
Rules of
Department Health
Division 25—Division of Administration
Chapter 30—Determination of Blood Alcohol by Blood,
Breath, Saliva and Urine Analysis; and Determination for
the Presence of Drugs in Blood and Urine

Title	Page
19 CSR 25-30.011 General Provisions for the Determination of Blood, Breath, Saliva or Urine Analysis and Drug Testing	3
19 CSR 25-30.021 Type I Permit.....	3
19 CSR 25-30.031 Type II Permit.....	7
19 CSR 25-30.041 Type III Permit.....	16
19 CSR 25-30.050 Approved Breath Analyzers	19
19 CSR 25-30.051 Standard Simulator Solutions	19
19 CSR 25-30.060 Operating Procedures for Breath Analyzers	19
19 CSR 25-30.070 Approval of Methods for the Determination of Blood Alcohol Content From Samples of Blood, Urine or Saliva.....	27
19 CSR 25-30.080 Approval of Methods for the Analysis of Blood and Urine for the Presence of Drugs.....	27

**Title 19—DEPARTMENT OF
HEALTH**

**Division 25—Division of Administration
Chapter 30—Determination of Blood
Alcohol by Blood, Breath, Saliva and
Urine Analysis; and Determination for
the Presence of Drugs in Blood and Urine**

**19 CSR 25-30.011 General Provisions for
the Determination of Blood, Breath, Saliva
or Urine Analysis and Drug Testing**

PURPOSE: This rule provides general information regarding the applicability of the rules in this chapter, definitions of terms, permits and operation of breath analyzers.

(1) Only those laboratories or persons performing analysis of blood, breath, urine or saliva for the determination of blood alcohol content, or of blood and 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 and 577.041, 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:

(A) Blood alcohol content is the alcohol content of blood expressed as a percentage based on grams of alcohol per one hundred (100) milliliters of blood or grams of alcohol per two hundred ten (210) liters of breath;

(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;

(D) Drugs are illegal or controlled chemical substances, other than alcohol, that are capable of impairing an individual's ability to operate a motor vehicle;

(E) Field repairs are the 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

(G) Permit is the written authorization from the Department of Health for an individual to perform analyses of blood, breath, urine or saliva for blood alcohol content; to perform analyses on blood or urine for drugs; to operate breath analyzers; to supervise operators of breath analyzers; to serve as instructors of training courses; and to per-

form field repairs and maintenance checks on breath analyzers.

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

(A) Permits are valid for two (2) years from the date of issuance.

(B) A permittee is authorized to perform only those tests for analysis, or to operate or maintain those breath analyzers that are specified on the permit.

(C) A permit may not be used as an endorsement from the department for promotional or commercial purposes.

(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, State Public Health Laboratory, 307 W. McCarty Street, Jefferson City, MO 65101. Requests for approval of instruments, methods or training courses shall be made to the director, State Public Health Laboratory. Criteria and standards used for approval purposes shall be provided upon request by the State Public Health Laboratory.

(5) Breath analyzers shall be operated strictly in accordance with the procedures set forth in 19 CSR 25-30.060.

(A) An operational checklist, including the certification section, shall be completed with each breath test at the time of the test, by the individual performing the test.

(B) An individual permitted to operate a breath analyzer shall—

1. Immediately suspend use of a breath analyzer that is not functioning properly; and

2. Submit to periodic reviews, examinations or surveys conducted by the department.

(6) The department shall initiate proceedings to 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 of the permit.

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

(B) The notice shall contain a summary of the evidence supporting the revocation.

*AUTHORITY: sections 192.005.2, 577.020, 577.026, 577.029, 577.031, 577.033, 577.039, RSMo (1986), 577.023, 577.041, RSMo (Cum Supp. 1991) and 577.037, RSMo (1988). * This rule previously filed as 19 CSR 20-30.011. Original rule filed July 15, 1988, effective Sept. 29, 1988. Changed to 19 CSR 25-30.011 Jan. 1, 1995.*

**Original authority: 192.005.2, RSMo (1985); 577.020, RSMo (1977), amended 1982, 1983; 577.023, RSMo (1982), amended 1983, 1991; 577.026, 577.029, 577.031, 577.033, RSMo (1982); 577.037, RSMo (1982), amended 1983, 1988; 577.039, RSMo (1982); and 577.041, RSMo (1982), amended 1987, 1991.*

Collins v. Director of Revenue, 691 SW2d 246 (Mo. banc. 1985); Jannett v. King, 687 SW2d 252 (Mo. App. 1985); Stuart v. Director of Revenue, 761 SW2d 234 (Mo. App. 1988). Prima facie case for admission of breath analysis test results is made if the test is administered by a certified operator in accordance with promulgated operating procedures.

Collins v. Director of Revenue, 691 SW2d 246 (Mo. banc 1985); Stuart v. Director of Revenue, 761 SW2d 234 (Mo. App. 1988). A contention that a breath analysis instrument was not functioning properly can only be made if supported by some evidence which suggests that a malfunction occurred despite adherence to correct test methods.

Williams v. Director of Revenue, 721 SW2d 797 (Mo. App. 1986). The results of approved breath analysis tests are measured by weight.

19 CSR 25-30.021—Type I Permit

PURPOSE: This rule establishes the qualifications, duties and responsibilities of a Type I permittee.

(1) A Type I permit authorizes an individual to perform analyses of blood, breath, urine and saliva for blood alcohol content and to perform analyses of blood 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.

(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) To perform analyses of blood, urine or saliva 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 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.

(3) A Type I permittee shall maintain complete records of testing, quality assurance data, logbooks and other documentation related to the performance of tests as established under general standards of laboratory practice and chain-of-custody procedures.

(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) of this rule shall apply for renewal of a permit authorizing the analysis of blood, urine or saliva for blood alcohol content. A set of three (3) check samples shall be satisfactorily analyzed during the last year of the current permit.

(5) Type I permits issued before September 29, 1988 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.

577.033, 577.039, RSMo (1986), 577.023, 577.041, RSMo (Cum. Supp. 1991) and 577.037, RSMo (Supp. 1988). * 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.

*Original authority: 192.005.2, RSMo (1985); 577.020, RSMo (1977), amended 1982, 1983; 577.023, RSMo (1982), amended 1983, 1991; 577.026, 577.029, 577.031, 577.033, RSMo (1982); 577.037, RSMo (1912), amended 1983, 1988; 577.039, RSMo (1982); and 577.041, RSMo (1982), amended 1987, 1991.

Stuart v. Director of Revenue, 761 SW2d 234 (Mo. App. 1988). A Type II permittee is qualified to testify as an expert on technical matters and permissible temperature tolerances.

Miller v. Director of Revenue, 719 SW2d 787 (Mo. banc 1986); *Elkins v. Director of Revenue*, 728 SW2d 567 (Mo. App. 1987). Possession of a permit is a matter within the personal knowledge of the permittee. Testimony by a permittee is sufficient to prove the permittee's qualifications to administer the tests.

AUTHORITY: sections 192.005.2 and 577.020, 577.026, 577.029, 577.031,



MISSOURI DEPARTMENT OF HEALTH

PERMIT TYPE 1



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

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

Permit issued under the provisions of sections 577.020 through 577.041 RSMo (1986).

DATE	NUMBER	EXPIRES
DIRECTOR, STATE PUBLIC HEALTH LABORATORIES	DIRECTOR, DEPARTMENT OF HEALTH	

MO 580-1242 (9-88)

LAB-2 (R9-88)



MISSOURI DEPARTMENT OF HEALTH
STATE PUBLIC HEALTH LABORATORY
APPLICATION FOR TYPE I PERMIT

NAME	AGE	TELEPHONE NUMBER
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ORGANIZATION

BUSINESS ADDRESS (STREET, CITY, STATE, ZIP CODE)
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DIRECTOR'S NAME	TELEPHONE
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<input type="checkbox"/> NEW PERMIT	<input type="checkbox"/> RENEWAL	PERMIT NUMBER	EXPIRATION DATE
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ALCOHOL ANALYSIS:	<input type="checkbox"/> BLOOD	<input type="checkbox"/> SALIVA	<input type="checkbox"/> URINE
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DRUG ANALYSIS	<input type="checkbox"/> BLOOD	<input type="checkbox"/> URINE
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EDUCATION

COLLEGE OR UNIVERSITY	YEARS ATTENDED	HOURS QTRS/SEM.	MAJOR	MINOR	DEGREE	GRADUATED

OTHER RELEVANT TRAINING

COURSE OR PROGRAM TITLE	AGENCY OR INSTITUTION	DATES

ANALYTICAL EXPERIENCE

ORGANIZATION	DATES EMPLOYED

FOR DRUG TESTING ONLY, Provide name of proficiency testing program(s) your facility subscribes to: _____

METHODS USED FOR ANALYSIS

ALCOHOL <input type="checkbox"/> Gas or liquid chromatography <input type="checkbox"/> Spectrophotometric or colorimetric analysis <input type="checkbox"/> Titration (dichromate reduction)	DRUGS <input type="checkbox"/> Enzymeimmunoassay (EIA) <input type="checkbox"/> Fluorescence Immunoassay (FIA) <input type="checkbox"/> Radioimmunoassay (RIA) <input type="checkbox"/> Gas-Liquid Chromatography (GLC) <input type="checkbox"/> Thin Layer Chromatography (TLC) <input type="checkbox"/> High-Pressure Liquid Chromatography (HPLC) <input type="checkbox"/> Ultra-Violet Spectrophotometry (UV) <input type="checkbox"/> Gas Chromatography/Mass Spectrometry (GC/MS)
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19 CSR 25-30.031 Type II Permit

PURPOSE: This rule establishes the qualifications, duties and responsibilities of a Type II permittee and establishes a maintenance report to be used for each of the approved breath analyzers in 19 CSR 20-30.050.

(1) A Type II permit 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 field 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.

(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—

- (A) A new instrument is placed into service; or
- (B) The instrument has been repaired or recalibrated.

(4) Type II permittees shall maintain complete records as required in 19 CSR 25-30.021(3) and in 19 CSR 25-30.011(5)(A). Type II permittees shall provide oversight and assistance to assure the competency of the operators under their supervision. They shall conduct training courses as approved by the department.

(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 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 tests shall accompany the application for renewal.

(6) Type II permits issued before September 29, 1988, 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;

(B) When performing a maintenance check on the BAC Verifier, Report No. 5 shall be used;

(C) When performing a maintenance check on the Data Master, Report No. 6 shall be used;

(D) When performing a maintenance check on the Alco-Sensor IV/RBT IV, Report No. 7 shall be used;

(E) When performing a maintenance check on the Intoxilyzer 1400, Report No. 8 shall be used; and

(F) When performing a maintenance check on the CMI Intoxilyzer 5000 CD, Report No. 9, shall be used.

(8) Maintenance report forms required in section (7) of this rule prior to June 7, 1993, 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.

AUTHORITY: sections 192.006, 577.020 and 577.041, RSMo Supp. 1997 and 577.026, RSMo 1994. This rule previously filed as 19 CSR 20-30.031. Original rule filed July 15, 1988, effective Sept. 29, 1988. Emergency amendment filed Dec. 2, 1992, effective Dec. 12, 1992, expired April 10, 1993. Emergency amendment filed April 1, 1993, effective April 11, 1993, expired June 6, 1993. Amended: Filed Dec. 2, 1992, effective June 7, 1993. Emergency amendment filed Nov. 9, 1993, effective Nov. 19, 1993, expired March 18, 1994. Emergency amendment filed March 1, 1994, effective March 11, 1994, expired July 8, 1994. Emergency amendment filed July 12, 1994, effective July 22, 1994, expired Nov. 18, 1994. Emergency amendment filed Oct. 28, 1994, effective Nov. 7, 1994, expired March 6, 1995. Amended:*

Filed July 22, 1994, effective Dec. 30, 1994. Changed to 19 CSR 25-30.031 Jan. 1, 1995. Emergency amendment filed March 3, 1995, effective March 13, 1995, expired July 1, 1995. Emergency amendment filed June 21, 1995, effective July 1, 1995, expired Oct. 28, 1995. Amended: Filed March 3, 1995, effective July 30, 1995. Emergency amendment filed March 15, 1996, effective March 25, 1996, expired Sept. 20, 1996. Amended: Filed March 15, 1996, effective Aug. 30, 1996. Amended: Filed Aug. 25, 1997, effective Feb. 28, 1998.

**Original authority: 192.006, RSMo 1993, amended 1995; 577.020, RSMo 1977, amended 1982, 1983, 1996; 577.026, RSMo 1982; and 577.041, RSMo 1982, amended 1987, 1991, 1993, 1996.*

Stuart v. Director of Revenue, 761 SW2d 234 (Mo. App. 1988). A Type II permittee is qualified to testify as an expert on technical matters and permissible temperature tolerances.

Miller v. Director of Revenue, 719 SW2d 787 (Mo. banc 1986); Elkins v. Director of Revenue, 728 SW2d 567 (Mo. App. 1987). Possession of a permit is a matter within the personal knowledge of the permittee. Testimony by a permittee is sufficient to prove the permittee's qualifications to administer the tests.