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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Virginia Lottery
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	__11__ VAC_5__-__90__
<b>VAC Chapter title(s)</b>	Casino Gaming
<b>Action title</b>	Promulgation of casino gaming regulations
<b>Date this document prepared</b>	August 3, 2021

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 proposed permanent 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,
- procedures for payment of taxes, fees, and penalties
- requirements and controls for sports betting when it occurs in a casino
- information and other system integrity requirements

## 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.*

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N/A

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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**The Lottery Board was directed during the 2020 General Assembly to adopt regulations specifying requirements for licensure of casino gaming operators and the conduct of casino gaming within 280 days of the enactment of Virginia Code § 58.1-4100 et seq. (Chapter 1248 of the 2020 Acts of Assembly). The Emergency Regulations are effective from 3/11/2021 – 9/10/2022.**

## 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.*

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**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.*

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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 30-day comment period associated with the Emergency 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 public comment period, the proposed permanent regulations differ from the Emergency Regulations in the following ways:

- (1) certain content that may have been unclear or inconsistent has been amended and/or relocated;
- (2) pertinent and applicable edits have been made to include:
  - (a) the lowering of the minimum theoretical percentage payout to 84% and raising the maximum payout to 100%; and
  - (b) clarification of technical concerns about slot machine functions and reports; and
- (3) amendments to the law made during the 2021 legislative session have been incorporated.

## 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 proposed amendments is to replace Emergency Regulations with Permanent Regulations.

### Requirements More Restrictive than Federal

*Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.*

N/A

### Agencies, Localities, and Other Entities Particularly Affected

*Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, 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. Refer to Economic Impact section.**

Other Entities Particularly Affected

**Federal Bureau of Investigation**

### Economic Impact

*Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.*

**Impact on State Agencies**

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> <li>a) fund source / fund detail;</li> <li>b) delineation of one-time versus on-going expenditures; and</li> <li>c) whether any costs or revenue loss can be absorbed within existing resources</li> </ul>	<p><b>The Virginia Lottery will collect application and licensure fees commensurate with the costs of the Casino Gaming regulatory program activities. Timing of costs, and application fees, will depend on the successful completion of applications, the approval process, and the construction and startup of the facilities themselves.</b></p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p><b>Using estimates from the 2019 JLARC report on Gaming in the Commonwealth, the following present the estimated annual economic impacts from casino operations after fully operational, based on the tax and allocation structures in the enabling statutes. The Commonwealth is expected to receive approximately \$122 million annually for the Gaming Proceeds Fund, which is net of the allocations to other state and local recipients. This Fund will be appropriated by the General Assembly for programs established to address public school construction, renovations, or upgrades.</b></p> <p><b>The Virginia Department of Behavioral Health, through oversight of the Problem Gambling Treatment Fund, is expected to receive approximately \$1.5 million in tax allocation from the casino tax collections annually.</b></p> <p><b>The Virginia Department of Social Services, through guiding the Board of Trustees administering the Family and Children’s Trust Fund, is expected to receive approximately \$0.37 million in tax allocation from the casino tax collections annually.</b></p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p><b>Regulatory framework for new statutory programs.</b></p>

**Impact on Localities**

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p><b>Bristol: \$8.4 million in annual allocated casino taxes</b>  <b>Danville: \$12.4 million in annual allocated casino taxes</b>  <b>Norfolk: \$11.1 million in annual allocated casino taxes</b>  <b>Portsmouth: \$10.0 million in annual allocated casino taxes</b>  <b>Richmond (if approved): \$18.8 million in annual casino taxes</b></p>
<p>Benefits the regulatory change is designed to produce.</p>	<p><b>Economic Development and tax revenues</b></p>

**Impact on Other Entities**

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	<b>Localities are required by statute to ensure minimum local investment by the localities' preferred casino gaming operators</b>
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	<b>Unknown</b>
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	<b>Unknown</b>
Benefits the regulatory change is designed to produce.	<b>Economic development</b>

### Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

**The Code of Virginia gives the Virginia Lottery oversight over these regulations and amending them is the least burdensome method of accomplishing this purpose. Therefore, no alternative action was considered.**

### Regulatory Flexibility Analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.*

The Code of Virginia gives the Virginia Lottery oversight over these regulations and amending them is the least burdensome method of accomplishing this purpose. Therefore, no alternative to the regulatory action was considered.

**Periodic Review and  
Small Business Impact Review Report of Findings**

*If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.*

*In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

**The regulatory action does not change recordkeeping or reporting requirements for small businesses and does not overlap, duplicate, or conflict with federal law.**

**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.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Anonymous	Concerns over the cost of bonds and background fees, perceived conflicts between sections, and concerns over slot machine transportation requirements.	Evaluated and incorporated into or edited the proposed permanent regs if applicable, advisable, and legally permitted.
Robert Wood, IGT	Concerns over the average payout percentage for slot machines.	
Mike Hankin, Aristocrat Technologies, Inc.	Concerns over bonds and background investigations; typos and language tweaks throughout, technical questions about slot machine requirements and concerns over the average payout percentage for slot machines.	
Preferred Casino Gaming Operators (Pamunkey	Language tweaks, request for changes in vendor and supplier	

Gaming Authority, Rivers Casino Portsmouth, Caesars Entertainment, Hard Rock Hotel & Casino Bristol	fees, and concerns over the average payout percentage for slot machines.	
Adam	Support for the average payout percentage for slot machines, noting the minimum rate was higher than those in Maryland and Delaware, questions about adding specific regulations for blackjack and roulette.	
Caesars Entertainment	Fairly technical suggestions related to slot machines, electronic table games, internal controls, and reporting requirements, tweaking language, and concerns over the average payout percentage for slot machines.	
GLI	Moving, revising, and adding definitions, tweaks to internal controls and transportation requirements, questions related to the average payout percentage for slot machines, and suggestions for on-premises casino mobile casino gaming, sports betting facilities, and systems security.	

**Public Participation**

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.*

**The Virginia Lottery is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.**

**Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>.**

**Comments may also be submitted by mail or email to:**  
**Amy Roper**  
**Virginia Lottery**  
**600 E. Main Street**  
**Richmond VA 23219**  
**(804) 692-7133 phone**  
**[aroper@valottery.com](mailto:aroper@valottery.com)**

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

### Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. 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. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

**Table 1: Changes to Existing VAC Chapter(s)**

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

**Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace**

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements
11VAC5-90	Promulgate new regulation governing casino gaming	Virginia Code § 58.1-4102(2); § 58.1-4101.A	
11VAC5-90-10	Definitions	N/A	<p><b>Intent/rationale</b> – to define words/phrases applicable to all sections.</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit holders.</p>
11VAC5-90-20	Unclaimed Jackpots	§37.2-314.1	<p><b>Intent/rationale</b> – to define “unclaimed jackpot”, to state the 180-day jackpot winner claim requirement and to explain that unclaimed funds will be deposited to the</p>

			<p>Problem Gambling Treatment and Support Fund.</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit holders.</p>
11VAC5-90-30	Waiver Requests	N/A	<p><b>Intent/rationale</b> – to explain the process for the submission and review of a regulation waiver request.</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-40	Licenses and Permits Generally	<p>Article 1, Chapter 40 (§ 58.1-4007)</p> <p>Virginia Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2</p> <p>§ 58.1-4105</p> <p>11 VAC 5-90-30</p>	<p><b>Intent/rationale</b> – to explain the application, review, Informal Fact- Finding Conference, hearing, and issuance/denial processes pertaining to and requirements of casino gaming licenses/permits/identification cards.</p> <p>Specifically, to advise of:</p> <ul style="list-style-type: none"> <li>• a 5 year waiting period after a denial/non-renewal before the submitter may re-apply</li> <li>• bond/fee specifications (not to exceed \$50 million for a facility operator or supplier and not to exceed \$100,000 for a service permit holder), and</li> <li>• identification card fees (\$20 for temporary, \$40 for replacement).</li> </ul> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-50	Investigations	Article 1, Chapter 14 ( <a href="#">§ 13.1-1201</a> )	<p><b>Intent/rationale</b> – to provide specific details pertaining to information/disclosures required by applicants and personal and background investigations (to include criminal history records check and fingerprinting) of:</p> <ul style="list-style-type: none"> <li>• an individual applying for a license/permit,</li> <li>• every individual who is an officer/director/principal of a licensee or applicant for a license,</li> <li>• all individual security personnel of any licensee, and</li> <li>• all permit holders and officers/directors/principals/employees of permit holders whose duties relate to gaming operations in Virginia.</li> </ul> <p>To advise of:</p> <ul style="list-style-type: none"> <li>• the non-refundable application and background investigation fee of \$50,000, per principal, for preferred</li> </ul>

			<p>casino gaming operator submitting a facility operator’s license;</p> <ul style="list-style-type: none"> <li>the non-refundable application fee of \$5,000 and the non-refundable background investigation fee of \$50,000, per principal, for supplier permit applicants;</li> <li>the nonrefundable fee of \$500 for the administrative costs of personal/background checks and permit issuance of a service permit applicant;</li> <li>the variable/dependent administrative costs association with the conducting of personal/background investigations for which the applicant is responsible;</li> <li>the mandatory processing fee required by the Federal Bureau of Investigation (national criminal history records check); and</li> <li>the mandatory processing fee required by Interpol (international criminal history records check for non-United States citizens).</li> </ul> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-60	Applications for and Issuance of Facility Operator’s License	<p>§58.1-4107F and §58.1-4109</p> <p>§ 58.1-4111</p>	<p><b>Intent/rationale</b> – to provide guidance as to who may apply for a facility operator’s license;</p> <ul style="list-style-type: none"> <li>the application, evaluation and license issuance/denial (to include substantiation that the applicant has made (or will make prior to license issuance) a \$300 million capital investment in the facility and possesses an equity interest of at least 20% in the facility);</li> <li>the necessary and appropriate certification pertaining to an applicant that is a Virginia Indian Tribe;</li> <li>facilities, property, tax, infrastructure, site and jurisdictional certifications and substantiations;</li> <li>the use of a temporary facility; and</li> <li>that a facility operator’s license continues for ten years from the date of issuance.</li> </ul> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-70	Applications for and Issuance of Supplier Permits	§ 58.1-4114	<p><b>Intent/rationale</b> – to:</p> <ul style="list-style-type: none"> <li>list the four types of suppliers (contractor, key manager,</li> </ul>

			<p>manufacturer, and slot machine management system provider);</p> <ul style="list-style-type: none"> <li>• advise that the required fees for a supplier permit (amounts listed in earlier section) are required for the applicant itself, its principals, if applicable, and all known key managers;</li> <li>• instruct that after successful background investigation and prior to permit issuance, a \$5,000 annual permit fee is required of the applicant;</li> <li>• provide the application review and permit issuance process/requirements (to include that a supplier permit may be temporary or conditional and expires 60 days after the date of issuance (which may be extended for one period of 60 days);</li> <li>• advise that the annual permit fee must be submitted before the start of the next annual term; and</li> <li>• advise that every five years a permit holder shall submit a renewal application (six to three months before the expiration of the permit term) and pay any associated fees.</li> </ul> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-80	Applications for and Issuance of Service Permits	§ 58.1-4118	<p><b>Intent/rationale</b> – to:</p> <ul style="list-style-type: none"> <li>• list the four categories of service permits (gaming employee, non-gaming employee, vendor-major, and vendor-minor (the latter being the two types of concessionaires for which service permits are required under 58.1-4118));</li> <li>• advise that the required fees for a service permit (amounts listed in earlier section) are required for the applicant itself, any employees who require a service permit under this chapter and, if applicable, all principals and managers;</li> <li>• provide the application review and permit issuance process/requirements (to include that a supplier permit may be temporary or conditional and expires 60 days after the date of issuance (which may be extended for one period of 60 days)); and</li> <li>• advise that every five years a permit holder shall submit a renewal</li> </ul>

			<p>application (three to two months before the expiration of the permit term) and pay any associated fees.</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-90	Enforcement	<p>§§ 58.1-4101; 58.1-4102; 58.1-4116; 58.1-4121; § 2.2-3700 et seq.</p>	<p><b>Intent/rationale</b> – to advise:</p> <ul style="list-style-type: none"> <li>• that a licensee or permit holder is subject to and shall not interfere with, unannounced inspections, without a warrant, in order to evaluate and verify the entity’s compliance with the casino gaming law and that the premises where casino gaming is conducted, where casino games, table games, equipment, monitoring systems, etc. are designed, built, sold, etc. may be inspected;</li> <li>• that the seizing/impounding/assuming of physical control of the aforementioned games/equipment/systems as well as books/records/ledgers, etc. may occur for the purposes of examination and inspection;</li> <li>• that, during an inspection, a licensee or permit holder and their employees, agents and representatives shall make records available, and/or authorize persons to provide records, to the inspector(s);</li> <li>• that a written report of an unannounced inspection shall be considered a public record to the extent allowable under the Virginia Freedom of Information Act ((§ 2.2-3700 et seq. of the Code of Virginia); and</li> <li>• to adhere to any corrective action plan.</li> </ul> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>

<p>11VAC5-90-100</p>	<p>General Facility Operator Requirements</p>	<p>§§ 58.1-4108-4113; § 58.1-4122; § 58.1-4105</p>	<p><b>Intent/rationale</b> – 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 by:</p> <ul style="list-style-type: none"> <li>• ensuring that applications are complete prior to evaluation and that they comply with the minimum standards provided in the gaming law and this chapter;</li> <li>• that the Department, Board and Director are advised, and advise others, as applicable, of their responsibilities with respect to gaming law and to impose fines or penalties (not to exceed \$1,000,000), in proceedings commenced pursuant to 58.1-4105, upon any person determined to have violated any of the provisions of Chapter 41 for regulations promulgate by the Board.</li> </ul> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
<p>11VAC5-90-110</p>	<p>Casino Gaming Facility Internal Control Standards</p>	<p>§§ 58.1-4101, 58.1-4102; 58.1-4108; 58.1-4113; and 58.1-4114</p>	<p><b>Intent/rationale</b> – to:</p> <ul style="list-style-type: none"> <li>• define terms that have specific meaning to this section;</li> <li>• advise that a facility operator shall maintain complete, accurate, and legible records of all transactions pertaining to the revenue and expenses of a facility, using a double entry system of accounting recorded on a basis consistent with generally accepted accounting principles in the United States; advise that those records should identify for each casino game on a week-to-date, month-to-date, and year-to-date basis the handle, payout, win amount, win percentage, and average payout percentage;</li> <li>• advise that a facility operator shall develop a written description of its administrative and accounting procedures to include the system of internal controls (meeting the minimum requirements of this section) over casino gaming operations and that these internal controls shall be submitted for review and written approval 60 days before casino</li> </ul>

			<p>gaming operations are to commence; and</p> <ul style="list-style-type: none"> <li>advise that no later than 90 days after the end of its fiscal year, a facility operator shall submit a copy of its audited financial statements and any management letter/report prepared with regard to its financial statements by its independent certified public accountant and, if the facility operator or any of its affiliates are publicly held, a copy of any report required to be filed with the Securities and Exchange Department and specific forms listed in this section.</li> </ul> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-120	Casino Gaming Facility Standards	§§ 58.1-4101; 58.1-4102; 58.1-4108; 58.1-4113; and 58.1-4114	<p><b>Intent/rationale</b> – to establish the standards for hours of operation, facility design standards (to include wiring, power backup, equipment storage, locks, surveillance, alarm and recording systems, etc.) and a gaming floor plan (to be prepared by Commonwealth of Virginia-certified and licensed architect at 1/8-inch scale with specific and required notations, that must be submitted at least 60 days before gaming operations are to commence.</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-130	On-premises Mobile Casino Gaming	§§ 58.1-4133 – 58.1-4141	<p><b>Intent/rationale</b> – to advise how facility operators shall offer on-premises mobile casino gaming to include requirements pertaining to the location of the area within the facility and the security, design, wagering, and responsible gaming requirements.</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-140	Transportation and Testing of Gaming Machines and Equipment	<a href="#">15 U.S.C. §§1171-1178</a> , commonly known as the Johnson Act	<p><b>Intent/rationale</b> – to advise that the transporting of a slot machine, mechanical casino gaming device or table game equipment shall comply with applicable provisions of the Johnson Act and to list the requirements for transporting, storage, registration, and testing the functionality of these types of gaming equipment.</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>

11VAC5-90-150	Slot Machines	§§ 58.1-4101; 58.1-4102; 58.1-4114; 58.1-4122	<p><b>Intent/rationale</b> - to define terms that have specific meaning to this section and to establish the requirements for comprehensive testing and certification by an independent laboratory of slot machines and for approving slot machines and their related equipment, systems, or software.</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-160	Mechanical Casino Games	§§ 58.1-4101; 58.1-4102	<p><b>Intent/rationale</b> – to specify the testing and certification requirements for mechanical casino games and their related equipment,</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-170	Table Games Definitions and Equipment	§§ 58.1-4101; 58.1-4102; 58.1-4114; 58.1-4122	<p><b>Intent/rationale</b> – to define terms specific to this section, to specify criteria pertaining to gaming equipment (chips, dice, roulette wheels, etc.) to include required physical and play elements, and to establish the processes and procedures for the receipt, storage, inspection, removal, and destruction of this gaming equipment.</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-180	Table Games Procedures	§§ 58.1-4101; 58.1-4102; 58.1-4114; 58.1-4122	<p><b>Intent/rationale</b> – to specify the types of personnel a facility operator may use to operate table games, the minimum staffing requirements for operation of table games, the conduct of table inventory, coupon redemption, the opening and closing of a table game, and the completion and distribution of required documentation,</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-190	Allows for on-site sports betting at casinos.		<p><b>Intent/rationale</b> – to specify the requirements for on-site sports betting, which is newly-allowed by Chapter 7 as enacted by Virginia General Assembly during 2021 Special Session I</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>

11VAC5-90-200	Requires casinos to have a comprehensive information security system.	11VAC5-70-310	<p><b>Intent/rationale</b> – parallels requirements at 11VAC5-70-310 (sports betting regulations) to develop systems to protect the personal information of casino players.</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>
11VAC5-90-210	Requires casinos to engage an independent certified testing laboratory to perform an annual system integrity and security assessment.	11VAC5-70-200	<p><b>Intent/rationale</b> – parallels requirements at 11VAC5-70-200 (sports betting regulations) to require independent review of a casino’s systems integrity and security.</p> <p><b>Impact</b> – minimal – legislation was mandated and the regulation offers necessary guidance to casino license/permit applicants/holders.</p>

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

**Table 3: Changes to the Emergency Regulation**

Emergency chapter-section number	New chapter-section number, if applicable	Current emergency requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage
11VAC5-90-10		Definitions	Definitions added and relocated for clarity and better flow.
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".
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 15 <sup>th</sup> 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).
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;
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.
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.
11VAC5-90-180		Table games procedures	Grammatical and capitalization corrections; “version” changed to “edition” where applicable;
	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).