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# Periodic Review and Small Business Impact Review Report of Findings

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| **Agency name** | Virginia Department of State Police (VSP) 0156 |
| **Virginia Administrative Code (VAC) Chapter citation(s)** | 19VAC30-220 |
| **VAC Chapter title(s)** | Virginia Methamphetamine Precursor Information System |
| **Date this document prepared** | 10-17-2023 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code.*

## Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

**APA** – Administrative Process Act means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.
**CMEA** - Combat Methamphetamine Epidemic Act of 2005, Title VII of Public Law 109-177 codified at 21 USC 830 et seq.
**PSE** - ephedrine and/or pseudoephedrine products
**VSP** – Department of State Police

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

VSP was authorized and required to adopt these regulations pursuant to § 18.2-265.8 and § 18.2-265.12 of the Code of Virginia. These regulations are consistent with the Combat Methamphetamine Epidemic Act of 2005 (CMEA)- Title VII of Public Law 109-177.
No regulatory changes were made to the regulations following this review.

## Alternatives to Regulation

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

No alternatives were considered as part of this periodic review, the regulations were developed to implement the statutory mandates of Chapters 160 and 252 of the Act of Assembly (2012 regular session). The purpose is to provide guidance for use of a web-accessed database by approved law enforcement agencies. Pursuant to the Combat Methamphetamine Epidemic Act of 2005 (CMEA), pharmacies and retailers are currently required to capture certain data regarding ephedrine and/or pseudoephedrine products (PSE) sales. The system enables pharmacies to easily enter the same PSE sales data currently being gathered online rather than recording the information into a manual log or in-store computer system. Data will be stored in a secure, central repository that treats the data collected as if it were HIPAA data. Furthermore, the collected data will be viewable (at no cost) by authorized city, state, and federal law enforcement in keeping with CMEA, the Code of Virginia, and the Virginia Administrative Code.

## Public Comment

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency's response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

| Commenter | Comment | Agency response |
|---|---|---|
| | None received | |

## Effectiveness

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

The purpose of this Chapter is to provide guidance for use of, and access to, the web-accessed database by pharmacies and approved law enforcement agencies to track PSE. Pharmacies and retailers are currently required to capture certain data regarding ephedrine and/or pseudoephedrine products (PSE) sales. The system enables pharmacies to easily enter the same PSE sales data currently being gathered online rather than recording the information into a manual log or in-store computer system. The regulation allows retailers to opt out of the electronic reporting system.

## Decision

*Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

*If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.*

Regulation was retained as is without making changes, amending the regulation, or repeal the regulation. The ORM will be completed.

## Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

1) Continued need for the regulation is necessary to promote public safety and reduce the improper and illegal use of PSE to manufacture methamphetamine.

2) VSP did not receive any comments or complaints during the 30-day public comment period.

3) The regulation is not complex

4) The regulation does not overlap, duplicate, or conflict with any other federal or state laws or regulations.

5) The regulation is evaluated annually, it does not rely on technology, economic conditions, or any other factors due to the nature of public participation.

The regulation provides a free, cost effective and easy to use system for the reporting of PSE sales. Small businesses only need internet access to utilize the system and the regulations provide for small business to opt out of the electronic reporting requirements in certain circumstances.