



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 24, 2016

SUBJECT: Regulations Governing the Creation of a Criminal Firearms Clearinghouse: 19 VAC 30-110.

In response to a request from the Department of State Police, I have reviewed the proposed regulations, 19 VAC 30-110, relating to the Repeal of Regulations Governing the Creation of a Criminal Firearms Clearinghouse. The need for these regulations was eliminated with Virginia's adoption of use of E-Trace as the means for reporting firearms recovered by Virginia Law Enforcement Agencies. This repeal is to comply with the changes made to Section 52-25.1 of the Code of Virginia by Chapter 214 of the Acts of Assembly 2016. This change disestablished the clearinghouse and requires law enforcement agencies to report all confiscated and recovered firearms to the firearms tracing system (E-Trace) maintained by the U.S. Department of Justice. New regulations, 19 VAC 30-115, regarding the Reporting and Return of Firearms Confiscated or Recovered by Law-Enforcement Agencies, are being adopted pursuant to §52-25.1.

Upon review of the aforesaid regulation, 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.