" includes any individual approved by the department who acts as the facility general manager's designee.</p>	Intent/rationale - To change facility's "chief executive officer" to "facility general manager" for clarity. Impact – minimal.
		Definition amended	<p>"Manufacturer" means</p> <ol style="list-style-type: none"> 1. A person: <ol style="list-style-type: none"> a. That is engaged in the business of designing, building, constructing, assembling, manufacturing, or distributing a central monitor and control system, slot machines, associated equipment or software, mechanical casino games, or the cabinet in which a slot machine or mechanical casino game is housed; b. That produces a product that is intended for sale, lease, or other assignment to the department or a licensee; and 	Intent/rationale - to correct one instance of an incorrect term erroneously left in prior stage. Impact – minimal.
11VAC5-90-90		Language added	<p>D. Notice of violation.</p> <ol style="list-style-type: none"> 5. Department staff shall provide a licensee or permit holder with notice of the violations that describes the statute, regulation, or directive allegedly violated, along with the investigative findings and director's recommendation for addressing the alleged violation. 	Intent/rationale – Industry request Impact – minimal

11VAC5-90-100	Language amended	<p><u>F. Central monitor and control system.</u></p> <p>2. In addition to complying with the minimum design standards of 11VAC5-90-150 V, the central monitor and control system shall:</p> <ul style="list-style-type: none"> a. Provide the ability to audit and account for casino revenues and distributions in real time; and b. Collect the following information from each electronically operated casino game, as applicable: <ul style="list-style-type: none"> (1) Cash in; (2) Cash out; (3) Points played; (4) Points won; (5) Gross gaming income; (6) Net gaming income; (7) The number of plays of the game; (8) The amounts paid to play the game wagered; 	Intent/rationale – industry request Impact – minimal
	Requirement removed	<p><u>G. Conduct of casino gaming; prohibited acts.</u></p> <p>7. No licensee, permit holder, or any person on the premises of a casino gaming establishment shall extend lines of credit or accept any credit card or other electronic fund transfer in payment for participation in any gaming operation.</p>	Intent/rationale – To allow prepaid electronic transfers into a player's gaming account, while maintaining the statutory bar on extension of credit to players Impact - minimal
	Allowance added	<p><u>K. Mandatory exclusion.</u></p> <p>3. The director may place on the mandatory exclusion list an individual who:</p> <ul style="list-style-type: none"> f. Engages in, or has a documented history of engaging in, disturbance of players or disruption of casino game play; 	Intent/rationale – industry request Impact – minimal.
11VAC-5-90-110	Term replaced	<p><u>D. Review of internal controls.</u></p> <p>2. The internal controls shall be accompanied by:</p> <ul style="list-style-type: none"> a. A certification by the facility operator's chief executive officer, facility general manager or chief legal officer that, to the best of their knowledge, the submitted 	Intent/rationale - to change facility's "chief executive officer" to "facility general manager" for clarity. See the addition of definition in VAC 5-90-10.

		internal controls conform to the requirements of the casino gaming law, this chapter, and any other law, regulation, or condition of the department related to casino gaming;	Impact - minimal
	Term replaced	<p><u>E. Standard financial and statistical reports.</u></p> <p>3. Unless otherwise specified by the department, reports to the department shall be signed by the:</p> <ul style="list-style-type: none"> a. Chief executive officer Facility general manager if the facility operator is a corporation; b. General partner if the facility operator is a partnership; c. Manager if the facility operator is a limited liability company; d. Chief executive officer Facility general manager or functional equivalent if the facility operator is any other form of business association; or 	Intent/rationale - to change facility's "chief executive officer" to "facility general manager" for clarity. See the addition of definition in VAC 5-90-10. Impact - minimal
	Term replaced	<p><u>H. Table of organization.</u></p> <p>3. At least 30 days before casino game operations begin, a facility operator shall submit to the department for review and written approval a table of organization depicting all direct and indirect reporting lines for:</p> <ul style="list-style-type: none"> a. The chief executive officer facility general manager required by this subsection; 5. A facility operator's table of organization shall include: e. A chief executive officer facility general manager; and 7. The director of surveillance and the director of internal audit required by this subsection shall be independent of the chief executive officer facility general manager regarding matters of policy, purpose, responsibility, and authority and shall report to an: 	Intent/rationale - to change facility's "chief executive officer" to "facility general manager" for clarity. See the addition of definition in VAC 5-90-10. Impact - minimal

		<p>9. The director of surveillance and the director of internal audit may report to the chief executive officer facility general manager with regard to daily operations.</p> <p>18. If there is a vacancy in the chief executive officer facility general manager position or any mandatory department director position required by this subsection, the following shall apply:</p>	
	Clarification added	<p><u>J. Surveillance department operating procedures</u></p> <p>3. A facility operator's surveillance department operating procedures shall, at a minimum, require:</p> <p>c. A surveillance incident log:</p> <p>(1) Maintained by monitor room employees in:</p> <p>(a) A book with bound numbered pages that cannot be readily removed; or</p> <p>(b) An electronic format equipped with software that prevents designed to provide evidentiary and leadership access controls on modification of an entry after it has been entered into the system; and</p>	Intent/rationale – Industry request; clarification Impact - minimal
	Allowance added	<p><u>L. Security department operating procedures.</u></p> <p>3. A facility operator's security department operating procedures shall, at a minimum, include:</p> <p>a. A security zone plan for the facility, employing fixed security posts and roving security officers designed to ensure:</p> <p>(1) The physical safety of employees of and invitees to the facility;</p> <p>(2) The safeguarding of assets;</p> <p>(3) Compliance with all applicable laws, regulations, and directives of the department, including department-approved internal controls and operating procedures;</p> <p>(4) That the following individuals are identified, prohibited from entering the facility, and, if</p>	Intent/rationale – Industry request Impact - minimal

		necessary, immediately removed from the facility gaming floor : (a) An intoxicated individual; (b) An individual who is mandatorily excluded; and (c) An individual who is voluntarily excluded;	
	Clarification added and Term replaced	<u>N. Internal audit department standards.</u> 2. A facility operator's internal audit department operating procedures and standards shall, at a minimum, require the internal audit department to: d. Timely report a deficiency in, or noncompliance with, the facility's internal controls to: (1) The audit committee (material deficiency only); (2) The chief executive officer facility general manager (material deficiency only);	Intent/rationale – (1) and (2) industry request (2) to change facility's "chief executive officer" to "facility general manager" for clarity. See the addition of definition in VAC 5-90-10. Impact - minimal
	Clarification added	<u>Q. Accounting controls for a cashiers' cage.</u> 1. A facility operator may only conduct gaming-related transactions with individuals at its cashiers' cage and any satellite cage during the hours of operation approved by the department for the facility.	Intent/rationale – Industry request Impact - minimal
	Requirements removed	<u>U. Player accounts.</u> 2. A facility operator may establish a player account to enable the player to take part in gaming, which shall be subject to the following requirements: a. The information necessary to initiate a player account shall be recorded and maintained for a period of five years and shall include at least: (1) Player's legal name; (2) Player's date of birth; (3) Player's residential address (other than a post office box) and mailing address if different; (4) Player's phone number; (5) Player's active email address; and	Intent/rationale – Industry request; additional information and procedures are not necessary or industry standard for opening a player account Impact - minimal

		<p>(6) Player's social security number (SSN) or equivalent for a foreign player who intends to place a wager within the Commonwealth of Virginia, such as a passport or taxpayer identification number. The player may enter only the last four digits of a SSN if other factors are sufficient to determine the entire nine digit SSN within a reasonable time;</p> <p>(7) Verification that the player is not prohibited by the gaming law or this chapter from participating in casino gaming; and.</p> <p>(8) Documentation of the government issued identification credentials entered or other methodology for remote, multi-source authentication, which may include third party and governmental databases as approved by the director.</p> <p>b. A facility operator shall record the player's acceptance of the terms and conditions and privacy policy and acknowledgment that the information provided is accurate and the player is prohibited from allowing any other person to access or use the player's account.</p> <p>c. If a facility operator determines that the information provided by a player to make a deposit or process a withdrawal is inaccurate or incapable of verification; fails to verify the identity of the player; or the player violates the policies and procedures of the facility operator, the facility operator shall, within 21 days, require the submission of additional information from the player that can be used to remedy any violation or failure to verify the identity or funds deposit or withdrawal information of the player. If such information is not provided or does not result in verification of the player's identity or deposit or withdrawal information, the facility operator shall:</p>	
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		<p>(1) Immediately suspend the player account and not allow the player to place wagers;</p> <p>(2) Submit any winnings attributable to the player to the director for distribution to the Commonwealth's Problem Gambling Treatment and Support Fund;</p> <p>(3) Refund the balance of deposits made to the account to the source of such deposit or by issuance of a check; and</p> <p>(4) Deactivate the account.</p> <p>d. A facility operator shall notify a player of the establishment of the player account by email, text message, or first-class mail. When a player account is created, a secure personal identification (e.g., a unique username and password) for the player authorized to use the player account shall be established that is reasonably designed to prevent unauthorized access to or use of the player account by any individual other than the player for whom the player account is established.</p> <p>e.c. A player may have only one player account for each facility operator.</p>	
	Allowance added	<p><u>7. Funds may be withdrawn from a player account through:</u></p> <p>b. Checks drawn on the facility operator's account, c. Cashier's check, wire transfer, or money order by the facility operator made payable to the player and issued directly or delivered to the player's address on file with the facility operator;</p>	Intent/rationale – Industry request Impact - minimal
	Allowance added and Term replaced	<p><u>V. Returned checks.</u></p> <p>3. After reasonable collection efforts, returned checks may be considered uncollectible for accounting purposes if the write off is authorized by the:</p> <p>a. Chief executive officer Facility general manager; and</p> <p>b. Director of finance or other designated key manager approved by the department; and</p>	Intent/rationale – (a) to change facility's "chief executive officer" to "facility general manager" for clarity. See the addition of definition in VAC 5-90-10.

		c. Committee of employees with no incompatible functions.	(c) Industry request Impact - minimal
	Requirement amended	Z. Gaming ticket. 2. A facility operator's internal controls shall: a. Include procedures and controls to maintain a record of all unredeemed gaming tickets for a minimum of two one years from the date of issuance of the gaming ticket unless a request to remove or relocate system records is submitted in writing and approved in writing by the department; and	Intent/rationale – Industry request Impact - minimal
	Term replaced	<u>AA. Promotional play.</u> 2. A facility operator may not issue to a player promotional play equaling or exceeding \$5,000 per gaming day without specific approval from the chief executive officer or the chief executive's designee facility general manager .	Intent/rationale - to change facility's "chief executive officer" to "facility general manager" for clarity. See the addition of definition in VAC 5-90-10. Impact - minimal
	Requirements removed	<u>CC. Jackpot payout.</u> 5. A facility operator's internal controls shall include: b. Unless a request for an Its alternate verification procedure for is submitted in writing and approved by the department, a requirement that if a jackpot or credit meter payout(s); is \$1,200 or more but less than \$15,000, a security department employee or a gaming operations department attendant or gaming operations department supervisor or above other than the preparer of the document sign the jackpot or credit meter payout document after verifying the payment of the jackpot or credit meter payout to the player and: (1) Winning combination of characters on the casino gaming machine and the amount of the jackpot; or	Intent/rationale – Allows for department review of casino-specific procedures while allowing for flexibility at each facility Impact - minimal

		(2) Number of accumulated credits;	
	Requirement removed	<p><u>HH. Collection of cash storage and table game drop boxes.</u></p> <p>5. A facility operator's internal controls shall:</p> <ul style="list-style-type: none"> a. Detail the actual procedures to be performed and documentation to be generated by drop team employees collecting cash storage and table game drop boxes: (1) In accordance with the drop schedule; and (2) On an emergency basis; and b. Require: <ul style="list-style-type: none"> (1) Cash storage and table game drop boxes to be transported directly to, and secured in: <ul style="list-style-type: none"> (a) The count room; or (b) A trolley storage area approved by the department; (2) The cash storage and table game drop box collection process to involve the participation of at least three employees, at least one of whom is an employee of the: <ul style="list-style-type: none"> (a) Security department; and (b) Accounting department; 	Intent/rationale – Industry request Impact - minimal
	Requirement amended	<p>9. A facility operator shall report in writing to the department within 72 hours seven days of the count:</p>	Intent/rationale – Industry request Impact - minimal
	Requirement removed	<p><u>KK. Player complaints.</u></p> <p>2. A facility operator that is unable to satisfactorily resolve a dispute with a player within three days of notice of the dispute shall notify the department of the dispute.</p>	Intent/rationale – Industry request Impact - minimal
11VAC5-90-120	Term replaced	<p><u>D. Gaming floor plan.</u></p> <p>4. If a gaming floor includes an outdoor area, in addition to the requirements of subdivision 3 of this subsection, an operator shall submit to the department a gaming floor plan that includes:</p> <p>b. An affidavit from the chief executive officer facility general manager attesting that the outdoor area and its intended use meet all</p>	Intent/rationale - to change facility's "chief executive officer" to "facility general manager" for clarity. See the addition of definition in VAC 5-90-10. Impact - minimal

			applicable local and state requirements; and	
11VAC5-90-150		Requirements removed	<p><u>C. Submission of equipment, a system, or software for testing and certification.</u></p> <p>7. Upon receipt of a certification report from an independent certified testing laboratory, but prior to a decision to approve a prototype or modification of equipment, a system, or software other than a slot machine, the department may require a trial period, as follows:</p> <p>a. A trial period shall be of a scope and duration the department deems appropriate to assess the operation of the prototype or modification in a live gaming environment;</p> <p>b. A trial period shall be subject to compliance by the manufacturer and the facility operator with specific terms and conditions required by the department, that may include:</p> <p>(1) Development and implementation of product specific accounting and internal controls; and</p> <p>(2) Periodic data reporting to the department;</p> <p>c. The department may authorize the receipt of compensation by a manufacturer during a trial period; and</p> <p>d. The department may order termination of a trial period at any time upon a determination by the department that:</p> <p>(1) A manufacturer or facility operator has not complied with the terms and conditions required by the department; or</p> <p>(2) Equipment, a system, or software is not performing as expected.</p> <p>8. Upon receipt of a certification report from an independent certified testing laboratory, the department may:</p> <p>a. Approve the prototype or modification, with or without specific conditions;</p>	<p>Intent/rationale – Deemed unnecessary because the department will not be involved in trial periods of equipment, systems or software</p> <p>Impact - minimal</p>

			b. Reject the prototype or modification; c. Require additional testing; or d. Require a trial period under subdivision 7 of this subsection. 9. Department approval of a prototype or modification does not constitute a guarantee of its safety or reliability.	
11VAC-90-170		Requirement amended	<u>11VAC5-90-170. Table games definitions and equipment.</u> B. Gaming chips and promotional chips. 5. Promotional nongaming chips. a. A facility operator may issue a promotional nongaming chip that: (1) Is unique from an approved gaming chip and promotional chip in size or color and appearance;	Intent/rationale – Industry request Impact - minimal
		Section amended in full	O. Cards. 1. Approval required. a. Prior to use, a facility operator shall submit to the department for approval any cards proposed by the facility for use in table games. b. The department shall review the proposed cards for: (1) The proposed use of the cards; (2) The suitability of the card design based on applicability for use on a designated game; (3) Size; (4) Deck composition; and (5) Any coloring specifications required for applicable game use. c. Cards and decks of cards may not be altered in any way from their department-approved form. 2. A facility operator may accept cards from a manufacturer only in sealed containers or boxes. 3. A facility operator shall submit to the department for approval its internal controls and procedures regarding receipt of card shipments. 4. A facility operator shall submit to the department for approval its internal controls and procedures	Intent/rationale – Allows for department review of casino-specific procedures while allowing for flexibility at each facility Impact - minimal

		<p>regarding the secure storage of cards.</p> <p>5. Management of cards.</p> <ul style="list-style-type: none">a. A facility operator shall submit to the department for approval its internal controls and procedures regarding the management of cards while on premises.b. A facility's internal controls and procedures regarding management of cards shall assure an auditable method of:(1) Receipt;(2) Secure handling;(3) Real-time inventory;(4) Authorized access for inventory or distribution; and(5) Distribution process. <p>6. Opening a new game.</p> <ul style="list-style-type: none">a. A facility operator shall submit to the department for approval its internal controls and procedures regarding the process of opening a new game.b. A facility operator's internal controls and procedures regarding the process of opening a new game shall include:(1) Delivery of the cards to the game;(2) Designated staff with authority levels;(3) Inspection of cards prior to play;(4) Hand and machine shuffled card games; and(5) Pre-shuffled card games <p>7. Closing a game.</p> <ul style="list-style-type: none">a. A facility operator shall submit to the department for approval its internal controls and procedures regarding the process of closing a game.b. A facility operator's internal controls and procedures regarding the process of closing a game shall include:(1) Removal of the cards from play; and(2) Transportation of the cards to used card storage.	
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		<p>b. Jokers may not be used by the facility operator in the play of any game unless authorized by the rules of the game.</p> <p>2. Except as otherwise approved by the department, each deck shall be composed of cards in four suits: diamonds, spades, clubs and hearts, and:</p> <p>a. Each suit shall be composed of 13 cards:</p> <p class="list-item-l1">(1) Ace;</p> <p class="list-item-l1">(2) King;</p> <p class="list-item-l1">(3) Queen;</p> <p class="list-item-l1">(4) Jack;</p> <p class="list-item-l1">(5) 10;</p> <p class="list-item-l1">(6) 9;</p> <p class="list-item-l1">(7) 8;</p> <p class="list-item-l1">(8) 7;</p> <p class="list-item-l1">(9) 6;</p> <p class="list-item-l1">(10) 5;</p> <p class="list-item-l1">(11) 4;</p> <p class="list-item-l1">(12) 3; and</p> <p class="list-item-l1">(13) 2; and</p> <p>b. If approved in advance by the department, the face of the ace, king, queen, jack, and 10 may contain an additional marking that will permit a dealer, prior to exposing the dealer's hole card at the game of blackjack, to determine if the value of the hole card gives the dealer a blackjack.</p> <p>3. The backs of each card in a deck shall:</p> <p>a. Be identical and may not contain any marking, symbol, or design that may enable an individual to know the identity of any element printed on the face of the card or that will in any way differentiate the back of the card from any other card in the deck;</p> <p>b. Be designed to diminish the ability of any individual to place concealed markings thereon; and</p> <p>c. Contain the name or logo of the facility operator using the cards, unless otherwise approved by the department.</p>	
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		<p>4. Each deck of cards shall be packaged separately or in a batch containing the number of decks selected by a facility operator for use in a particular table game, and:</p> <p>a. Each package of cards shall be sealed in a manner approved by the department to reveal evidence of any tampering with the package; and</p> <p>b. If multiple decks of cards are packaged and sealed in a batch, the package must have a label that indicates or contains a window that reveals an adequate description of the contents of the package, including the:</p> <p>(1) Name of the facility operator for which the cards were manufactured;</p> <p>(2) Colors of the backs of the cards;</p> <p>(3) Date that the cards were manufactured;</p> <p>(4) Total number of cards in the batch; and</p> <p>(5) Total number of decks in the batch.</p> <p>5. Individual decks of cards that are packaged and sealed in a multideck batch may not be separated from the batch for independent use at a table game.</p> <p>6. The cards used by a facility operator for poker shall be:</p> <p>a. Visually distinguishable from the cards used by that facility operator for other banked table game play; and</p> <p>b. Made of plastic.</p> <p>7. Each facility operator that offers the game of poker shall have and use on a daily basis at least four decks of cards with visually distinguishable card backings, and:</p> <p>a. Card backings may be distinguished by different logos, different colors, or different design patterns;</p>	
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		<p>b. The facility operator shall submit, as part of its internal controls, the procedure for distributing and rotating the four visually distinguishable decks of cards required for use in the game of poker.</p> <p>8. At a minimum, all poker cards that have been in play for four months shall be replaced.</p> <p>9. Cards may not be utilized in a facility unless a schematic depicting the face and backs of the cards, the colors, words, designs, and graphics has been submitted to and approved by the department.</p> <p>10. A facility operator may use RFID cards in table games if the department has reviewed and approved the facility operator's plan for use of RFID cards.</p> <p>11. A facility operator's request for department approval of the use of RFID cards shall include:</p> <ul style="list-style-type: none"> a. A detailed description of the RFID technology and devices that will be used at the facility; b. A detailed description of the RFID technology security features that will ensure the integrity of the table games where RFID cards are in use; c. A detailed description of how the RFID cards and related equipment will be used in the facility; and d. Any other information required by the department. 	
	Requirement amended	<p>P. Receipt, storage, inspection, and removal of cards.</p> <p>8. Envelopes and containers used to hold or transport cards shall be:</p> <ul style="list-style-type: none"> a. Transparent; b. Designed or constructed with seals so that any tampering is evident; and c. Submitted to and approved by the department. 	Intent/rationale – Industry request Impact - minimal
	Requirement amended	S. Receipt, storage, inspection, and removal of pai gow tiles.	Intent/rationale – Industry request

			<p>5. Envelopes and containers used to hold or transport tiles shall be:</p> <ul style="list-style-type: none"> a. Transparent; b. Designed or constructed with seals so that any tampering is evident; and c. Submitted to and approved by the department in advance. 	Impact - minimal
11VAC5-90-180		Requirement amended	<p>T. Game rules; notice; wagers.</p> <p>5. A facility operator may not accept a bet at a table game in an amount less than <u>\$5.00</u> \$1.00 or more than \$50,000.</p>	Intent/rationale – Industry request while conforming to the statutory requirement to set minimum and maximum wagers in regulation Impact - minimal
		Allowance added	<p>BB. Procedure for dealing cards from the hand.</p> <p>1. If the cards are dealt from a dealer's hand, the following requirements shall be met:</p> <ul style="list-style-type: none"> a. An automated shuffling device shall be used to shuffle the cards. b. After the procedures required under subsection Z of this section have been completed, the dealer shall place the stacked deck of cards in either of the dealer's hand. c. After the dealer has chosen the hand in which to hold the cards, the dealer shall continue to use that hand while holding the cards during that round of play. d. The cards held by the dealer shall be kept over the table inventory container and in front of the dealer at all times. e. Before dealing any cards, the dealer shall: <ul style="list-style-type: none"> (1) Announce "no more bets;" and (2) If the progressive payout wager is being offered, use the progressive table game system to prevent the placement of any additional progressive payout wagers. f. If any progressive payout wagers have been made, the dealer shall: <ul style="list-style-type: none"> (1) On the layout in front of the table inventory container, collect 	Intent/Rationale – to allow a dealer to hand-shuffle cards Impact - minimal

			the wagers in accordance with the standard rules; (2) Verify that the number of value chips wagered equals the number of progressive payout wagers accepted by the progressive table game system; and (3) Place the value chips into the table inventory container.	
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Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. *Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
11VAC5-90-10		Definitions	Definitions added and relocated for clarity and better flow. One definition corrected.
11VAC5-90-20		Unclaimed jackpots	Definition relocated to 90-10.
11VAC5-90-30		Waiver request	Capitalization corrections only.
11VAC5-90-40		Licenses and permits generally	Capitalization corrections; rewording of certain sections for clarity; reference to "Commonwealth of Virginia" changed to "department policies and directives" to align with language in statute.
11VAC5-90-50		Investigations	Grammatical changes; insertion of requirement that parent organization will guarantee, by statement, the performance/compliance of its subsidiary for the term of the subsidiary's license/permit; added "foreign equivalent" in addition to the SEC as an authorized entity for ownership reporting.
11VAC5-90-60		Applications for an issuance of facility operator's license	Qualified when a preferred casino may deviate from its plan submitted during the certification process; added language to include reference to a temporary casino gaming facility with respect to capital investment; addition of a requirement that any casino employee interacting with the public complete a Department-approved course in recognizing/reporting human trafficking; capitalization corrections; insertion of references to on-premises mobile casino gaming where applicable; the addition of, with respect to application evaluation, the substantiation of an applicants' financial responsibility and a plan for seeking equity investment from and the purchasing of goods and services from minority individuals/minority-owned businesses; section title change for clarity; added the requirement that a casino gaming facility operator is not

			prohibited from operating a sports betting facility in the casino establishment; grammatical changes;
11VAC5-90-70		Applications for and issuance of supplier permits	Clarification of language to credit \$50,000 background investigation fee for an applicant whose fee has been submitted on his/her behalf pursuant to a related or contemporaneously filed application; grammatical and capitalization corrections.
11VAC5-90-80		Application for and issuance of service permits	Clarification of language to credit the \$50,000 background investigation fee for an applicant whose fee has been submitted on his/her behalf pursuant to a related or contemporaneously filed application; grammatical and capitalization corrections.
11VAC5-90-90		Enforcement	Grammatical, spelling, and capitalization corrections; requirement change for the submission of a revised corrective action plan to "within five days" from "immediately"; with respect to a settlement and its inclusion of corrective action elements, the changing of the word "shall" to "may"; clarification added pertaining to notice of violation to include investigative findings.
11VAC5-90-100		General facility operator requirements	Capitalization corrections and grammatical corrections; "services" corrected to "goods and services"; change of "patron" to "player" to be consistent with definitions; change of when a junket final report must be prepared from "within seven days of completion of the junket" to "at the beginning of the month following..."; change to when the junket final report must be submitted to the department from "upon request" to "the 15th day of the month following..."; addition of the requirement that the central monitor and control system shall comply with the minimum design standards of 11VAC90-150 (in addition to those listed in this section); change of reference from "terminal" income/revenues to "gaming" income/revenues; addition of "tickets or" when referencing electronic cards; the addition of converting to cash as an approved use of tokens, chips, and electronic tickets and cards; broadened the statement that a facility operator must ensure that intoxicated individuals and those under 21 cannot engage in (or be in an area where the following takes place) sports betting and cannot participate in on-premises mobile casino gaming; clarification that the tax that is to be imposed (58.1-4124) shall not include adjusted gross receipts from sports betting; the addition of the requirement that a tax that shall be imposed on sports betting adjusted gross revenue (58.1-4307); industry-requested word change made (from "paid to play the game" to "wagered").
11VAC5-90-110		Casino gaming facility minimum internal control standards title changed to Casino gaming facility internal control standards	Change of section title to reflect more typical industry usage; relocation of certain definitions to 90-10; change from "facility operator's slot machine" to "casino" with respect to tracking systems as applicable; change from "version" to "edition" for clarity as applicable; insertion of statement that a facility operator's CEO or CLO certify to the "best of their knowledge" the conformity of the internal controls to the requirements of the law/chapter/dept policy/directives; the addition of the requirement that mandatory departments and supervisors are responsible for managing the internal audit function and internal audit employees based at the facility; the moving of the player tracking system from the semiannual audit list to the annual audit list; change limit from \$25,000 to \$50,000 for the total checks that can be received during a gaming day; "customer deposit account" renamed to "player account" and related

			section re-titled; clarification added to specify when it is not a violation of the section to use/convert cash, credit cards, debit cards, and/or electronic transfers; re-organization/re-structure of “Gaming Ticket” section; the addition of requirements that a facility operator fully and accurately disclose or link to a site that discloses, the material terms of promotional play offers, the time frame for delaying implementation of the offer and the requirements for the internal controls related to the offer; re-structure of the section titled “Ticket redemption unit” to more clearly explain how and where a gaming ticket of \$5,000 or more shall be redeemed; change in the requirement of when the jackpot or credit meter payout document must be signed from “less than \$5,000” to “less than \$10,000”; addition of language advising that a facility operator must establish a process for players to file a complaint, how the operator will respond to the complaint, the required timeline and the retention period of the complaint; allowance of prepaid electronic transfers into a player’s gaming account (while still maintaining the statutory bar on extension of credit to players); addition of player disturbance as an acceptable reason to place an individual on the mandatory exclusion list; clarification provided regarding the software design required for surveillance department operating procedures; allowance added to remove an intoxicated player from only the gaming floor (instead of the entire facility) to allow for player’s return to a hotel room, if available; replacement of “chief executive officer” with “facility general manager”; clarification that internal audit reports to the audit committee and the facility general manager include material deficiencies only; the specification that only gaming-related transactions be conducted with individuals at its cashiers’ cage; the removal of certain documentation requirements from the list of those required to open a player account (i.e. other than player-specific information, he/she must acknowledge the terms and conditions and pass verification that he/she is not prohibited to open an account (only one per facility operator), but no other requirements); the allowance of a facility operator’s account as an acceptable means of funds withdrawal from a player’s account; the addition of a committee of employees with no incompatible functions added as a party authorized to write off returned checks; the reduction from two years to one year for the maintaining of unredeemed gaming tickets; the allowance of flexibility at each facility with regard to alternate verification procedure for jackpot or credit meter payouts while allowing for department review; the clarification of the language pertaining to the cash storage and table game drop box collection process to clarify that at least one of the three employees must be from the security department; the allowance of a facility operator to report changes in internal controls to the department within seven days instead of 72 hours; and the removal of the word “satisfactorily” with respect to the resolution of player disputes as it is subjective.
11VAC5-90-120		Casino gaming facility standards	Change of the term “patron” to “player” to be consistent with definitions.
11VAC5-90-130		On-premises mobile casino gaming	Grammatical and capitalization corrections; the addition of requirements that a facility operator must meet prior to and

			when on-premises mobile casino gaming platform is used; the addition of geolocation requirements; the expanding of the “Player accounts and limitations” section; clarification regarding the placement of the “call 1-800-GAMBLER” language and the responsible gambling logo; the addition of language pertaining to when self-exclude and “cooling off period” messages are generated; addition of language pertaining to player suspension periods and how, when, and what the facility operator shall post related statements, messages, terms and conditions.
11VAC5-90-140		Transportation and testing of casino gaming machines and equipment title changed to Transportation and testing of casino gaming machines and table game equipment	Change of term from “mechanical casino gaming device” to “mechanical casino gaming machine” as applicable.
11VAC5-90-150		Slot machines	Relocation of certain definitions to 90-10 for clarity and because they may be used in other sections; change from “facility operator’s slot machine” to “casino” with respect to tracking systems; grammatical and capitalization corrections; the “average payout percentage” has been changed to “theoretical payout percentage” and the range has been changed from “is 89% or more and does not exceed 94%” to “between 84% and 100%”; clarification of when a slot machine may offer a winning combination where the odds exceed 50 million to one to now be “the top advertised” winning combination where the odds...; addition of the fact that “unless disclosed to the player” all possible combinations in a game cycle are independent of each other; the term “meter” changed to “cumulative meter” and specific requirements added regarding digit length, credit units, and value meters; the addition that slot machines shall continuously and automatically increment; technical changes to slot machines meter requirements for clarity and simplification; “cashable gaming ticket” changed to “gaming ticket” for consistency with defined terms; the addition of the ability for a manufacturer to enable a slot machine for tournament play with prior written approval of the department; the inclusion of language pertaining to when the tower light shall indicate the default denomination for multi-dimensional slot machines (the lowest configuration); the inclusion that play history is retrievable using an external key /secure method not available to a player; clarification of tilt mode; clarification of “ticket redemption unit” to include “ancillary system or application” and that it be configured to redeem a gaming ticket of less than \$5,000; removal of the word “cashable” where applicable; removal of the requirements pertaining to trial periods of equipment, systems, or software due to the department not being involved.
11VAC5-90-160		Mechanical casino games	Grammatical and capitalization corrections; change of term from “facility operator’s slot” to “casino” where applicable;

11VAC5-90-170		Table games definitions and equipment	Grammatical and capitalization corrections; “patron” changed to “player” where applicable; changed minimum replacement frequency of poker cards from three months to four months; specific language added to require an automated shuffling device to meet the testing requirements for a random number generator; change of term “dealer-controlled electronic” to “electronic” where applicable; the addition of the word “system” to “electronic table game” where applicable; language added to require that each table game position used in an electronic table game shall meet the requirements for a slot machine; requirement added that a dealer controlled electronic table game shall have no more than 50 table game positions in operation per dealer; the clarification of the language pertaining to promotional nongaming chips; the editing of the complete cards section to broaden the requirements in order to allow for flexibility at each facility while maintaining department review; the removal of the requirement that envelopes and containers used to hold or transport cards and pai gow tiles contain seals, specifically, while requiring that they are designed so that tampering is evident;
11VAC5-90-180		Table games procedures	Grammatical and capitalization corrections; “version” changed to “edition” where applicable; the reduction of the minimum bet at a table game from \$5.00 to \$1.00 in order to accommodate industry request while conforming to the statutory requirement (to set minimum/maximum wagers in regulation); the allowance of a dealer to hand-shuffle cards.
	11VAC5-90-190	Sports betting	All new section to address new statutory provisions allowing for on-site sports betting at casinos.
	11VAC5-90-200	Information security system	All new section requiring casinos to have a comprehensive information security system. This language is modeled after similar language in the Lottery’s sports betting regulations (11VAC5-70-310).
	11VAC5-90-210	System integrity and security assessment	All new section requiring casinos to engage an independent certified testing laboratory to perform an annual system integrity and security assessment. This language is modeled after similar language in the Lottery’s sports betting regulations (11VAC5-70-200).