



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

Mark R. Herring
Attorney General

MEMORANDUM

TO: Col. W.S. Flaherty, Superintendent
Department of State Police

FROM: Michael A. Jagels
Senior Assistant Attorney General

DATE: October 25, 2016

SUBJECT: Regulations Regarding Reporting and Return of Firearms Confiscated or Recovered by Law-Enforcement Agencies – 19 VAC 30-115.

In response to a request from the Department of State Police, I have reviewed the proposed regulations, 19 VAC 30-115, relating to the Reporting and Return of Firearms Confiscated or Recovered by Law-Enforcement Agencies. The need for these regulations was created when Chapter 214 Acts of Assembly 2016 amended § 52-25.1 of the Code of Virginia was enacted, eliminating the Virginia Firearms Clearinghouse and requiring Virginia law enforcement agencies to report firearms confiscated or recovered by the agency directly to the ATF National Tracing Center. These regulations provide agencies with the information necessary for them to comply with § 52-25.1.

On Sept 19, 2016, the Virginia State Police repealed the provisions of 19 VAC 30-110, Regulations Governing the Creation of a Criminal Firearms Clearinghouse and adopted 19 VAC 30-115, Reporting and Return of Firearms Confiscated or Recovered by Law-Enforcement Agencies, to comply with changes to §52-25.1 enacted by the Virginia General Assembly.

Upon review of 19 VAC 30-115, I find the proposed regulation to be constitutional, consistent with the statutory authority granted by Virginia Code §§ 9.1-102(1) of the Code of Virginia, and in conformity with existing statutory provisions. These changes to the regulations are made pursuant to a customary police function of the Department and are therefore exempted from the requirements of the Administrative Process Act, pursuant to § 2.2-4002(B)(6).

Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the extent that this communication may advise you that certain action is lawful, the decision

whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action.