

Title 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 25 – Missouri 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

EMERGENCY AMENDMENT

19 CSR 25-30.021 Type I Permit. The department is amending section (3).

PURPOSE: This amendment adds back to the rule an accreditation that is currently held by one of the laboratories in Missouri that upon further review by the department has been deemed an acceptable accreditation.

*EMERGENCY STATEMENT: Only laboratories with accreditations that have been approved by the Department of Health and Senior Services and are listed in these rules may be used for the analysis of blood, saliva, and urine samples for drug-related driving offenses. In March 2020, the Department removed an accreditation through the College of American Pathologists (CAP) from the rule. It was recently discovered that one laboratory was using this accreditation as the basis for performing testing, and has been forced to shut down testing. The consequences of this laboratory ceasing testing is that the time required to complete testing of blood and urine samples for drugs has approximately doubled at the remaining Type I laboratories. The delay in testing creates further delays for the processes dependent on the test results, including criminal prosecutions. The emergency amendment will allow laboratories that hold a forensic drug testing accreditation through the College of American Pathologists (CAP) to perform analyses of blood, saliva, or urine for the presence of drugs. As a result, the Department finds that an immediate danger to the public health, safety, or welfare and a compelling governmental interest exists which require this emergency action. A proposed amendment, which 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 Department believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 1, 2022, becomes effective November 15, 2022, and expires May 14, 2023.*

(3) Laboratories wherein analyses are performed by Type I permit holders 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.

(A) Laboratories wherein analyses are performed by Type I permit holders shall be subject to audits by the department regarding any and all records referenced herein.

(B) Laboratories that perform analyses of blood, saliva, or urine for the presence of drugs shall hold a **forensic drug testing accreditation through the College of American Pathologists (CAP)**, an accreditation through the American Board of Forensic Toxicologists (ABFT), or an **accreditation** through an accreditation body that is a signatory of the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement (ILAC MRA). 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 Missouri State Public Health Laboratory upon request.

*AUTHORITY: sections 192.006, 577.020, and 577.037, RSMo 2016. * 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, effective Dec. 30, 2012. Amended: Filed Oct. 1, 2019, effective March 30, 2020. Emergency amendment filed November 1, 2022, effective November 15, 2022, expires May 14, 2023. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

**Original authority: 192.006, RSMo 1993, amended 1995; 577.020, RSMo 1977, amended 1982, 1983, 1996, 1998, 2001, 2006, 2014; and 577.037, RSMo 1982, amended 1983, 1988, 1993, 1996, 2001, 2014, 2016.*

Stuart v. Director of Revenue, 761 S.W.2d 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 S.W.2d 787 (Mo. banc 1986); Elkins v. Director of Revenue, 728 S.W.2d 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.

PUBLIC COST: This emergency amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.