



**COMMONWEALTH of VIRGINIA**  
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**MEMORANDUM**

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

**FROM:** Ann M. Reardon  
Assistant Attorney General

**DATE:** July 23, 2012

**SUBJECT:** Regulations for all pharmacies and retailers in the Commonwealth of Virginia that sell over the counter cold and allergy medications containing ephedrine and/or pseudoephedrine products (PSE) required to participate in a statewide, real-time electronic PSE monitoring program for the purpose of tracking illegal PSE purchases – 19 VAC 30-220

In response to a request from the Department of State Police, I have reviewed the proposed regulations, 19 VAC 30-2206, relating to the Virginia Methamphetamine Precursor Information System, Access and Exemptions - 2012, requiring the pharmacy or retail distributor, unless exempt, to use the electronic recordkeeping and monitoring system to report all nonprescription sales of any product containing ephedrine or related compounds. Chapters 160 (Senate Bill 294) and 252 (House Bill 1161) of the Acts of Assembly (2012 regular session), requires all pharmacies and retailers in the Commonwealth of Virginia that sell over the counter cold and allergy medications containing ephedrine and/or pseudoephedrine products (PSE) to participate in a statewide, real-time electronic PSE monitoring program for the purpose of tracking illegal PSE purchases. Virginia Code § 18.2-265.8 requires the Superintendent of State Police to promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) for the implementation of this section. Upon review of the aforesaid regulations, I find the proposed regulations to be constitutional, consistent with the statutory authority granted by Virginia Code § 18.2-265.8 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 a 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.*

