



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Mark R. Herring
Attorney General

202 North Ninth Street
Richmond, Virginia 23219
(804) 786-2071
Fax (804) 786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

TO: Mark Flynn
Director, Department of Aviation

FROM: Julie M. Whitlock
Senior Assistant Attorney General/Section Chief
Transportation Section

DATE: May 13, 2021

SUBJECT: Amendment to Regulations Governing the Licensing and Operation of Airports and Aircraft Obstructions to Airspace in the Commonwealth of Virginia, 24VAC5-20

At your request, I have reviewed the Department of Aviation's proposed regulations found in 24VAC5-20-10 and 24VAC5-20-420, to address take-off and landing unmanned aircraft on property owned by a locality or other political subdivision of the Commonwealth. This memorandum addresses legal matters only and is not intended as a comment for or against the merits of the proposed regulations.

Chapter 345 of the 2020 Acts of Assembly¹ and Va. Code § 15.2-926.3 direct the Department of Aviation to develop rules and regulations specific to take-offs and landings of unmanned aircraft on property owned by a political subdivision.

In my capacity as legal counsel for the Department of Aviation, it is my legal opinion that the Department has the authority to adopt the regulations. Further, pursuant to Va. Code § 2.2-4011(B), the Department may adopt the regulations on an emergency basis inasmuch as Virginia statutory law requires that the regulations be effective in 280 days or less from enactment and the regulation is not exempt under the provisions of subdivision A 4 of § 2.2-4006.

¹ Pursuant to the third enactment clause of Chapter 345 (effective July 1, 2020), the Department was directed to develop rules and regulations specific to take-offs and landings of unmanned aircraft on property owned by a political subdivision. The rules and regulations were to be developed by January 1, 2021; however, promulgation of the rules and regulations was delayed due to the COVID-19 pandemic