



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF FORENSIC SCIENCE

OFFICE OF THE DIRECTOR  
A Nationally Accredited Laboratory

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### **NOTICE OF DFS POLICY CHANGE**

**TO:** All Agencies Served by DFS  
**FROM:** Linda C. Jackson, Department Director   
**DATE:** April 12, 2022  
**RE:** **Changes to Marijuana Field Test Regulatory Approval and Updated Submission Policy for *Cannabis sativa* Plant Material**

On May 23, 2019, the Department of Forensic Science (DFS or the Department) disseminated a policy notice, [\*\*NOTICE REGARDING MARIJUANA FIELD TESTS AND CHANGES TO THE DEPARTMENT'S ANALYTICAL AND REPORTING SCHEME FOR MARIJUANA AND MARIJUANA BYPRODUCTS\*\*](#), which detailed that the "current marijuana field tests (Duquenois-Levine) approved by DFS are only capable of presumptively identifying *Cannabis sativa* plant material; thus, the current marijuana field tests cannot distinguish marijuana from industrial hemp."

Pursuant to the Regulations for the Approval of Marijuana Field Tests for the Detection of Marijuana Plant Material (6VAC40-50), DFS had previously approved Duquenois-Levine field tests for use by law enforcement officers under Virginia Code § 19.2-188.1(B). Virginia Code § 19.2-188.1(B) permits a law enforcement officer to testify to the results of any field test approved by DFS during the trial for certain enumerated offenses.

Because of changes to the definition of marijuana and industrial hemp in the Code of Virginia, the Department has removed all previously approved Duquenois-Levine field tests from the list of approved field tests under 6VAC40-50. This has been published in the [General Notice](#) section of Virginia's Regulatory Town Hall and will be published in the Virginia Register of Regulations dated April 25, 2022. In addition, this change has been reflected in the materials available on the DFS website.

This notification does not affect the approval of Duquenois-Levine field tests under the Regulations for the Approval of Field Tests for the Detection of Drugs (6VAC40-30), which provides the process for the approval of field tests for use by law enforcement officers under Virginia Code § 19.2-188.1(A). Virginia Code § 19.2-188.1(A) permits law enforcement officers to testify to the results of field tests approved by DFS in any preliminary hearing for a felony drug offense. Additionally, this notification would not prohibit law enforcement officers from using the field test as part of their investigation of any marijuana-related offenses.

Due to this change, the updated table below summarizes current submission guidelines for marijuana evidence, and is applicable to evidence submitted alone or with other suspected controlled substances:

	<b>Evidence Accepted</b>	<b>Evidence Accepted with Limitations</b>	<b>Evidence Not Accepted</b>
Possession of marijuana and marijuana products <a href="#">(§ 4.1-1100)</a>	Quantities over 1 pound OR Any felony offense	Contested civil offenses (greater than 1 ounce but less than 1 pound) submitted by law enforcement	Quantities under 1 ounce OR Uncontested civil offenses
Home cultivation of marijuana <a href="#">(§ 4.1-1101)</a>	Five or more separately packaged plants or portions thereof, if a plant count is needed		Four or less plants, or portions thereof
Underage possession of marijuana and marijuana products by individuals under the age of 21 <a href="#">(§ 4.1-1105.1)</a> and other <b>misdemeanors</b> with no weight thresholds <a href="#">( §§ 4.1-1107, 4.1-1108, 4.1-1109, and 4.1-1110)</a>	All weighable quantities (not residue amounts)		
Possession with Intent/Distribution <a href="#">(§ 18.2-248.1)</a>	Quantities over 1 ounce	Quantities under 1 ounce require a request from a Commonwealth's Attorney (CA)	Quantities under 1 ounce without CA request

For cannabis edibles, DFS can identify cannabinoids that may be present in a food product, but cannot quantify the tetrahydrocannabinol (THC) concentration. While the Department works to develop and validate a method internally, we are also exploring the option of outsourcing evidence to a private laboratory to provide this service in the meantime. Once quantitative testing for cannabis edibles is available by either mechanism, DFS will notify its customers and stakeholders of the change in analytical testing capability.

If you have any questions regarding the use of field tests, marijuana submission guidelines, or food product testing please contact the Controlled Substances Section Supervisor at the DFS Laboratory that provides service to your agency:

<b>Laboratory</b>	<b>Section Contact</b>	<b>Phone Number</b>
Central (Richmond)	John Przybylski	(804) 588-4154
Eastern (Norfolk)	Brian Meinweiser	(757) 355-5958
Northern (Manassas)	Jeana Rodenas	(703) 334-9736
Western (Roanoke)	Rebecca Hutchison	(540) 283-5930