



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: Linda C. Jackson, Director
Department of Forensic Science

FROM: Charles A. Quagliato
Assistant Attorney General

DATE: July 30, 2013

SUBJECT: Regulations for the Approval of Field Tests for Detection of Marijuana Plant Material — 6 VAC 40-50 *et seq.*

In response to a request from the Department of Forensic Science, I have reviewed the proposed regulations, 6 VAC 40-50 *et seq.*, relating to the approval of field tests for detection of marijuana plant material. Virginia Code § 19.2-188.1 provides that the Department shall approve field tests, pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 *et seq.*), for use by law-enforcement officers to enable them to testify at a preliminary hearing to the results obtained from a field test regarding whether any substance, the identify of which is at issue in such hearing, is a controlled substance, imitation controlled substance, or marijuana, as defined in § 18.2-247 of the Code of Virginia. Upon review of the aforesaid regulations, I find the proposed regulations to be constitutional, consistent with the statutory authority granted by § 19.2-188.1 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.