



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
Assistant Attorney General

DATE: December 2, 2014

SUBJECT: Regulations to promote public involvement in the development, amendment or repeal of the regulations of the Department of State Police.— 19 VAC 30-11.

In response to a request from the Department of State Police, I have reviewed the proposed regulations, 19 VAC 30-11, relating to the public participation guidelines in the promulgation and review of Department regulations, pursuant to §§ 2.2-4007.02 and 52-8.4 of the Code of Virginia. Virginia Code § 2.2-4007.02 provides public participation guidelines for soliciting the input of interested parties in the formation and development of regulations by the Department. Virginia Code § 52-8.4 provides that the Department shall promulgate regulations pertaining to commercial motor vehicle safety pursuant to the United States Motor Carrier Act of 1984. These regulations shall set forth criteria relating to driver, vehicle, and cargo safety inspections with which motor carriers and transport vehicles shall comply, and shall be no more restrictive than the applicable provisions of the Federal Motor Carrier Safety Regulations of the United States Department of Transportation. Upon review of the aforesaid regulations, I find the proposed regulations to be constitutional, consistent with the statutory authority granted by §§ 2.2-4007.02 and 52-8.4 of the Code of Virginia, and in conformity with existing statutory provisions.

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.

