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SALUS POPULI SUPREMA LEX ESTO

*“The welfare of the people shall be the supreme law.”*



ROBIN CARNAHAN  
SECRETARY OF STATE

MISSOURI  
REGISTER

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**SECRETARY OF STATE**

**ROBIN CARNAHAN**

Administrative Rules Division

James C. Kirkpatrick State Information Center  
600 W. Main  
Jefferson City, MO 65101  
(573) 751-4015

DIRECTOR

WAYLENE W. HILES

•

EDITORS

CURTIS W. TREAT

SALLY L. REID

ASSOCIATE EDITOR

DELANE JACQUIN

•

PUBLICATION TECHNICIAN

JACQUELINE D. WHITE

•

SPECIALIST

MICHAEL C. RISBERG

•

ADMINISTRATIVE ASSISTANT

ALISHA DUDENHOEFFER

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—The most recent version of the statute containing the section number and the date.

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 31—Missouri Universal Service Fund**

**EMERGENCY AMENDMENT**

**4 CSR 240-31.010 Definitions.** The commission is adding a new section (8), amending current sections (9)–(14), and renumbering the sections as necessary.

*PURPOSE: This rule is amended to conform to new federal guidelines concerning eligibility to receive Lifeline Program support.*

*EMERGENCY STATEMENT: This rule is amended to bring the commission's rule regarding eligibility to receive Lifeline Program support from the Universal Service Fund into conformity with federal eligibility requirements for that program. The Federal Communications Commission issued an order on February 6, 2012, that requires the state to conform its eligibility requirements to the federal standards by June 1, 2012. If Missouri's eligibility requirements as set forth in the commission's rule are not in conformity by that date, over one hundred thousand (100,000) Missouri telecommunications customers who are currently receiving Lifeline support will become ineligible to receive that support from the Universal Service Fund. Lifeline support is the means by which many low-income households are able to maintain a phone connection that might otherwise be unaffordable. As its name implies, Lifeline support may be the only means by which*

*such households are able to call for medical assistance or to contact family members. Because of the need to preserve the eligibility of Missouri citizens to receive Lifeline support, the Public Service Commission finds an immediate danger to the public health, safety, and welfare, and a compelling governmental interest that requires this emergency action. A proposed amendment that covers the same material is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Public Service Commission believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed May 18, 2012, becomes effective June 1, 2012, and expires February 28, 2013.*

**(8) Income—All income actually received by all members of the household. This includes salary before deductions for taxes, public assistance benefits, Social Security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.**

**[(8)](9) Local calling scope—**The geographic area determined by a local exchange telecommunications company's tariffs filed with and approved by the commission, within which telecommunications service is furnished under a non-optional, flat, monthly rate. A local calling scope may include one (1) or more exchange service areas.

**[(9)](10) Low-income customer—**Any customer who requests or receives residential essential local telecommunications service and whose income, as defined in section (8) above, is at or below one hundred thirty-five percent (135%) of the Federal Poverty Guidelines or who participates or has a dependent residing in the customer's household who participates in a program pursuant to 42 U.S.C. sections 1396[-]-1396v, food stamps (7 U.S.C. section 51), Supplementary Security Income (SSI) (42 U.S.C. section 7), federal public housing assistance or Section 8 (42 U.S.C. section 8), National School Lunch Program's free lunch program (42 U.S.C. section 13), Temporary Assistance for Needy Families (42 U.S.C. section 7(IV)), or Low Income Home Energy Assistance Program (LIHEAP) (42 U.S.C. section 94).

**[(10)](11) Missouri Universal Service Board (board)—**The board established by section 392.248.1., RSMo 2000, and comprised of members of the commission and the Public Counsel, which shall supervise the management of the MoUSF.

**[(11)](12) Missouri Universal Service Fund (MoUSF or Fund)—**The universal service fund established by section 392.248, RSMo 2000, to be used[-]-

(A) To ensure the provision of reasonably comparable essential local telecommunications service, as defined in this rule, throughout the state including high cost areas, at just, reasonable, and affordable rates;

(B) To assist low-income customers and disabled customers in obtaining affordable essential telecommunications services;

(C) To pay the reasonable, audited costs of administering the MoUSF; and

(D) To permit eligible incumbent local exchange companies to recover the reasonably projected changes in revenues from reductions in Federal Universal Service Fund (USF) payments caused by changes to the Federal USF program announced by the FCC no later than December 31, 1997, as determined by the commission.

~~[(12)]~~(13) Net jurisdictional revenue—Net jurisdictional revenue shall include all revenues received by an applicable carrier from retail customers resulting from the provision of intrastate regulated telecommunications services, but shall not include revenue from pay-phone operations, taxes, and uncollectibles. Revenues received from another provider of telecommunications services for the provision of switched and special exchange access services and for the provision of unbundled network elements and resold services~~[,]~~ shall not be considered retail revenues.

~~[(13)]~~(14) Toll blocking—~~["Toll blocking"]~~ is a service provided by carriers that lets customers elect not to allow the completion of outgoing toll calls from their telecommunications channel.

~~[(14)]~~(15) Toll control—~~["Toll control"]~~ is a service provided by carriers that allows customers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.

*AUTHORITY: section 392.200.2., [HB 1779, Second Regular Session, Ninety-fourth General Assembly, 2008] RSMo Supp. 2011, and sections 392.248 and 392.470.1., RSMo 2000. Original rule filed Aug. 15, 1997, effective April 30, 1998. For intervening history, please consult the Code of State Regulations. Emergency amendment filed May 18, 2012, effective June 1, 2012, expires Feb. 28, 2013. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

**U**nder this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

**E**ntirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

**I**f an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

**A**n agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

**I**f an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:  
**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

### Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 4—Wildlife Code: General Provisions

#### PROPOSED AMENDMENT

**3 CSR 10-4.110 General Prohibition; Applications.** The commission proposes to add section (10) to this rule.

*PURPOSE: This amendment places a restriction on those activities that are likely to unnaturally concentrate white-tailed deer and promote the spread of Chronic Wasting Disease.*

**(10) Within the Chronic Wasting Disease (CWD) Containment Zone (comprising Adair, Chariton, Linn, Macon, Randolph, and Sullivan counties), the placement of grain, salt products, minerals, and other consumable natural or manufactured products is prohibited. The following exceptions apply:**

**(A) Feed placed within one hundred (100) feet of any residence or occupied building; or**

**(B) Feed placed in such a manner to reasonably exclude access by deer; or**

**(C) Feed and minerals present solely as a result of normal agricultural or forest management or crop and wildlife food production practices.**

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed June 26, 1975, effective July 7, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed May 25, 2012.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

### Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 5—Wildlife Code: Permits

#### PROPOSED AMENDMENT

**3 CSR 10-5.222 Youth Pricing: Deer and Turkey Permits.** The commission proposes to amend this rule.

*PURPOSE: This amendment adds Managed Deer Hunting Permits to the reduced-price deer and turkey permits for youth age fifteen (15) and younger.*

Any person at least six (6), but not older than fifteen (15), years of age may purchase the following permits at fifty percent (50%) of the cost of a resident permit: Firearms Any-Deer Hunting Permit, Firearms Antlerless Deer Hunting Permit, **Managed Deer Hunting Permit**, Archer's Hunting Permit, Archery Antlerless Deer Hunting Permit, or Turkey Hunting Permits. When hunting on firearms deer or turkey permits, persons fifteen (15) years of age or younger must comply with the requirements in 3 CSR 10-5.205(1)(F).

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Oct. 10, 2008, effective July 1, 2009. Amended: Filed May 25, 2012.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 7—Wildlife Code: Hunting: Seasons, Methods,**  
**Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-7.431 Deer Hunting Seasons: General Provisions.** The commission proposes to amend subsections (6)(G), (7)(B), and (7)(F) and section (10) of this rule.

*PURPOSE: This amendment clarifies when deer may not be hunted, renames the muzzleloader portion of the firearms deer season, and simplifies requirements for tagging harvested deer.*

(6) Deer may not be hunted, pursued, taken, or killed—

(G) With the aid of bait (grain or other feed placed or scattered so as to constitute an attraction or enticement to deer). Scents and minerals, including salt, are not regarded as bait; however, mineral blocks with food additives are prohibited. An area is considered baited for ten (10) days following complete removal of bait. *[Hunters can be in violation even if they did not know an area was baited.] A person shall be in violation of this provision if they take or attempt to take deer by the aid of bait, where the person knows or reasonably should know that the area is or has been baited.* It is illegal to place bait in a way that causes others to be in violation of the baiting rule.

(7) During the firearms deer hunting season and during managed firearms deer hunts on those areas where such hunts are held, all persons hunting any game, and also adult mentors accompanying them, must wear a cap or hat and a shirt, vest, or coat of the color commonly known as hunter orange, which must be plainly visible from all sides. Camouflage orange garments do not meet this requirement. The following are exempt from this requirement:

(B) Archery permittees during the *[muzzleloader]* **alternative methods** portion;

(F) Hunters of small game and/or furbearers during the *[muzzleloader]* **alternative methods** portion.

(10) Deer (or parts thereof) reported in accordance with established procedures, when labeled with the *[full name, address, and confirmation number of the taker,]* **full name and address of the taker, the date taken, and the Telecheck confirmation number of the deer,** may be possessed, transported, and stored by anyone. Commercially processed deer meat may be donated to not-for-profit charitable organizations under guidelines established by the director.

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed April 29, 2004, effective May 15, 2004. For intervening history, please consult the Code of State Regulations. Amended: Filed May 25, 2012.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 7—Wildlife Code: Hunting: Seasons, Methods,**  
**Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-7.455 Turkeys: Seasons, Methods, Limits.** The commission proposes to delete section (4) and renumber subsequent sections of this rule.

*PURPOSE: This proposed amendment removes the requirement for affixing an approved safety sticker to a permit holder's firearm while hunting wild turkeys.*

*[(4) Each permit holder hunting with a shotgun shall first affix an approved safety sticker to the receiver of his/her gun where it will be in his/her line of sight when shooting, and maintain the sticker on the gun when hunting.]*

*[(5)](4) A resident landowner or lessee as defined in 3 CSR 10-20.805, possessing a landowner turkey hunting permit, may take and possess turkeys in accordance with this rule on his/her land or, in the case of the lessee, on the land on which s/he resides and shall report the turkeys through the Telecheck Harvest Reporting System as required in this rule.*

*[(6)](5) Any person who kills or injures any wild turkey shall make a reasonable effort to retrieve the turkey and include it in his/her season limit.*

*[(7)](6) Turkeys (or parts thereof) reported in accordance with established procedures, when labeled with the full name, address, and confirmation number of the taker, may be possessed, transported, given away, and stored by anyone.*

*[(8)](7) In accordance with section 270.400, RSMo, feral hogs (any hog, including Russian and European wild boar, that is not conspicuously identified by ear tags or other forms of identification and is roaming freely upon public or private lands without the landowner's permission) may be taken in any number during the spring firearms turkey season and youth spring season only by the holder of a valid, unused turkey hunting permit; and only by methods and times prescribed for taking turkeys. During the fall firearms turkey season, feral hogs may be taken only by the holder of a valid, unused turkey hunting permit or a small game hunting permit; and only by methods prescribed in Chapter 7 for taking wildlife, and without the use of bait. Other restrictions may apply on public lands. Resident landowners or lessees as defined in this Code may take feral hogs on their own property at any time, by any method, and without permit.*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Dec. 15, 1975, effective Dec. 31, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed May 25, 2012.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*



**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 31—Missouri Universal Service Fund**

**PROPOSED AMENDMENT**

**4 CSR 240-31.010 Definitions.** The commission is amending sections (6), (9), (13), and (14); adding new sections (8), (9), and (17); and renumbering sections (8), (10), (11), and (12).

*PURPOSE:* This rule is amended to conform to new federal guidelines concerning eligibility to receive Lifeline Program support.

(6) Essential local telecommunications services—*[Two (2)-way switched voice residential service within a local calling scope as determined by the commission, comprised of the following services and their recurring charges:*

*(A) Single line residential service, including Touch-Tone dialing, and any applicable mileage or zone charges;*

*(B) Access to local emergency services including, but not limited to, 911 service established by local authorities;*

*(C) Access to basic local operator services;*

*(D) Access to basic local directory assistance;*

*(E) Standard intercept service;*

*(F) Equal access to interexchange carriers consistent with rules and regulations of the Federal Communications Commission (FCC);*

*(G) One (1) standard white pages directory listing; and*

*(H) Toll blocking or toll control for qualifying low-income customers.] This is synonymous with “voice telephony services.”*

(8) Household—Any individual or group of individuals who are living together at the same address as one (1) economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen (18) years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen (18) living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(9) Income—All income actually received by all members of the household. This includes salary before deductions for taxes, public assistance benefits, Social Security payments, pensions, unemployment compensation, veteran’s benefits, inheritances, alimony, child support payments, worker’s compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.

[(8)](10) Local calling scope—The geographic area determined by a local exchange telecommunications company’s tariffs filed with and approved by the commission, within which telecommunications service is furnished under a non-optional, flat, monthly rate. A local calling scope may include one (1) or more exchange service areas.

[(9)](11) Low-income customer—Any customer who requests or receives residential essential local telecommunications service and whose income, as defined in section (9) above, is at or below one hundred thirty-five percent (135%) of the Federal Poverty Guidelines or who participates or has a dependent residing in the customer’s household who participates in a program pursuant to 42 U.S.C. sections 1396f-1-1396v, food stamps (7 U.S.C. section 51), Supplementary Security Income (SSI) (42 U.S.C. section 7), federal public housing assistance or Section 8 (42 U.S.C. section 8), National School Lunch Program’s free lunch program (42 U.S.C.

section 13), Temporary Assistance for Needy Families (42 U.S.C. section 7(IV)), or Low Income Home Energy Assistance Program (LIHEAP) (42 U.S.C. section 94).

[(10)](12) Missouri Universal Service Board (board)—The board established by section 392.248.1., RSMo 2000, and comprised of members of the commission and the Public Counsel, which shall supervise the management of the MoUSF.

[(11)](13) Missouri Universal Service Fund (MoUSF or Fund)—The universal service fund established by section 392.248, RSMo 2000, to be used[:]-

(A) To ensure the provision of reasonably comparable essential local telecommunications service, as defined in this rule, throughout the state including high cost areas, at just, reasonable, and affordable rates;

(B) To assist low-income customers and disabled customers in obtaining affordable essential telecommunications services;

(C) To pay the reasonable, audited costs of administering the MoUSF; and

(D) To permit eligible incumbent local exchange companies to recover the reasonably projected changes in revenues from reductions in Federal Universal Service Fund (USF) payments caused by changes to the Federal USF program announced by the FCC no later than December 31, 1997, as determined by the commission.

[(12)](14) Net jurisdictional revenue—Net jurisdictional revenue shall include all revenues received by an applicable carrier from retail customers resulting from the provision of intrastate regulated telecommunications services, but shall not include revenue from pay-phone operations, taxes, and uncollectibles. Revenues received from another provider of telecommunications services for the provision of switched and special exchange access services and for the provision of unbundled network elements and resold services[,/] shall not be considered retail revenues.

[(13)](15) Toll blocking—*[“]Toll blocking[“]* is a service provided by carriers that lets customers elect not to allow the completion of outgoing toll calls from their telecommunications channel.

[(14)](16) Toll control—*[“]Toll control[“]* is a service provided by carriers that allows customers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.

(17) Voice telephony services—**Shall provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government has implemented them; and toll limitation services to qualifying low-income customers.**

*AUTHORITY:* section 392.200.2., [HB 1779, Second Regular Session, Ninety-fourth General Assembly, 2008] RSMo Supp. 2011, and sections 392.248 and 392.470.1., RSMo 2000. Original rule filed Aug. 15, 1997, effective April 30, 1998. For intervening history, please consult the Code of State Regulations. Emergency amendment filed May 18, 2012, effective June 1, 2012, expires Feb. 28, 2013. Amended: Filed May 30, 2012.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before August 1, 2012, and should include a reference to Commission Case No. TX-2012-0392. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed amendment is scheduled for August 2, 2012, at 10:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Room 305, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment and may be asked to respond to commission questions.*

**SPECIAL NEEDS:** *Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.*

**Title 15—ELECTED OFFICIALS**  
**Division 60—Attorney General**  
**Chapter 13—[Rules for the Establishment**  
**of a] Missouri No-Call [Database]**

**PROPOSED AMENDMENT**

**15 CSR 60-13.060 Methods by Which a Person or Entity Desiring to Make Telephone Solicitations Will Obtain Access to the Database of Residential Subscribers' Notices of Objection to Receiving Telephone Solicitations and the Cost Assessed for Access to the Database.** The Attorney General's Office is amending the chapter title, the purpose of the rule, and sections (1) and (2) and adding a new section (3).

**PURPOSE:** *This amendment provides headers for sections (1) and (2), clarifies how a request is made for the no-call database, specifies who must sign the required confidentiality agreement, revises the language concerning payments for computer disk copies of the no-call database, provides for online access to the no-call database and the charges for such access, and adds a new section concerning provisions of forms by the attorney general necessary to comply with the rule.*

**PURPOSE:** *This rule sets forth the methods by which persons or entities desiring to make telephone solicitations will obtain access to the database of residential subscribers' notices of objection to receiving telephone solicitations, [and it] sets forth the cost assessed for access to that database, and permits telemarketers to access the no-call database of residential subscribers' notices of objection through a secure portal on the Missouri Attorney General's website. Persons or entities obtaining copies of the no-call database are reminded that the no-call database is updated quarterly.*

**(1) Access to No-Call Database.** A person or entity desiring to make telephone solicitations to residential subscribers residing or living in Missouri may obtain a copy of the no-call database for his, her, or its lawful use, or for the lawful use by his, her, or its employees, or for the lawful use by his, her, or its independent contractors for use in their business, so long as the independent contractor is regularly associated with the person or entity and is engaged in the same or related type of business as the person or entity, by *[doing]* **submitting a request to the Attorney General's Office, which includes** the following:

**(A) [Signing a]** A written confidentiality agreement prepared by the Attorney General's Office **and signed by the person or authorized agent of the entity** that 1) restricts use of the no-call database exclusively for the purpose of compliance with sections 407.1095 to 407.1113, RSMo 2000, as amended from time-to-time, and 2) prohibits the transfer of the copy of the no-call database to any person or entity who has not submitted the signed written confidentiality agreement and payment to the Attorney General's Office for receipt of a copy of the no-call database; and

**(B) [Submitting the signed confidentiality agreement along with payment in an amount equal to]** **The appropriate fee as follows:**

**1. Computer disk copy of the no-call database.** For delivery of a computer disk copy with access to each Missouri area code, payment of fifty dollars (\$50) per quarter *[for each Missouri area code to the Attorney General's Office for providing a computer disk copy of the no-call database]*. Those persons or entities desiring to obtain access to only part of the no-call database may do so by submitting *[the signed confidentiality agreement along with]* a request designating by area code the portion or portions of the no-call database they desire and providing payment *[in the amount]* of fifty dollars (\$50) per quarter per area code to the Attorney General's Office *[for providing a computer disk copy of the requested portion of the no-call database.]; and/or*

**2. Online access to the no-call database.** For twelve (12) months access to the no-call database through a secure portal with the Attorney General's Office at <https://www.nocall.ago.mo.gov/>, an annual processing fee of forty dollars (\$40), along with payment of fifty dollars (\$50) per quarter for access to each Missouri area code. Those persons or entities desiring to obtain access to only part of the no-call database may do so by a request designating by area code the portion or portions of the no-call database they desire and providing payment of the annual processing fee and fifty dollars (\$50) per quarter per area code to the Attorney General's Office.

**(2) Notice of Claimed Exclusion.** A person or entity who initiates any voice communication over a telephone line from a live operator, through the use of ADAD equipment or by other means for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services and who claims that such communication falls under one (1) of the exclusions to the definition of "telephone solicitation" appearing in section 407.1095(3), RSMo, as amended, may provide notice in the form of a notarized affidavit to the Attorney General's Office of that person or entity's intention to utilize the claimed exclusion along with an explanation of the basis for that person's claimed exclusion. The Attorney General's Office may investigate the claim exclusion using the powers available under section 407.1110, RSMo, as amended. Submitting an affidavit to the *[A]ttorney [G]eneral* of intention to utilize a claimed exclusion shall not, in and of itself, establish the section 407.1110.4., RSMo, defense to an action brought for violation of section 407.1098, RSMo, or section 407.1107, RSMo.

**(3) Availability of Forms.** The Attorney General's Office on request will supply in printed format the forms listed in this rule. Accurate reproduction of the forms may be utilized for filing in lieu of the printed forms. All forms referenced herein are available at <https://www.nocall.ago.mo.gov/>.

**AUTHORITY:** *section 407.1101, RSMo 2000. Original rule filed Sept. 28, 2000, effective March 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed May 16, 2012.*

**PUBLIC COST:** *This proposed amendment will cost state agencies or political subdivisions less than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST:* This proposed amendment will cost private entities less than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Interested persons may submit a written statement in support of or in opposition to the proposed amendment. Written statements shall be sent to Ronald Holliger, General Counsel, Office of the Attorney General, PO Box 899, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

## Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

### Division 25—[Division of Administration] State Public Health Laboratory

#### Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine

### PROPOSED AMENDMENT

**19 CSR 25-30.011 General Provisions for the Determination of Blood, Breath, Saliva, or Urine Analysis and Drug Testing.** The department is amending the name of the division and chapter; sections (1)–(4) and (6); and adding new definitions in section (2) and new case law references at the end.

*PURPOSE:* This amendment clarifies the requirements necessary to secure and retain a permit, makes the text consistent with the terminology used on the maintenance report forms, adds additional definitions and case law references for purposes of clarity, and reflects the name change of the department.

(1) Only those laboratories or persons performing analysis of blood, breath, [urine or saliva] saliva, or urine for the determination of blood alcohol content, or of blood, [and] saliva, or urine for the presence of drugs—at the direction of a law enforcement officer acting under the provisions of sections 577.020–[577.039, RSMo,] 577.041, RSMo, and sections 306.111–306.119, RSMo—are subject to the rules in this chapter.

(2) The following definitions shall be used in the interpretation and enforcement of the rules in this chapter:

(B) Breath analyzer is an instrument which measures and expresses the blood alcohol content from a sample of expired [(alveolar)] air;

(C) Department is the Missouri Department of Health and Senior Services;

(E) Field service and repairs are the service and repairs on breath analyzers at locations other than at a manufacturer’s facility;

(F) Maintenance checks are the standardized and prescribed procedures used to determine that a breath analyzer is functioning properly and is operating in accordance with the operational procedures established by the Department of Health and Senior Services; [and]

(G) Permit is the written authorization from the Department of Health and Senior Services for an individual to perform analyses of blood, breath, [urine or saliva] saliva, or urine for blood alcohol content; to perform analyses [on] of blood, saliva, or urine for drugs; to operate breath analyzers; to supervise operators of breath analyzers; to serve as instructors of training courses; and to perform field service and repairs and maintenance checks on breath analyzers[.];

(H) Observation period is the minimum fifteen- (15-) minute continuous period that ends when a breath sample has been provided into the approved breath analyzer, during which time the operator shall remain close enough to a subject to reasonably ensure, using the senses of sight, hearing, or smell, that a test

subject does not smoke, vomit, or have any oral intake during the fifteen- (15-) minute observation period. Direct observation is not necessary to ensure the validity or accuracy of the test result;

(I) Oral intake is the act of placing a substance from outside the body into the mouth during the observation period. The mouthpiece used to provide a breath sample shall not constitute oral intake;

(J) Vomiting is the act of ejecting the solid and/or liquid contents of the stomach through the mouth, and does not include belching or burping;

(K) Examination is a limited visual examination of a test subject’s mouth and/or denial by a subject that he or she has any substance in his or her mouth; and

(L) Substance is any foreign matter, solid or liquid, not to include dentures, dental work, studs, piercing, or tongue jewelry.

(3) The chemical analysis of a person’s blood, breath, [urine or saliva] saliva, or urine conducted under the provisions of sections 577.020–[577.039, RSMo,] 577.041, RSMo, and sections 306.111–306.119, RSMo, shall be performed by licensed medical personnel or by personnel possessing a valid permit issued by the department.

(4) Applications for permits and renewals of permits shall be made on forms (see 19 CSR 25-30.021, 19 CSR 25-30.031 or 19 CSR 25-30.041) available from the [director] **Breath Alcohol Program**, State Public Health Laboratory—**Southeast Branch**, [307 W. McCarty Street, Jefferson City, MO 65101] **2875 James Boulevard, Poplar Bluff, MO 63901**. Forms are also available at <http://health.mo.gov/lab/breathalcohol/>. Requests for approval of instruments, methods, or training courses shall be made to the director, State Public Health Laboratory, c/o **Breath Alcohol Program**. Criteria and standards used for approval purposes shall be provided upon request by the State Public Health Laboratory.

(6) The department [shall] may initiate proceedings to deny, suspend, or revoke a permit when there is evidence of false or misrepresented information given on an application or renewal for a permit; when there is evidence that the permittee has falsified reports, negligently performed analyses or reported results, used an instrument or method not approved by the department, performed analyses not authorized by the permit, or has used the permit for promotional or commercial purposes; or when the permittee has [repeatedly] demonstrated an inability to accurately and properly perform analyses or satisfactorily meet the [responsibilities] qualifications and competence standards required of the permit.

(A) The department shall provide written notice of the [revocation] disciplinary action to the permittee and the employee of the permittee.

(B) The notice shall contain a summary of the evidence supporting the [revocation] disciplinary action.

*AUTHORITY:* sections 192.006[, 306.114, 306.117, 577.020, 577.023,] and 577.026, [577.029, 577.031, 577.033, 577.037, 577.039 and 577.041,] RSMo 2000, and 306.114, 306.117, 577.020, and 577.037, RSMo Supp. 2011. This rule previously filed as 19 CSR 20-30.011. Original rule filed July 15, 1988, effective Sept. 29, 1988. For intervening history, please consult the Code of State Regulations. Amended: Filed May 31, 2012.

*Daniels v. Director of Revenue*, 48 S.W.3d 42 (Mo. App. 2001), overruled on other grounds by *Verdoorn v. Director of Revenue*, 119 S.W.3d 543 (Mo. 2003). “Belching” does not constitute “vomiting” because stomach contents are not disgorged through the mouth.

*Misener v. Director of Revenue*, 134 S.W.3d 761 (Mo. App. 2004). Subject waived any defense based upon the breath test result

*being contaminated by an antacid tablet in his mouth because he did not respond truthfully when asked whether he was taking any medication.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) dollars in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) dollars in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Bill Whitmar, Director, Missouri Department of Health and Senior Services, State Public Health Laboratory, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

## **Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

### **Division 25—[Division of Administration] State Public Health Laboratory**

#### **Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine**

### **PROPOSED AMENDMENT**

**19 CSR 25-30.021 Type I Permit.** The department is amending the name of the division and chapter; amending sections (1), (2), (4), and (5); adding a new section (6); and amending the Type I permit form and application which follow the rule in the *Code of State Regulations*.

*PURPOSE: This amendment reflects the name change in the division and chapter; updates the forms and certain terminology; adds saliva as a biological matrix for the analysis of drugs; and refers to the permit application and forms within the rule itself.*

(1) A Type I permit, **included herein**, authorizes an individual to perform analyses of blood, *[breath, urine and saliva]* **saliva, or urine** for blood alcohol content and to perform analyses of blood, **saliva**, or urine for the presence of drugs.

(2) An applicant for a Type I permit shall not be less than twenty-one (21) years of age and shall possess a baccalaureate degree in chemical, physical, or biological science from an accredited college or university or shall have at least two (2) years of relevant analytical experience and the equivalent of at least two (2) years of college-level education with at least half of the credit hours earned in the chemical, physical, or biological sciences. **The applicant shall also complete an application for a Type I permit, included herein.**

*[(A) To perform tests using a breath analyzer, the applicant shall meet the requirements for operators of breath analyzers in 19 CSR 25-30.041.]*

*[(B)](A)* To perform analyses of blood, *[urine or saliva]* **saliva, or urine** for blood alcohol content, the department shall send three (3) check specimens to the applicant for analysis. The applicant shall perform the analyses within the time set by the department. The results reported on the three (3) samples *[must]* **shall** be within five percent (5%) of the true value. A second set of three (3) check samples shall be sent to the applicant if the results from the first set were unsatisfactory. If the results from the second set of check samples are unsatisfactory, the department shall return the application. Any further efforts to meet this condition for completion of the application shall be made at the discretion of the department based on the nature

of the problem; the ability of the applicant; and the facility, equipment, and methods that were employed.

(B) Effective July 1, 2014, to perform analyses of blood, saliva, or urine for the presence of drugs, the applicant shall be an employee of a laboratory that holds a national accreditation through the College of American Pathologists (CAP), the American Board of Forensic Toxicologists (ABFT), or through the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/Lab). This accreditation shall include an annual forensic proficiency test on each biological matrix (blood, saliva, or urine) tested. A copy of the certification for each laboratory shall be supplied to the State Public Health Laboratory upon request.

(4) *[The Permittee Shall Make Request for Renewal of the Permit.*

*(A) If the permittee is authorized to perform breath testing, the provisions for renewal of permits of 19 CSR 25-30.041(3) shall apply.*

*(B)]* All provisions of subsection (2)*[(B)](A)* of this rule shall apply for renewal of a permit authorizing the analysis of blood, *[urine or saliva]* **saliva, or urine** for blood alcohol content. A set of three (3) check samples shall be satisfactorily analyzed during the last year of the current permit, **and the applicant shall complete an application for a Type I permit, included herein.**

(5) Type I permits issued *[before September 29, 1988]* prior to the effective date of this rule shall be considered valid under the conditions of this rule *[for determination of blood alcohol content. Individuals presently holding Type I permits who wish to perform analyses for drugs must apply for a new Type I permit].*

(6) Type I permit applications completed prior to the effective date of this rule shall be considered valid under the conditions of this rule.



STATE OF MISSOURI  
DEPARTMENT OF HEALTH AND SENIOR SERVICES  
BREATH ALCOHOL PROGRAM



**PERMIT  
TYPE 1**

is hereby authorized to determine the content of \_\_\_\_\_  
(TYPE IN "ALCOHOL" OR "DRUGS" OR BOTH)

from a sample of \_\_\_\_\_ utilizing approved standard chemical methods.  
(TYPE IN "BLOOD," "SALIVA" OR "URINE")

Permit issued under the provisions of sections 577.020 through 577.041, RSMo and 306.111 through 306.119 RSMo.

DATE \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OF STATE PUBLIC HEALTH LABORATORY

NUMBER \_\_\_\_\_

EXPIRES \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OF DEPARTMENT OF HEALTH AND SENIOR SERVICES

MO 580-1242 (6-10)

LAB-2 (6-10)



STATE OF MISSOURI  
DEPARTMENT OF HEALTH AND SENIOR SERVICES  
BREATH ALCOHOL PROGRAM



**PERMIT  
TYPE 1**

is hereby authorized to determine the content of \_\_\_\_\_  
(TYPE IN "ALCOHOL" OR "DRUGS" OR BOTH)

from a sample of \_\_\_\_\_ utilizing approved standard chemical methods.  
(TYPE IN "BLOOD," "SALIVA" OR "URINE")

Permit issued under the provisions of sections 577.020 through 577.041, RSMo and 306.111 through 306.119 RSMo.

DATE \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OF STATE PUBLIC HEALTH LABORATORY

NUMBER \_\_\_\_\_

EXPIRES \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OF DEPARTMENT OF HEALTH AND SENIOR SERVICES

MO 580-1242 (6-10)

LAB-2 (6-10)



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
STATE PUBLIC HEALTH LABORATORY  
BREATH ALCOHOL PROGRAM  
**APPLICATION FOR TYPE I PERMIT**

THIS APPLICATION IS FOR <input type="checkbox"/> NEW PERMIT <input type="checkbox"/> RENEWAL		CURRENT PERMIT NUMBER AND EXPIRATION DATE				
PRINT FULL NAME			AGE	TELEPHONE NUMBER		
SOCIAL SECURITY NUMBER		A disclosure concerning your SSN number is available at: <a href="http://www.health.mo.gov/lab/breathalcohol/">http://www.health.mo.gov/lab/breathalcohol/</a>				
ORGANIZATION				EMAIL ADDRESS		
BUSINESS ADDRESS (STREET, CITY, STATE, ZIP CODE)						
DIRECTOR'S NAME					TELEPHONE NUMBER	
ALCOHOL ANALYSIS:		<input type="checkbox"/> BLOOD	<input type="checkbox"/> URINE	<input type="checkbox"/> SALIVA		
DRUG ANALYSIS:		<input type="checkbox"/> BLOOD	<input type="checkbox"/> URINE	<input type="checkbox"/> SALIVA		
<b>FOR DRUG TESTING ONLY</b>						
PROVIDE NAME OF PROFICIENCY TESTING PROGRAM(S) YOUR FACILITY SUBSCRIBES TO						
<b>EDUCATION</b>						
COLLEGE OR UNIVERSITY	YEARS ATTENDED	HOURS QTRS/SEM.	MAJOR	MINOR	DEGREE	GRADUATED
<b>OTHER RELEVANT TRAINING</b>						
COURSE OR PROGRAM TITLE		AGENCY OR INSTITUTION			DATES	
<b>ANALYTICAL EXPERIENCE</b>						
ORGANIZATION				DATES EMPLOYED		
<b>RESULTS OF SAMPLES FOR ANALYSIS:</b>						
<b>METHODS OF ANALYSIS USED</b>						
<b>DRUGS</b>			<b>ALCOHOL</b>			
<input type="checkbox"/> Enzyme Immunoassay (EIA)	<input type="checkbox"/> Radioimmunoassay (RIA)	<input type="checkbox"/> Thin Layer Chromatography (TLC)	<input type="checkbox"/> High-Performance Liquid Chromatography (HPLC)	<input type="checkbox"/> Liquid Chromatography/Mass Spectrometry (LC/MS)	<input type="checkbox"/> Cloned Enzyme Donor Immunoassay (CEDIA)	<input type="checkbox"/> Ultra-Violet/Visible Spectrophotometry (UV/Vis)
<input type="checkbox"/> Gas Chromatography/Mass Spectrometry (GC/MS)	<input type="checkbox"/> Fluorescence Polarization Immunoassay (FPIA)	<input type="checkbox"/> Gas Chromatography (GC)	<input type="checkbox"/> Enzyme-Linked Immunosorbent Assay (ELISA)	<input type="checkbox"/> Other _____	<input type="checkbox"/> Gas or Liquid Chromatography	
<input type="checkbox"/> Other _____				<input type="checkbox"/> Other _____		
SIGNATURE OF APPLICANT					DATE	
<b>RETURN COMPLETED APPLICATION TO THE:</b>			Breath Alcohol Program, Missouri Department of Health and Senior Services, Southeast District Office, 2875 James Boulevard, Poplar Bluff, MO 63901			

*AUTHORITY: sections [192.005.2 and 577.020,] 192.006 and 577.026, [577.029, 577.031, 577.033, 577.039,] RSMo [1986] 2000, [577.023, 577.041, RSMo Supp. 1991] and sections 577.020 and 577.037, RSMo Supp. [1988] 2011. This rule previously filed as 19 CSR 20-30.021. Original rule filed July 15, 1988, effective Sept. 29, 1988. Changed to 19 CSR 25-30.021 Jan. 1, 1995. Amended: Filed May 31, 2012.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will cost private entities approximately between three thousand eight hundred dollars and eight thousand dollars the first year (\$3800-\$8000) and between two thousand one hundred dollars and three thousand three hundred dollars (\$2100-\$3300) annually thereafter.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Health and Senior Services, State Public Health Laboratory, Bill Whitmar, Director, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE  
PRIVATE COST**

- I. Department Title:** Department of Health and Senior Services  
**Division Title:** State Public Health Laboratory  
**Chapter Title:** Determination of Blood Alcohol by Blood, Breath, Saliva and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva and Urine

<b>Rule Number and Name:</b>	<b>19 CSR 25-30.021; Type I Permit</b>
<b>Type of Rulemaking:</b>	<b>Proposed Amendment</b>

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
<b>1</b>	<b>Private laboratories</b>	<b>\$3800 to \$8000 the first year, and an average of \$2100 to \$3300 annually thereafter</b>

**III. WORKSHEET**

**All three accrediting agencies being considered, the College of American Pathologists (CAP), the American Board of Forensic Toxicology (ABFT), and the American Society of Crime Lab Directors – Laboratory Accreditation Board (ASCLD-LAB), all require a \$500 application fee. CAP then requires a fee of \$3285 annually, while ASCLD-Lab requires approximately \$750 annually and an inspection every five years costing approximately \$7500, for an average annual cost of approximately \$2250. ABFT costs \$3500 the first year and \$500 the next, and continues on that cycle every two years, for an average cost of approximately \$2000 annually. Other costs associated with ABFT were not available at this time.**

**IV. ASSUMPTIONS**

**There is only one laboratory currently not accredited, but was preparing to work towards obtaining accreditation through one of these three entities when last contacted.**



**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**Division 25—[Division of Administration] State Public Health Laboratory**

**Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine**

**PROPOSED AMENDMENT**

**19 CSR 25-30.031 Type II Permit.** The department is amending the name of the division and chapter; amending sections (1)–(3) and (5)–(9), the application and permits forms, and Reports No. 4, 6, and 7 which follow in the *Code of State Regulations*; while deleting Reports No. 5, 8, and 9 which follow the rule in the *Code of State Regulations*; and adding new Reports No. 1, 2, and 3 to follow the rule in the *Code of State Regulations*.

*PURPOSE:* This amendment reflects the name change in the division and chapter; updates the forms and certain terminology; and adds maintenance report forms to reflect the new breath analyzers being added to 19 CSR 25-30.050.

(1) A Type II permit, **included herein**, authorizes an individual to operate a breath analyzer and to perform any of the following duties: to conduct training courses for the operation of breath analyzers that are approved by the department, to conduct training courses approved by the department to qualify for a Type II permit, to *[make]* **perform field service and repairs** on breath analyzers as indicated on the permit, to perform maintenance checks on breath analyzers as required by the department, and to supervise operators of breath analyzers.

(2) An applicant for a Type II permit shall not be less than twenty-one (21) years of age. In addition, the applicant successfully shall complete a training course approved by the department for obtaining a Type II permit **and complete an application for a Type II permit, included herein.**

(3) A Type II permittee shall perform maintenance checks on breath analyzers under his/her supervision at intervals not to exceed thirty-five (35) days. The permittee shall retain the original report of the maintenance check and submit a copy of the report so that it shall be received by the department within fifteen (15) days from the date the maintenance check was performed. In addition, maintenance checks shall be completed when—

(B) The instrument has been **serviced**, repaired, or recalibrated.

(5) To renew a Type II permit, the applicant shall have completed at least two (2) maintenance checks and at least ten (10) tests on drinking subjects, following the operational checklists, within the past year on each breath analyzer for which renewal is requested. If these conditions are not met or if the permit has expired for more than thirty (30) days, the applicant shall perform two (2) maintenance checks and five (5) *[subject]* **self-administered** tests for each breath analyzer for which renewal is requested. Copies of the maintenance checks and the operational checklists and printouts for the five (5) *[subject]* **self-administered** tests shall accompany the application for renewal.

(6) Type II permits issued *[before September 29, 1988,]* **prior to the effective date of this rule** shall be considered valid under the conditions of this rule.

(7) For the maintenance checks referred to in sections (3)–(5) of this rule, the appropriate maintenance report form for the specific instrument being checked shall be used—

(A) When performing a maintenance check on the *[CMI*

*Intoxilyzer, Model 5000, Report No. 4 shall be used]* **DataMaster DMT**, the report incorporated in the instrument software shall be used (see Report No. 1 included herein for example);

(B) When performing a maintenance check on the *[BAC Verifier, Report No. 5 shall be used]* **CMI Intoxilyzer 8000**, the report incorporated in the instrument software shall be used (see Report No. 2 included herein for example);

(C) When performing a maintenance check on the *[Data Master, Report No. 6 shall be used]* **Intox EC/IR II**, the report incorporated in the instrument software shall be used (see Report No. 3 included herein for example);

(D) When performing a maintenance check on the *[Alco-Sensor IV/RBT IV]* **CMI Intoxilyzer 5000**, Report No. *[7]* **4 included herein** shall be used;

(E) When performing a maintenance check on the *[Intoxilyzer 1400]* **DataMaster**, Report No. *[8]* **6 included herein** shall be used; and

(F) When performing a maintenance check on the *[CMI Intoxilyzer 5000 CD]* **Alco-Sensor IV with printer**, Report No. *[9]* **7 included herein** shall be used.

(8) Maintenance report forms required in section (7) of this rule prior to *[June 7, 1993,]* **the effective date of this rule** and completed on maintenance checks before that date shall be considered valid under this rule.

(9) *[Maintenance reports completed before the effective date of this rule, including maintenance reports completed prior to March 26, 1996, and not having a certificate of analysis for the simulator solution, shall be considered valid under this rule.]* **Type II permit applications completed prior to the effective date of this rule shall be considered valid under the conditions of this rule.**



STATE OF MISSOURI  
DEPARTMENT OF HEALTH AND SENIOR SERVICES  
BREATH ALCOHOL PROGRAM



**PERMIT  
TYPE II**

is hereby authorized to instruct and supervise operators, train instructors, inspect, calibrate, perform field service and repairs, and operate the following breath analyzer(s):

for the determination of the alcoholic content of blood from a sample of expired air. Permit issued under the provisions of sections 577.020 through 577.041, RSMo and 306.111 through 306.119 RSMo.

DATE \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OF STATE PUBLIC HEALTH LABORATORY

NUMBER \_\_\_\_\_

EXPIRES \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OF DEPARTMENT OF HEALTH AND SENIOR SERVICES

MO 580-0771 (6-10)

LAB-4 (R6-10)



STATE OF MISSOURI  
DEPARTMENT OF HEALTH AND SENIOR SERVICES  
BREATH ALCOHOL PROGRAM



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\_\_\_\_\_  
DIRECTOR OF STATE PUBLIC HEALTH LABORATORY

NUMBER \_\_\_\_\_

EXPIRES \_\_\_\_\_

\_\_\_\_\_  
DIRECTOR OF DEPARTMENT OF HEALTH AND SENIOR SERVICES

MO 580-0771 (6-10)

LAB-4 (R6-10)



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
STATE PUBLIC HEALTH LABORATORY  
BREATH ALCOHOL PROGRAM



**APPLICATION FOR TYPE II PERMIT FOR OPERATION OF BREATH ALCOHOL ANALYZERS**

THIS APPLICATION IS FOR <input type="checkbox"/> NEW PERMIT <input type="checkbox"/> RENEWAL		CURRENT PERMIT NUMBER AND EXPIRATION DATE
PRINT FULL NAME	TITLE	AGE
SOCIAL SECURITY NUMBER	A disclosure concerning your SSN number is available at: <a href="http://www.health.mo.gov/lab/breathalcohol/">http://www.health.mo.gov/lab/breathalcohol/</a>	
DEPARTMENT OR TROOP	TELEPHONE	
BUSINESS ADDRESS (STREET, CITY, STATE, ZIP CODE)		
EMAIL ADDRESS		

**LIST ALL ORIGINAL TRAINING COURSES FOR OPERATION OF BREATH ANALYZERS**  
(Also, please place a checkmark beside ALL breath analyzer(s) for which you are requesting a permit.)

DATES OF COURSE	LOCATION OF COURSE	COURSE LENGTH (HRS.)	NAME & MODEL OF BREATH ANALYZER	PLACE A ✓ BESIDE INSTRUMENTS FOR WHICH YOU REQUEST	NAME OF INSTRUCTOR
				<input type="checkbox"/>	
				<input type="checkbox"/>	
				<input type="checkbox"/>	
				<input type="checkbox"/>	

List the manufacturer and name of instruments for which you are currently performing maintenance reports on and the number of maintenance reports performed on EACH type in the last year.

MANUFACTURER AND NAME OF INSTRUMENT	NUMBER OF MAINTENANCE REPORTS	NUMBER OF SUBJECT TESTS
1.		
2.		
3.		

When adding a new instrument, you receive a new two (2) year permit. Therefore, normal renewal procedures apply for the instrument(s) on your current permit that you wish to transfer to the new permit. Disregarding these renewal procedures will result in a new permit for the new instrument only.

To renew a Type II Permit, the applicant shall have completed two (2) Maintenance Reports and shall have performed at least ten (10) tests on drinking subjects in the past year on each instrument for which renewal is requested. If these conditions are not met, or the permit has expired for more than thirty (30) days, the applicant shall perform two (2) Maintenance Reports and five (5) self-administered tests for each breath analyzer for which renewal is requested. Copies of the Maintenance Reports along with the Operational checklists and printouts for the five (5) self-administered tests shall accompany the application for renewal.

SIGNATURE OF APPLICANT ▶	DATE
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**RETURN COMPLETED APPLICATION TO THE:**    Breath Alcohol Program, Missouri Department of Health and Senior Services  
Southeast District Office  
2875 James Blvd.  
Poplar Bluff, MO 63901



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
STATE PUBLIC HEALTH LABORATORY  
BREATH ALCOHOL PROGRAM  
**DATAMASTER DMT MAINTENANCE REPORT**

REPORT #1

Complete this report at the time of the regular monthly preventive maintenance check (not to exceed 35 days).  
Complete this report whenever the instrument is serviced or repaired and whenever it is placed into service.  
Retain the original and send a copy within 15 days to the Breath Alcohol Program, DHSS.

DATAMASTER DMT SN	NAME OF AGENCY	DATE OF INSPECTION
LOCATION OF INSTRUMENT (STREET AND CITY)		TIME OF INSPECTION

**CHECKLIST:** Place a mark on the line by each item if found to be satisfactory or is operating within established limits. (Write in observed values where determined). Unmarked items must be corrected before using instrument.

**DIAGNOSTIC RECORD**

DATE AND TIME _____	<input type="checkbox"/> DETECTOR
<input type="checkbox"/> PROGRAM	<input type="checkbox"/> FILTER 1
<input type="checkbox"/> SAMPLE CHAMBER _____	<input type="checkbox"/> FILTER 2
<input type="checkbox"/> BREATH TUBE _____	<input type="checkbox"/> FILTER 3
<input type="checkbox"/> PUMP	<input type="checkbox"/> INTERNAL STANDARD

**BREATH ANALYZER ACCURACY STANDARDS**

SIMULATOR SOLUTION                       COMPRESSED ETHANOL-GAS MIXTURE

STANDARD SUPPLIER \_\_\_\_\_ LOT # \_\_\_\_\_ EXP. DATE \_\_\_\_\_

SIMULATOR TEMP (34°C ± 0.2°C) \_\_\_\_\_ SIMULATOR SN \_\_\_\_\_ SIMULATOR EXP DATE \_\_\_\_\_

**CALIBRATION CHECK - (ONLY ONE STANDARD IS TO BE USED PER MAINTENANCE REPORT)**  
Run three tests using a standard solution. All three tests must be within ±5% of the standard value and must have a spread of .005 or less. Mark the box corresponding to the standard solution being used.

0.10% STANDARD - MUST READ BETWEEN 0.095% AND 0.105% INCLUSIVE

0.08% STANDARD - MUST READ BETWEEN 0.076% AND 0.084% INCLUSIVE

0.04% STANDARD - MUST READ BETWEEN 0.038% AND 0.042% INCLUSIVE

TEST 1:	TEST 2:	TEST 3:
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PERFORM R.F.I. TEST

**INDICATE THE NUMBER OF BREATH TEST IN THE FOLLOWING RANGES SINCE THE LAST MAINTENANCE REPORT:**

REFUSALS	0-.04	.05-.09	.10-.14	.15-.19	OVER .19
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LIST ANY NEW PARTS AND DESCRIBE ANY ALTERATION OR MODIFICATION THAT WAS MADE TO RESTORE THE INSTRUMENT TO OPERATE SATISFACTORILY AND WITHIN ESTABLISHED LIMITS (USE OTHER SIDE IF NECESSARY)

**INSPECTING OFFICER**

SIGNATURE		PRINT FULL NAME
TYPE II PERMIT NUMBER	EXPIRATION DATE	TELEPHONE NUMBER

**RETURN COMPLETED REPORT TO THE**  
Breath Alcohol Program, Missouri Department of Health and Senior Services, Southeast District Office, 2875 James Blvd, Poplar Bluff, MO 63901



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
STATE PUBLIC HEALTH LABORATORY  
**CMI INTOXILYZER 8000 MAINTENANCE REPORT**

REPORT #2

Complete this report in duplicate at the time of the regular monthly preventive maintenance check, and whenever instrument is repaired. Send one copy to Department of Health and Senior Services, and retain one copy in department file.

INSTRUMENT SERIAL NUMBER	LOCATION OF INSTRUMENT	DATE OF INSPECTION	TIME OF INSPECTION
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CALIBRATION CHECK RESULTS			CALIBRATION CHECK SUMMARY		
TEST	g/210L	TIME	STANDARD TYPE	STANDARD LOT NO.	STANDARD EXPIRATION DATE
			SIM TEMPERATURE	SIM SERIAL NUMBER	SIM CERTIFICATE EXPIRATION
			STANDARD VALUE	STANDARD SUPPLIER	
			CALIBRATION CHECK RESULT 1		
			CALIBRATION CHECK RESULT 2		
			CALIBRATION CHECK RESULT 3		
			MAXIMUM DEVIATION (MUST BE WITHIN 5%)		SPREAD (MUST BE .005 OR LESS)

DIAGNOSTIC TEST RESULTS	RFI TEST RESULTS		
	TEST	g/210L	TIME
Voltage/Current Test			
RAM Test			
EEPROM Checksum Test			
Real Time Clock Test			
DSP Test			
Analytical Stability Test			
Modem Test			
Temperature Regulation Test			

NUMBER OF REFUSALS AND SUBJECT BREATH TESTS IN EACH RANGE SINCE LAST MAINTENANCE REPORT					
REFUSALS	.00-.04	.05-.09	.10-.14	.15-.19	OVER .19

List any new parts and describe any alteration or modification that was made to restore the instrument to operate satisfactorily and within established limits (use other side if necessary).

INSPECTING OFFICER			
SIGNATURE		PRINT NAME	
TYPE II PERMIT NUMBER	EXPIRATION DATE	TELEPHONE NUMBER	



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
STATE PUBLIC HEALTH LABORATORY  
BREATH ALCOHOL PROGRAM  
**INTOX EC/IR II MAINTENANCE REPORT**

REPORT #3

Complete this report at the time of the regular monthly preventive maintenance check (not to exceed 35 days).  
Complete this report whenever the instrument is serviced or repaired and whenever it is placed into service.  
Retain the original and send a copy within 15 days to the Breath Alcohol Program, DHSS.

INTOX EC/IR II SN	NAME OF AGENCY	DATE OF INSPECTION
LOCATION OF INSTRUMENT (STREET AND CITY)		TIME OF INSPECTION

**CHECKLIST:** Place a mark in the box by each item if found to be satisfactory or is operating within established limits. (Write in observed values where determined). Unmarked items must be corrected before using instrument.

**DIAGNOSTIC RECORD**

<input type="checkbox"/> BLANK CHECK	<input type="checkbox"/> CO2 CHECK
<input type="checkbox"/> FC 1 TEMP	<input type="checkbox"/> FLOW CHECK
<input type="checkbox"/> SRC TEMP	<input type="checkbox"/> FCB CHECK
<input type="checkbox"/> DET TEMP	<input type="checkbox"/> CRC COMP CHECK
<input type="checkbox"/> BT TEMP	<input type="checkbox"/> CRC CAL CHECK
<input type="checkbox"/> STD 2 TEMP	<input type="checkbox"/> PRINT TEST
<input type="checkbox"/> ETH CHECK	DATE AND TIME _____

**BREATH ANALYZER ACCURACY STANDARDS**

SIMULATOR SOLUTION       COMPRESSED ETHANOL-GAS MIXTURE

STANDARD SUPPLIER \_\_\_\_\_ LOT # \_\_\_\_\_ EXP. DATE \_\_\_\_\_

SIMULATOR TEMP (34°C ± 0.2°C) \_\_\_\_\_ SIMULATOR SN \_\_\_\_\_ SIMULATOR EXP DATE \_\_\_\_\_

**CALIBRATION CHECK - (ONLY ONE STANDARD IS TO BE USED PER MAINTENANCE REPORT)**  
Run three tests using a standard solution. All three tests must be within ±5% of the standard value and must have a spread of .005 or less. Mark the box corresponding to the standard solution being used. (PRINTOUT ATTACHED)

0.10% STANDARD - MUST READ BETWEEN 0.095% AND 0.105% INCLUSIVE

0.08% STANDARD - MUST READ BETWEEN 0.076% AND 0.084% INCLUSIVE

0.04% STANDARD - MUST READ BETWEEN 0.038% AND 0.042% INCLUSIVE

TEST 1 ←	TEST 2 ←	TEST 3 ←
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**INDICATE THE NUMBER OF BREATH TEST IN THE FOLLOWING RANGES SINCE THE LAST MAINTENANCE REPORT:**

REFUSALS	0-.04	.05-.09	.10-.14	.15-.19	OVER .19
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LIST ANY NEW PARTS AND DESCRIBE ANY ALTERATION OR MODIFICATION THAT WAS MADE TO RESTORE THE INSTRUMENT TO OPERATE SATISFACTORILY AND WITHIN ESTABLISHED LIMITS (USE OTHER SIDE IF NECESSARY)

**INSPECTING OFFICER**

SIGNATURE	PRINT FULL NAME
TYPE II PERMIT NUMBER	EXPIRATION DATE
	TELEPHONE NUMBER

**RETURN COMPLETED REPORT TO THE:** Breath Alcohol Program, Missouri Department of Health and Senior Services  
Southeast District Office  
2875 James Blvd, Poplar Bluff, MO 63901



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
STATE PUBLIC HEALTH LABORATORY  
BREATH ALCOHOL PROGRAM  
**CMI INTOXYLIZER 5000 MAINTENANCE REPORT**

REPORT #4

Complete this report at the time of the regular monthly preventive maintenance check (not to exceed 35 days).  
Complete this report whenever the instrument is serviced or repaired and whenever it is placed into service.  
Retain the original and send a copy within 15 days to the Breath Alcohol Program, DHSS.

INTOXYLIZER 5000 SN	NAME OF AGENCY	DATE OF INSPECTION
LOCATION OF INSTRUMENT (STREET AND CITY)		TIME OF INSPECTION

**CHECKLIST:** Place a mark by each item if found to be satisfactory or is operating within established limits. (Write in observed values where determined.) Unmarked items must be corrected before using instrument.

- DVM TEST: (.350 ± .150) \_\_\_\_\_
- DIAGNOSTIC CHECK (PRINTOUT ATTACHED)      DATE AND TIME (FROM PRINTOUT) \_\_\_\_\_
- CHARACTER DISPLAY TEST
- PRINT TEST (PRINTOUT ATTACHED )
- SIMULATOR SOLUTION SUPPLIER \_\_\_\_\_ LOT # \_\_\_\_\_ EXP. DATE \_\_\_\_\_
- SIMULATOR TEMPERATURE (34°C ± 0.2°C) \_\_\_\_\_ SIMULATOR SN \_\_\_\_\_ EXP. DATE \_\_\_\_\_
- CALIBRATION CHECK - (ONLY ONE STANDARD IS TO BE USED PER MAINTENANCE REPORT)  
Run three tests using a standard solution. All three tests must be within ± 5% of the standard value and must have a spread of .005 or less. Mark the box corresponding to the standard solution being used. (PRINTOUT ATTACHED)
  - 0.100% STANDARD - MUST READ BETWEEN 0.095% AND 0.105% INCLUSIVE
  - 0.080% STANDARD - MUST READ BETWEEN 0.076% AND 0.084% INCLUSIVE
  - 0.040% STANDARD - MUST READ BETWEEN 0.038% AND 0.042% INCLUSIVE

TEST 1 ➡	TEST 2 ➡	TEST 3 ➡
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PERFORM RFI TEST (PRINTOUT ATTACHED)

**INDICATE THE NUMBER OF BREATH TESTS IN THE FOLLOWING RANGES SINCE THE LAST MAINTENANCE REPORT:  
(DO NOT INCLUDE SELF-ADMINISTERED TESTS)**

REFUSALS	0-.04	.05-.09	.10-.14	.15-.19	Over .19
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LIST ANY NEW PARTS AND DESCRIBE ANY ALTERATION OR MODIFICATION THAT WAS MADE TO RESTORE THE INSTRUMENT TO OPERATE SATISFACTORILY AND WITHIN ESTABLISHED LIMITS (USE OTHER SIDE IF NECESSARY).

**INSPECTING OFFICER**

SIGNATURE ▶	PRINT FULL NAME
TYPE II PERMIT NUMBER/EXPIRATION DATE	TELEPHONE NUMBER

**RETURN COMPLETED REPORT TO THE:** Breath Alcohol Program, Missouri Department of Health and Senior Services  
Southeast District Office  
2875 James Blvd.  
Poplar Bluff, MO 63901