

**Unified Regulatory Plan of the Department of Forensic Science
for State Fiscal Year 2023**

Prepared on September 30, 2022

The Department of Forensic Science, a nationally accredited laboratory system, is authorized to provide forensic laboratory services in criminal matters, provide advanced training to law-enforcement agencies in the location, collection and preservation of evidence, and maintain and test the accuracy of equipment used to test the blood alcohol content of breath. It is also authorized to establish and maintain a DNA testing program to receive DNA samples taken pursuant to Virginia Code § 19.2-310.2 et seq., determine identification characteristics specific to an individual, and to store and maintain the resulting identification profiles in a DNA Data Bank. Code of Virginia, Title 9.1, Chapter 11, Article 1; Title 19.2, Chapter 18, Article 1.1. The Department is also authorized to (i) prescribe the methods for obtaining information from the DNA Data Bank, (ii) approve field test kits for the detection of controlled substances and marijuana, (iii) license persons to administer breath tests, and (iv) prescribe methods and equipment for breath tests. Code of Virginia, Title 19.2, Chapter 18, Article 1.1; Title 19.2, Chapter 12; and Title 18.2, Chapter 7, Article 2.

The Forensic Science Board is authorized to adopt regulations for all provisions of the Code of Virginia as they relate to the responsibilities of the Department. Code of Virginia, Title 9.1, Chapter 11, Article 2.

The Department operates under the supervision of the Secretary of Public Safety and Homeland Security.

Title of Proposed Regulatory Action or Guidance Document	
Parking Regulations (developed as 6VAC40-15)	
Brief Overview	
The Department of Forensic Science currently has no authority to regulate parking at its facilities or enforce any parking prohibitions. The result is the use of the parking lot by individuals with no business at the facility, to the detriment of Department employees, tenant employees, and visitors with business in the building. This regulation establishes requirements for parking at a Department facility and will enable the Department to designate four Parking managers, one for each facility, with the authority to enforce the general parking prohibitions outlined in the regulation.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input checked="" type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	N/A

Expected Date	May 2022
----------------------	----------

Title of Proposed Regulatory Action or Guidance Document	
Amendments to Conform Regulations with Chapters 41 and 42 of the 2022 General Assembly	
Brief Overview	
Chapters 41 and 42 of the 2022 General Assembly replaced certain references to the Local Inmate Data System (LIDS) with the Department of Forensic Science (DFS) DNA Sample Tracking System. User agencies will now utilize the DFS DNA Sample Tracking System to determine if an arrestee for a qualifying offense has a DNA sample already in the data bank or if one should be submitted to the Department. Certain amendments must be made to 6VAC40-40 to reflect this legislative change.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
Deregulatory Component	N/A
Expected Date	September 2022

Title of Proposed Regulatory Action or Guidance Document	
Amendments to Permit the Approval of Alternative Field Tests and Mobile Instruments	
Brief Overview	
Proposed amendments to 6VAC40-50 are made to broaden the types of chemical field tests that may be considered and approved by the Department. Currently, the regulation only permits the Department to consider and approve Duquenois-Levine field tests. Amendments will also permit the Department to consider and approve mobile instruments as technology becomes available. Under the proposed amendments, approval of any field test, whether chemical test or mobile instrument, will require that the field test be able to identify cannabis sativa plant material and distinguish marijuana from industrial hemp.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action

Deregulatory Component	DFS is required under Virginia Code § 19.2-188.1(B) to promulgate regulations for the approval of field tests to be used by law enforcement officers in trials for simple possession of marijuana. The regulations previously only permitted the approval of Duquenois-Levine field tests, which are not able to distinguish marijuana from industrial hemp. The amendments will permit the Department to consider a broader spectrum of both chemical field tests and mobile instruments that may be developed by manufacturers for this purpose.
Expected Date	May 2022