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MEMORANDUM

TO: Christopher L. Beschler
Director
Department of General Services

FROM: Jeffrey M. Bourne
Deputy Attorney General
Transportation, Real Estate and Construction

DATE: November 16, 2015

Re: Department of General Services ("DGS") - Emergency Regulations to Implement Executive Order 50 (McAuliffe 2015) Concerning Firearms in Premises Owned, Leased or Controlled by Executive Branch Agencies

We have reviewed the regulations made available to our office in the Virginia Regulatory Town Hall (<http://townhall.virginia.gov/>) concerning the possession of firearms in properties in use or controlled by executive branch agencies as required by Executive Order 50 (McAuliffe2015). Based on the review, we believe that the DGS, may adopt the regulations pursuant to Va. Code § 2.2 -1100 (B), which provides "The Director of the Department shall, under the direction and control of the Governor, exercise the powers and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the Governor." Further, DGS has the ability to prescribe regulations in order to perform the duties¹ and DGS's Division of Engineering and Buildings has charge of all public buildings and grounds of the Commonwealth.² The Department of General Services, through the director, has the statutory authority to adopt these emergency regulations under Va. Code § 2.2-4011 (A).

The authority for the emergency action³ provides that emergency regulations are "[r]egulations that an agency finds are necessitated by an emergency situation" and pursuant to Va. Code §2.2- 4011(A), the agency must state in writing the nature of and necessity for such an emergency action. In addition, the regulations are effective for no more than eighteen months

¹ Va. Code §2.2-1102 (A)(1)

² Va. Code §2.2-1129 (B)

³ Va. Code §2.2-4011

from the emergency regulatory action. As DGS has stated in its "Notice of Intended Regulatory Action," the intent is to continue to regulate firearms in use or controlled by executive branch agencies, so these emergency regulations will be replaced with permanent regulations adopted under the Administrative Process Act.

If you have any questions, please give me a call at 804.786.1800.