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Exempt Action: Final Regulation Agency Background Document

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| Agency name | Department of Forensic Science |
| Virginia Administrative Code (VAC) Chapter citation(s) | 6VAC40-30 |
| VAC Chapter title(s) | Regulations for the Approval of Field Tests for Detection of Drugs |
| Action title | Update to Reflect Changes to the Citations for the Definition of Marijuana as a Result of Chapter 550 and 551, 2021 Acts of Assembly |
| Final agency action date | 7/14/2021 |
| Date this document prepared | 7/28/2021 |

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

As of July 1, 2021, there are currently two definitions of marijuana for the purposes of criminal code violations in the Code of Virginia. Chapters 550 and 551 of the 2021 Acts of Assembly maintained the definition of marijuana located in Virginia Code § 18.2-247 for distribution of marijuana offenses. It also added a definition of marijuana in Virginia Code § 4.1-600 that would be controlling for offenses under the new Cannabis Control Act (Virginia Code §§ 4.1-600 *et seq.*). While the scientific definition of marijuana remains the same under both definitions in the Code, this technical amendment adds both citations to the regulatory definition section (6VAC40-30-10) and the Authority for approval section (6VAC40-30-20).

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Chapters 550 and 551 of the Acts of Assembly prompted this exempt action final regulation because it added another definition of marijuana in Virginia Code § 4.1-600, in addition to the definition of marijuana found in Virginia Code § 18.2-247. This change is necessary to conform the regulation to current state law.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

This exempt action final regulation was presented to the Forensic Science Board at its meeting on July 14, 2021 by Department of Forensic Science staff as a result of the Cannabis Control Act becoming effective July 1, 2021. The proposed amendments to 6VAC40-30, Regulations for the Approval of Field Tests for the Detection of Drugs, were approved unanimously by the Forensic Science Board on July 14, 2021.