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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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IN THIS ISSUE:

EMERGENCY RULES

Department of Social Services
 Family Support Division1941

PROPOSED RULES

Department of Economic Development
 Public Service Commission1942

Department of Elementary and Secondary Education
 Division of Administrative and Financial Services1946

Department of Natural Resources
 Air Conservation Commission1946
 Safe Drinking Water Commission1964

Department of Revenue
 Director of Revenue2018

Department of Social Services
 Family Support Division2021

Department of Health and Senior Services
 Division of Community and Public Health2023

ORDERS OF RULEMAKING

Department of Agriculture
 Office of the Director2044

Department of Natural Resources
 Air Conservation Commission2044

Department of Revenue
 Director of Revenue2045

Department of Social Services
 MO HealthNet Division2046

Elected Officials
 Secretary of State2046

Department of Insurance, Financial Institutions and Professional Registration

Insurance Licensing2046
 Endowed Care Cemeteries2048
 Missouri Board of Geologist Registration2048
 Missouri Board of Occupational Therapy2049
 Missouri Board for Respiratory Care2049
 Office of Tattooing, Body Piercing, and Branding2049

IN ADDITIONS

Department of Transportation
 Missouri Highways and Transportation Commission2051

Department of Health and Senior Services
 Missouri Health Facilities Review Committee2052

DISSOLUTIONS

.2053

SOURCE GUIDES

RULE CHANGES SINCE UPDATE2057
EMERGENCY RULES IN EFFECT2063
EXECUTIVE ORDERS2065
REGISTER INDEX2068

| Register Filing Deadlines | Register Publication Date | Code Publication Date | Code Effective Date |
|---------------------------------------|---|--|--|
| November 3, 2008 November 17, 2008 | December 1, 2008 December 15, 2008 | December 31, 2008 December 31, 2008 | January 30, 2009 January 30, 2009 |
| December 1, 2008 December 15, 2008 | January 2, 2009 January 16, 2009 | January 29, 2009 January 29, 2009 | February 28, 2009 February 28, 2009 |
| January 2, 2009 January 16, 2009 | February 3, 2009 February 17, 2009 | February 28, 2009 February 28, 2009 | March 30, 2009 March 30, 2009 |
| February 3, 2009 February 17, 2009 | March 2, 2009 March 16, 2009 | March 31, 2009 March 31, 2009 | April 30, 2009 April 30, 2009 |
| March 2, 2009 March 16, 2009 | April 1, 2009 April 15, 2009 | April 30, 2009 April 30, 2009 | May 30, 2009 May 30, 2009 |
| April 1, 2009 April 15, 2009 | May 1, 2009 May 15, 2009 | May 31, 2009 May 31, 2009 | June 30, 2009 June 30, 2009 |
| May 1, 2009 May 15, 2009 | June 1, 2009 June 15, 2009 | June 30, 2009 June 30, 2009 | July 30, 2009 July 30, 2009 |

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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| Eden/Webster Library Eden Theological Seminary/ Webster University 475 East Lockwood Ave. St. Louis, MO 63119-3192 (314) 961-2660 ext. 7812 | Rutland Library Three Rivers Community College 2080 Three Rivers Blvd. Poplar Bluff, MO 63901-2393 (573) 840-9656 | Missouri State Archives 600 West Main, PO Box 778 Jefferson City, MO 65102-0778 (573) 526-6711 | Lyons Memorial Library College of the Ozarks General Delivery Point Lookout, MO 65726-9999 (417) 334-6411 ext. 3551 |
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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.

Rules 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.

Rules 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.

All 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 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance**

EMERGENCY RULE

13 CSR 40-2.390 Transitional Employment Benefit

PURPOSE: This rule establishes the Transitional Employment Benefit. This rule also establishes the circumstances when a family is eligible for the Transitional Employment Benefit payment and the length of time a family qualifies for the Transitional Employment Benefit payment.

EMERGENCY STATEMENT: This emergency rule will allow immediate support for working families during the transition into employment and loss of eligibility for Temporary Assistance benefits. House Bill 2011 provided funding for this Transitional Employment Benefit in the Department of Social Service's budget. This emergency rule is necessary as a key factor to promote self-sufficiency and job retention for certain families who lose eligibility for Temporary Assistance. Approximately six thousand (6,000) Temporary Assistance cases that close will receive the Transitional Employment Benefit. If this benefit is not received, the former Temporary Assistance case could lose the support needed to ensure a successful transition from welfare to self-sufficiency. The first Transitional

Employment Benefits will be issued in November 2008 based on eligibility determined in October 2008, which is the beginning of the federal fiscal year. The rule needs to be in effect when the payments first begin. This rule is necessary to the process of determining the eligibility and payment of the benefit. The department finds a compelling governmental interest and/or a danger to the public health, safety, and/or welfare that requires an early effective date for the rule. This emergency rule supports the former Temporary Assistance families in their efforts to move from welfare to self-sufficiency. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The director believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed September 23, 2008, effective October 3, 2008, for families losing eligibility for Temporary Assistance in October 2008 or later. This rule expires March 31, 2009.

(1) The Family Support Division shall make payable a fifty-dollar (\$50) Transitional Employment Benefit payment to families with earned income who are no longer eligible for Temporary Assistance benefits as defined in 13 CSR 40-2.300 through 13 CSR 40-2.370 due to an increase in income, removal of an earnings disregard or an allowable expense deduction, or a household composition change which causes ineligibility due to income guidelines for Temporary Assistance provided—

(A) The family received Temporary Assistance cash benefits for at least one (1) month;

(B) There is a work-eligible individual, as defined in 45 CFR 261.10, included in the family;

(C) Work-eligible individuals in the family continue to meet the minimum work participation hours as outlined in 42 USC 607.

1. Transitional Employment Benefit work participation hours must be met through employment only.

2. Work participation hours must be reported and verified within ten (10) days of the Temporary Assistance case closing or change in employment;

(D) The family continues to meet all other eligibility requirements contained in 13 CSR 40-2.300 through 13 CSR 40-2.370 with the exception of income; and

(E) The family was eligible for and received Temporary Assistance in October 2008 or later.

(2) The family is eligible to receive the fifty-dollar (\$50) Transitional Employment Benefit payment for up to six (6) consecutive months as long as the family meets the requirements in subsections (1)(B) and (1)(C).

(3) There is no limit on the number of times a family may receive Transitional Employment Benefit payments as long as the family loses eligibility for Temporary Assistance as outlined in section (1).

(A) The Transitional Employment Benefit is not included in the sixty (60)-month lifetime limit for Temporary Assistance as referenced in 42 USC 608.

(4) Families who receive Transitional Employment Benefits shall not assign to the Family Support Division on behalf of the state any rights to support from any other person on behalf of any member of the family.

AUTHORITY: section 207.020, RSMo 2000 and section 208.040.5, RSMo Supp. 2007. This emergency rule filed Sept. 23, 2008, effective Oct. 3, 2008, expires March 31, 2009. A proposed rule covering this same material is published in this issue of the Missouri Register.

Under 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."

Entirely new rules are printed without any special symbolology 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.

An 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.

If 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*.

An 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.

If 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.

(1) A telecommunications company providing basic local telecommunications service or an interconnected Voice-over-Internet Protocol service provider shall apply a monthly surcharge to each customer bill as described in this rule. The surcharge shall be identified on the bill as the "Relay Missouri Surcharge" (hereinafter referred to as the surcharge).

(A) The surcharge shall be applied to all of the following lines except as described in subsection (1)(B):

1. Single- and multi-line residential and business access lines;
2. Centrex or private branch exchange lines. One (1) private branch exchange line is counted as one (1) basic access line. The number of Centrex lines per subscriber location subject to the surcharge will equal the number of Centrex stations capable of being used simultaneously;
3. Direct inward dial lines;
4. Company employee concession lines;
5. Voice-grade channels for DS-1 or higher bandwidth facilities; and
6. Interconnected Voice-over-Internet Protocol service lines.

(B) The surcharge shall not be applied on—

1. More than one hundred (100) lines per subscriber per location. For purposes of this rule, location is defined as any building or buildings held under common ownership and located on a contiguous plot of ground and not divided by a city street or public thoroughfare; or
2. Any line used to provide pay telephone service.

(2) The surcharge is exempt from taxes identified in Chapter 144, RSMo 2000, and shall not be construed as gross receipts or revenue collected by the company for the purpose of local taxation.

(3) Pursuant to section 209.257, RSMo 2000, a company shall deduct and retain a certain portion of the total surcharge amount collected each month to recover the billing, collecting, remitting, and administrative costs attributed to the surcharge. The amount a company may retain is known as the "retention amount" and is determined by order of the Missouri Public Service Commission (commission) during a surcharge review. If the monthly amount collected is equal to or less than a minimum flat dollar retention amount set by the commission, the company may simply retain the amount collected from the surcharge. In such situations, the company will not be reimbursed for the difference between the surcharge revenue collected and the minimum retention amount.

(4) After deducting the retention amount described in section (3), the net revenue collected from the surcharge shall be remitted to the commission no later than thirty (30) days after the last day of the calendar month in which the surcharges were collected.

(A) Remittances are deemed delinquent on the thirty-first day after the last day of the calendar month in which the surcharges were collected.

(B) For each calendar month in which the surcharge remittance is delinquent, a telecommunications company shall remit a late payment fee of one and one-half percent (1.5%) per month applied to the surcharge remittance amount owed. For example: If a remittance of two hundred dollars (\$200) were due no later than July 1, but was received on September 9, a fee of one and one-half percent (1.5%) would be applied for each month the payment was late, starting on July 2, and applied every month thereafter until remittance. In this example, the amount due would have a one and one-half percent (1.5%) late fee three dollars (\$3) applied three (3) times, for July, August, and September, for a total required remittance of two hundred nine dollars (\$209).

(C) The commission may, for good cause shown, waive the late fee.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telecommunications Companies

PROPOSED RULE

4 CSR 240-33.170 Relay Missouri Surcharge Billing and Collections Standards

PURPOSE: This rule establishes uniform standards for telecommunications companies and interconnected Voice-over-Internet Protocol service providers to bill, collect, and remit the Relay Missouri Surcharge. The purpose of this surcharge is to generate funding for a statewide dual-party relay system and a statewide telecommunications distribution program as prescribed by sections 209.253 through 209.259, RSMo 2000, and section 209.251, RSMo Supp. 2007.

(5) A company shall compile and submit to the commission a monthly Relay Missouri Statement when remitting surcharge revenues pursuant to section (4) above. The form for compiling the Relay Missouri Statement is electronically available on the commission's web site under Relay Missouri Surcharge Information. The Relay Missouri Statement shall include the following information:

- (A) The month for which the submitted revenue was collected;
- (B) The name of the company as authorized to provide basic local telecommunications service or interconnected Voice-over-Internet Protocol service in Missouri;
- (C) The number of lines against which the surcharge was billed;
- (D) Total surcharge revenue collected;
- (E) The retention amount;
- (F) The surcharge revenue remitted to the commission; and
- (G) The name and contact information of the responsible person submitting the statement.

(6) If a company does not remit surcharge revenue, the company need not submit the monthly Relay Missouri Statement; however the company shall make such information available to the commission or its staff upon request. This information shall be retained for a two (2)-year time period.

(7) No company shall submit surcharge revenues on another company's behalf without submitting separate Relay Missouri Statement forms for each company, as described in section (5).

(8) All companies shall supply information related to the billing and collection of the surcharge in the company's annual report submitted to the commission. This information will include monthly totals during the calendar year for the revenue collected through the surcharge, the retention amount, and the total surcharge revenue submitted to the commission, if any.

AUTHORITY: sections 209.253, 209.255, 209.257, 209.258, 209.259, 386.040, 386.250, 392.185(1), (2), (3), and (8), and 392.470, RSMo 2000 and section 209.251, RSMo Supp. 2007. Original rule filed Sept. 30, 2008.

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

PRIVATE COST: This proposed rule will not cost private entities more than six thousand dollars (\$6,000) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Colleen M. Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register and should include a reference to commission Case No. TX-2008-0392. 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 rule is scheduled for December 3, 2008, at 1:30 p.m. in Room 305 of the Governor Office Building, 200 Madison Street, 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 rule 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 or TDD Hotline 1-800-829-7541.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Missouri Department of Economic Development
 Division: Missouri Public Service Commission
 Chapter: Service and Billing Practices for Telecommunications Billing Practices
 Type of Rulemaking: Proposed
 Rule Number and Name: 4 CSR 240-33.170 Relay Missouri Surcharge Billing and Collections Standards

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the proposed 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: |
|--|---|--|
| 4 | Class A Local Telephone Companies | \$0 See IV.6 & 7 below |
| 39 | Class B Local Telephone Companies | \$2,500 See IV.6 & 8 below |
| 99 | Class C Local Telephone Companies | \$3,500 See IV.6 & 9 below |
| 0 | Class Interexchange Companies | \$0 |
| N/A | Class Other | \$0 |
| Total Entities: 142 | All entities | \$6,000 |

* Class A Telephone Companies are incumbent local telephone companies with more than \$100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with \$100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are competitively classified telecommunications companies and Commission certificated Voice over Internet Protocol providers; Class Interexchange Companies are long distance providers.

III. WORKSHEET

1. The proposed rule applies to all local exchange carriers operating in Missouri that provide basic telephone access lines to end users pursuant to Section 209.255.1, RSMo 2000 (Cum. Supp.)

IV. ASSUMPTIONS

1. The life of the rule is estimated to be five years.
2. Fiscal year 2008 dollars were used to estimate costs. No adjustment for inflation is applied.
3. Estimates assume no sudden change in technology that would influence costs.
4. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission and Federal Communications Commission rules and regulations.
5. Estimates are based on input from entities affected by the proposed rule.
6. Pursuant to Section 209.257 RSMo 2000 (Cum. Supp.) all carriers providing basic telephone access services are permitted to deduct a percentage of the Relay Missouri Surcharge revenues they collect as compensation for collecting, managing and remitting the Relay Missouri Surcharge. Pursuant to the Commission's *Order Adopting Relay Missouri Fund Review and Establishing Fund Surcharge* in Case No. TO-2007-0306 those carriers are permitted to retain 1% of the amount collected or \$30, whichever is greater, as compensation for their collection and management efforts of the Relay Missouri Surcharge revenues.
7. Of the four Class A entities none indicated there would be a cost to implement the rule.
8. One of the 39 Class B entities provided an estimate indicating their on-going, annual cost to implement the rule would be less than \$500 (or less than \$2,500 over the five-year life of the rule).
9. Of the 99 Class C entities, only one estimated an on-going cost (of \$50 per month or \$3,000 over the five-year life of the rule) and another carrier, one that provides VoIP services, indicated it would experience an initial cost exceeding \$500. This estimate does not include a fiscal impact to non-certificated or unregistered VoIP providers since the Commission cannot identify non-certificated or unregistered entities.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION**
**Division 30—Division of Administrative and Financial
Services**
Chapter 261—School Transportation

PROPOSED AMENDMENT

5 CSR 30-261.025 Minimum Requirements for School Bus Chassis and Body. The State Board of Education is proposing to amend section (1) and the incorporated by reference material.

PURPOSE: This amendment is a result of a change to the National School Transportation Specifications and Procedures and the Federal Motor Vehicle Safety Standards and a recommendation from the Missouri Minimum Standards for School Buses Committee. The amendment will enhance the safety of schoolchildren being transported in school buses.

(1) The [2007] Missouri Minimum Standards for School Buses[,] (revised September 2008) is hereby incorporated by reference and made a part of this rule as published by the Department of Elementary and Secondary Education, School [Governance] Administrative Services, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions. The [2007] Missouri Minimum Standards for School Buses reflects the changing needs of pupil transportation in Missouri, changes in the national specifications for school buses, and federal motor vehicle safety standards. The changes will enhance the safety of schoolchildren being transported in school buses.

AUTHORITY: section 161.092, RSMo Supp. 2007 and section 304.060, RSMo 2000. This rule was previously filed as 5 CSR 40-261.025. Original rule filed Feb. 23, 1981, effective Oct. 1, 1981. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 22, 2008.

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 the Missouri Department of Elementary and Secondary Education, ATTN: Roger Dorson, Coordinator, School Administrative Services, PO Box 480, Jefferson City, MO 65102-0480. 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 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
**Chapter 5—Air Quality Standards and Air Pollution
Control Rules Specific to the St. Louis Metropolitan
Area**

PROPOSED AMENDMENT

10 CSR 10-5.381 On-Board Diagnostics Motor Vehicle Emissions Inspection. The commission proposes to amend sections (1), (2), and (4); and amend subsections (3)(A)–(F), (3)(H), (3)(J)–(N), (5)(A), (5)(B), and (5)(D). The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and

phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/ruleindex.htm.

PURPOSE: This rule enacts the provisions of sections 643.300–643.355, RSMo and meets the 1990 Federal Clean Air Act Amendments requirement that the ozone state implementation plan contains necessary enforceable measures to maintain the mandatory vehicle emissions inspection and maintenance program. The purpose of this rulemaking is to clarify the exemption, inspection station, vehicle inspection, and waiver requirements of the rule. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, are the February 6, 2008, Missouri State Highway Patrol–Missouri Department of Natural Resources conference call notes, the March 17, 2008, Department of Revenue–Department of Natural Resources–Missouri State Highway Patrol meeting summary, and section 643.340 of the Missouri revised statutes.

(1) Applicability.

(A) Except as provided in subsection (1)(B) of this rule, subject vehicles include all vehicles operated on public roadways in the geographical area containing the City of St. Louis and the counties of Franklin, Jefferson, St. Charles, and St. Louis, and which are—

1. Registered in the area with the state of Missouri Department of Revenue (MDOR);

2. Leased, rented, or privately owned and are not registered in the geographical area but are primarily operated in the area. A vehicle is primarily operated in the area if at least fifty-one percent (51%) of the vehicle's annual miles are in the area;

3. Owned or leased by federal, state, or local government agencies, and are primarily operated in the geographical area, but are not required to be registered by the state of Missouri; or

4. Owned, leased, or operated by civilian and military personnel on federal installations located within the geographical area, regardless of where the vehicles are registered.

(B) The following vehicles are exempt from this rule:

1. Heavy duty gasoline-powered and heavy duty diesel-powered vehicles that receive a Gross Vehicle Weight Rating (GVWR) exemption described in subsection (4)(I) of this rule;

2. Light duty gasoline-powered vehicles and trucks manufactured prior to the 1996 model year and light duty diesel-powered vehicles and trucks manufactured prior to the 1997 model year;

3. Motorcycles and motortricycles;

4. Vehicles which are powered exclusively by electric or hydrogen power or by fuels other than gasoline, ethanol (E10 and E85), or diesel;

5. Motor vehicles registered in an area subject to the inspection requirements of sections 643.300 to 643.355, RSMo, that are domiciled and operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355, RSMo, [if the vehicle is granted] that receive an [Out of Area waiver] out of area exemption described in [paragraph (3)(K)6.] subsection (4)(J) of this rule;

6. New and unused motor vehicles, of model years of the current calendar year and of any calendar year within two (2) years of such calendar year, that have an odometer reading of [less] fewer than six thousand (6,000) miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user;

7. New motor vehicles that have not been previously titled and registered, for the four (4)-year period following their model year of manufacture, [provided that the odometer for such motor vehicles has] that have an odometer reading of fewer than forty thousand (40,000) miles showing at the first required biennial safety inspection. [conducted under sections 307.350 to 307.390, RSMo] These vehicles qualify for a mileage-based exemption described in subsection (4)(H) of this rule. Otherwise, such motor

vehicles shall be subject to the emissions inspection requirements of subsection (3)(B) of this rule during the same period that the biennial safety inspection is conducted;

8. Motor vehicles that are driven fewer than twelve thousand (12,000) miles between biennial safety inspections **that receive a mileage-based exemption described in subsection (4)(H) of this rule.**

A. Prior to October 1, 2009, [Written] handwritten MVI-2 safety inspection forms or printed [proof of this exemption] safety Vehicle Inspection Reports (VIRs) shall be provided by the owner to the [Department of Revenue] department.

[A.](I) The proof of exemption from the emissions inspection requirement shall consist of two (2) vehicle safety inspection reports issued to the owner of the vehicle being exempted.

[B.](II) The first safety inspection report shall have been issued during the vehicle's previous **biennial** safety inspection. The second safety inspection report shall have been issued **during the current biennial inspection cycle, performed** within the sixty (60) days of the owner's registration request.

[C.](III) **[Both] Each** vehicle safety inspection report/s/ must document the odometer reading at the time of the vehicle's **biennial** safety inspections, and the difference between these two (2) odometer readings shall be no greater than eleven thousand nine hundred *[and] ninety-nine (11,999);*.

B. Beginning October 1, 2009, this exemption shall be issued automatically by licensed emissions inspection stations using the contractor's Missouri Decentralized Analyzer System (MDAS) equipment and lane software;

9. Historic motor vehicles registered pursuant to section 301.131, RSMo;

10. School buses;

11. Tactical military vehicles; *[and]*

12. Visitor, employee, or military personnel vehicles on federal installations provided appointments do not exceed sixty (60) calendar days.; **and**

13. Specially constructed vehicles.

(2) Definitions.

(A) Business day—All days, excluding Saturdays, Sundays, and state holidays, that an inspection station is open to the public.

(B) **Clean scanning—The illegal act of connecting the On-Board Diagnostics (OBD) cable or wireless transmitter to the data link connector of a vehicle other than the vehicle photographed and identified on the emissions VIR for the purpose of bypassing the required OBD test procedure.**

[(B)](C) Compliance cycle—The two (2)-year duration during which a subject vehicle in the enhanced emissions inspection program area is required to comply with sections 643.300–643.355, RSMo.

1. For private entity vehicles, the compliance cycle begins sixty (60) days prior to the subject vehicle's registration **and biennial license plate tab** expiration.

2. For public entity vehicles, the compliance cycle begins on January 1 of each even-numbered calendar year. The compliance cycle ends on December 31 of each odd-numbered calendar year.

[(C)](D) Contractor—The state contracted company who shall implement the decentralized motor vehicle emissions inspection program as specified in sections 643.300–643.355, RSMo, and the state contracted company who shall implement the acceptance test procedure.

[(D)](E) Department—The Missouri Department of Natural Resources, the state agency responsible for oversight of the vehicle emissions inspection and maintenance program that is required by the 1990 Federal Clean Air Act Amendments.

[(E)](F) Data Link Connector (DLC)—The terminal required to be installed on all On-Board Diagnostics (OBD) equipped vehicles that allows communication with a vehicle's OBD system.

[(F)](G) Diagnostic Trouble Code (DTC)—An alphanumeric code consisting of five (5) characters which is stored by a vehicle's On-Board Diagnostics system if a vehicle malfunctions or deteriorates in such a way as to potentially raise the vehicle's tailpipe or evaporative emissions more than 1.5 times the federal test procedure certification limits. The code indicates the system or component that is in need of diagnosis and repair to prevent the vehicle's emissions from increasing further.

[(G)](H) Emissions inspection—Tests performed on a vehicle in order to evaluate whether the vehicle's emissions control components are present and properly functioning.

[(H)](I) Gross Vehicle Weight Rating (GVWR)—The value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

[(I)](J) Ground-level ozone—A colorless, odorless gas formed by the mixing of volatile organic compounds and oxides of nitrogen from stationary and mobile pollution sources in the presence of heat and sunlight. Ground-level ozone is a strong oxidizer that negatively affects human health by causing diminished lung function in both healthy individuals and those with pre-existing respiratory problems.

[(J)](K) Heavy Duty Vehicle (HDV)—Any motor vehicle rated at eight thousand five hundred one (8,501) pounds GVWR or more.

[(K)](L) Initial emissions inspection—An emissions inspection consisting of the inspection series that occurs the first time a vehicle is inspected in a compliance cycle.

[(L)](M) Licensed emissions inspection station—Any business that has met the licensing requirements **described in this rule** and been licensed to offer vehicle emissions inspection services on behalf of the department.

[(M)](N) Licensed emissions inspector—Any individual that has met the licensing requirements **described in this rule** and been licensed to conduct vehicle emissions inspections on behalf of the department.

[(N)](O) Light Duty Truck (LDT)—Any motor vehicle rated at eight thousand five hundred pounds (8,500) GVWR or less which has a vehicle curb weight of six thousand (6,000) pounds or less and which has a basic vehicle frontal area of forty-five (45) square feet or less, which is—

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle;
2. Designed primarily for transportation of persons and has a capacity of more than twelve (12) persons; or
3. Available with special features enabling off-street or off-highway operation and use.

[(O)](P) Light Duty Vehicle (LDV)—A passenger car or passenger car derivative capable of seating twelve (12) passengers or less that is rated at six thousand (6,000) pounds GVWR or less.

[(P)](Q) Malfunction Indicator Lamp (MIL)—An amber-colored warning light located on the dashboard of vehicles equipped with On-Board Diagnostics systems indicating to the vehicle operator that the vehicle either has a malfunction or has deteriorated enough to cause a potential increase in the vehicle's tailpipe or evaporative emissions.

(R) Missouri Decentralized Analyzer System (MDAS)—The emissions inspection equipment that is sold by the state's contractor to licensed emissions inspection stations. The department may approve alternative equipment if the equipment described in this subsection is no longer available. At a minimum, the vehicle emissions inspection equipment shall consist of the following contractor equipment package:

1. At least a seventeen-inch (17") Liquid Crystal Display (LCD) monitor;
2. Universal serial bus (USB) lane camera;
3. At least a 4.0 megapixel digital camera and dock;
4. Fingerprint scanner;
5. Two hundred fifty-six (256) megabyte USB flash drive;
6. Keyboard with plastic keyboard cover and optical mouse;
7. Printer with ink or toner cartridges and blank paper;
8. 2D barcode reader;

9. Windshield sticker printer with blank windshield stickers and thermal cartridge;

10. OBD vehicle interface cable with a standard Society of Automotive Engineers J1962/J1978 OBD connector;

11. OBD verification tool;

12. Low-speed or high-speed Internet connection capabilities;

13. Surge protector and uninterruptible power supply (UPS);

14. At least a 3.0 gigahertz (GHz) personal computer (Dell™ Pentium® 4 or equivalent), with Windows Vista® and one (1) gigabyte of Random Access Memory (RAM); and

15. Metal cabinet to hold all of the components described in this subsection of the rule.

(S) Missouri Department of Revenue (MDOR)—The state agency responsible for the oversight of vehicle registration at contract offices and via the Internet. MDOR is also responsible for the registration denial method of enforcement for the vehicle emissions inspection and maintenance program.

[(Q)](T) Missouri State Highway Patrol (MSHP)—The state agency responsible for the oversight of the vehicle safety inspection program and joint oversight with the department of the vehicle emissions inspection and maintenance program.

[(R)](U) On-Board Diagnostics (OBD)—A vehicle emissions early-warning system required by federal law to be installed on all light-duty 1996 and newer model year vehicles for sale in the United States. The OBD system monitors sensors *[attached to all]* and emissions-control related components on a vehicle to ensure that the emissions control system operates properly throughout a vehicle's lifetime. If one (1) or more components of the emissions control system malfunctions or deteriorates, the OBD system will illuminate the Malfunction Indicator Lamp and store one (1) or more Diagnostic Trouble Codes.

[(S)](V) On-Board Diagnostics (OBD) test—A test in which a vehicle's OBD system is connected to a hand-held tool or computer that an inspector uses to determine and/or collect and record *[capable of determining]*—

1. *[Vehicle signature information, including, but not limited to, the electronic vehicle identification number (VIN) and other unique parameter identifiers;]* The status of the OBD system's MIL when the vehicle engine is off and when the vehicle engine is running;

2. *[If the OBD system's readiness monitors have been set;]* Data link connector access and functionality and OBD communication;

3. *[If the MIL is functioning correctly; and]* Vehicle signature information, including, but not limited to, the electronic vehicle identification number (VIN) and other unique parameter identifiers;

4. *[If the OBD system has stored any DTCs that are commanding the MIL to be illuminated.]* The status of all of the OBD system's readiness monitors;

5. The OBD system's MIL command status; and

6. Any DTCs, including those that are commanding the MIL to be illuminated.

[(T)](W) Qualifying repair—Any repair or adjustment performed on a vehicle's emissions control system after failing an initial emissions inspection, that is reasonable to the test method failure. A qualifying repair is submitted as part of a cost-based waiver application and must document, to the department's satisfaction, the diagnostic testing or analysis method used by the person performing the repair. Repairs performed by a repair technician that were not authorized by the vehicle owner's signature *[on a repair receipt will]* or verbal consent may not be considered a qualifying repair. The qualifying repair must be performed within ninety (90) days *[of]* after the date of initial emissions inspection. The initial or subsequent emissions reinspection should support the necessity of the qualifying repair. The qualifying repair may consist of either—

1. The parts costs, spent by a vehicle owner or charged to a vehicle owner by a repair technician, that are appropriate for the type of emissions inspection failure; or

2. The parts and recognized labor costs, charged to a vehicle owner by a Recognized Repair Technician, that are appropriate for the type of emissions inspection failure.

[(U)](X) Readiness monitor—A design feature of On-Board Diagnostics systems. If a readiness monitor has been set, then the OBD system has completed a diagnostic check on that component. If a readiness monitor has not been set, then the OBD system has not completed a diagnostic check on that component.

[(V)](Y) Recognized labor costs—The labor costs that a Recognized Repair Technician charges for emissions repair services rendered to a vehicle that fails its emissions inspection. Labor costs not tied to an emissions repair or solely for the purposes of setting readiness monitors may not be considered qualifying repairs.

[(W)](Z) Recognized Repair Technician—Any person who—

1. Is professionally engaged full-time in vehicle repair or employed by an ongoing business whose purpose is vehicle repair. A Recognized Repair Technician may only be recognized by the department at one (1) place of employment;

2. Has valid certifications from the National Institute for Automotive Service Excellence (ASE) in Electrical Systems (A6), Engine Performance (A8), and Advanced Engine Performance Specialist (L1) that have not expired; and

3. Has not been reported by the department to the attorney general for unlawful merchandising practices according to subsection 643.330./5/4, RSMo.

(AA) Specially constructed vehicle—A motor vehicle that has not been originally constructed under a distinctive name, make, model, or type by a manufacturer of motor vehicles, that has been issued a specially constructed VIN number from the MDOR, and that has had the specially constructed VIN installed by the MSHP. The term specially constructed vehicle includes kit vehicles that are motor vehicles assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin.

(BB) Vehicle Inspection Database (VID)—The vehicle inspection database, operated and maintained by the department's contractor. All vehicle emissions inspection information is uploaded by the MDAS inspection equipment to the VID on a real time basis as soon as each inspection is complete.

(CC) Vehicle Inspection Report (VIR)—The vehicle inspection report printed by the MDAS inspection equipment at the conclusion of each vehicle's emissions inspection. The VIR is designed solely to provide information regarding the emissions inspection results to motorists, and may not be valid for vehicle registration purposes.

[(X)](DD) Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Subject Vehicle Compliance.

1. Private entity vehicle compliance.

A. Motor vehicles subject to this rule shall demonstrate compliance with emissions standards in this rule. Such demonstration shall be made through the test methods specified in section (5) of this rule and be completed according to the compliance cycle specified in paragraph (2)/(B)/(C)1. of this rule, the inspection intervals specified in subsection (3)(B) of this rule, and the inspection periods specified in subsection (3)(C) of this rule.

B. Completion of the emissions inspection requirements is necessary for vehicle registration renewal, or registration transfer.

C. Failure to complete a vehicle emissions inspection during the compliance cycle or before vehicle registration shall be a violation

of this rule. These violations are subject to penalties specified in *[sub]section 643.355.5, RSMo.*

2. Public entity vehicle compliance.

A. All subject vehicles owned by federal, state, and local governments shall be emissions inspected according to the compliance cycle specified in paragraph (2)/(B)/(C)2. of this rule and the inspection intervals specified in subsection (3)(B) of this rule.

B. All federal agencies shall ensure employee and military personnel vehicles meet the requirements of *[this subsection] paragraph (3)(A)2.* according to the December 1999 *Interim Guidance for Federal Facility Compliance With Clean Air Act Sections 118(c) and 118(d) and Applicable Provisions of State Vehicle Inspection and Maintenance Programs.* This guidance document is incorporated by reference in this rule, as published by the U.S. Environmental Protection Agency (EPA), Office of Transportation and Air Quality, 2000 Traverwood, Ann Arbor, MI 48105. This rule does not incorporate any subsequent amendments or additions to this guidance document.

C. Failure to complete a vehicle emissions inspection within the compliance cycle specified in paragraph (2)/(B)/(C)2. of this rule shall be a violation of this rule. These violations are subject to penalties specified in *[sub]section 643.355.5, RSMo.*

3. Vehicle fleets.

A. Vehicle fleets of any size may be emissions inspected by the fleet operator, provided the owners or operators of such vehicle fleets acquire the state contractor's equipment to conduct the emissions inspections.

B. Vehicle fleets using such equipment shall be subject to the same inspection requirements as non-fleet vehicles.

C. Fleet inspection facilities shall be subject to quality assurance evaluations at least as stringent as those performed at public inspection stations.

D. Fleet owners or operators may make repairs to fleet vehicles on-site.

(B) Emissions Inspection Intervals.

1. Subject vehicles, manufactured as odd-numbered model year vehicles are required to be inspected in each odd-numbered calendar year. Subject vehicles manufactured as even-numbered model year vehicles are required to be inspected in each even-numbered calendar year.

2. At the time of registration transfer, subject vehicles are required by *[sub]section 643.315.1, RSMo,* to be inspected regardless of the vehicle model year. At the time of registration transfer, prior to the sale of a vehicle, private sellers of vehicles are required to provide the purchaser with an emissions inspection compliance certificate or compliance waiver that is valid for registering the vehicle according to inspection period requirements of subsection (3)(C) of this rule. *[Vehicles being sold shall not be subject to another emissions inspection for ninety (90) days after the date of sale or transfer of such vehicle.]*

(C) Emissions Inspection Periods.

1. An emissions inspection performed on a subject vehicle via the vehicle inspection process described in subsections (3)(H)–(K) of this rule is valid, for the purposes of obtaining registration or registration renewal, for a duration of sixty (60) days from the date of passing inspection or waiver issuance. **An emissions inspection provided by a licensed motor vehicle dealer to the purchaser of a used vehicle being sold by the licensed motor vehicle dealer is valid for registration purposes for one hundred twenty (120) days after the date of inspection. Vehicles being sold shall not be subject to another emissions inspection for ninety (90) days after the date of sale or transfer of such vehicle.**

2. Reinspections occurring fewer than ninety (90) days after the initial emissions inspection are subject to subsections (3)(J) and (3)(K) of this rule.

3. Reinspections occurring more than ninety (90) days after the initial emissions inspection shall be considered to be an initial emissions inspection as defined in subsection (2)/(K)/(L) of this rule and

are subject to subsection (3)(H) of this rule.

(D) Emissions Inspection Fees.

1. **Initial vehicle emissions inspection fee.** At the time of an initial emissions inspection, the vehicle owner or driver shall pay no more than twenty-four dollars (\$24) to the licensed emissions inspection station. The inspection station shall determine the forms of payment accepted. **Fleet operators inspecting their own fleet vehicles at their own inspection facility are exempt from initial vehicle emissions inspection fees.**

2. **Vehicle emissions reinspection fee.** *[This]* Each initial vehicle emissions inspection fee shall include one (1) free reinspection, provided that the reinspection is conducted within twenty (20) business days of the initial emissions inspection at the same inspection station that performed the initial inspection.

A. **To qualify for one (1) free reinspection, the vehicle owner or driver shall present the previous VIR and the completed repair data sheet, described in subsection (4)(D) of this rule, to the emissions inspection station that conducted the initial emissions inspection, within twenty (20) business days of the initial emissions inspection. The emissions inspector shall return the previous VIR to the vehicle owner.**

B. **At the emissions inspection station's discretion, reinspections occurring more than twenty (20) business days after the initial emissions inspection may be performed upon payment of the initial emissions inspection fee to the emissions inspection station.**

C. **Fleet operators reinspecting their own fleet vehicles at their own inspection facility are exempt from vehicle emissions reinspection fees.**

3. Emissions inspection oversight fee.

A. Licensed emissions inspection stations shall pre-pay the state two dollars and fifty cents (\$2.50) for each *[paid]* passing emissions inspection that they intend to perform. The fee shall be paid to the Director of Revenue and submitted to the MSHP. The MSHP shall deposit the fee into the "Missouri Air Emissions Reduction Fund" as established by section 643.350, RSMo. The MSHP will then *[notify the contractor, who will authorize the inspection equipment to release the number of paid emissions inspections pre-paid by each licensed emissions inspection station.]* use the contractor's VID to credit the number of pre-paid emissions inspections to the licensed emissions inspection station's MDAS. The MDAS shall deduct one (1) emissions credit authorization for each passing emissions inspection.

B. Licensed inspection stations are required to maintain a sufficient positive quantity of emissions credits on their analyzer(s) to prevent having to turn away motorists who have requested an inspection.

C. At the time that a licensed emissions inspection station discontinues operation or chooses not to renew its emissions inspection license, the department will issue the licensed emissions inspection station a full refund of two dollars and fifty cents (\$2.50) for each paid emissions inspection credit authorization that remains on the licensed emissions inspection station's MDAS. The department shall withdraw the pre-paid fees from the "Missouri Air Emissions Reduction Fund" as established by section 643.350, RSMo, and send the existing balance of the pre-paid fees to the licensed inspection station. The MSHP will then delete all pre-paid emissions inspections from the inspection equipment.

4. **Vehicle inspection database (VID) service fee.** Licensed emissions inspection stations shall pay the contractor three dollars and forty-five cents (\$3.45) for each paid emissions inspection that they perform. The fee shall be made payable to the contractor and submitted monthly according to the terms of the contract between the contractor and the licensed emissions inspection stations.

(E) Emissions Inspection Equipment.

1. Performance features of emissions inspection equipment.

[Computerized inspection equipment] The MDAS is required for performing any *[measurement]* emissions inspections on subject vehicles. The *[inspection equipment]* MDAS shall meet or exceed all applicable EPA requirements. *[Newly acquired emissions inspection equipment shall be subject to the acceptance test procedures administered by the department's contractor to ensure compliance with the emissions inspection program specifications.]*

A. *[Emissions inspection equipment]* The MDAS shall be capable of testing all subject vehicles as required by paragraph (3)(E)3. of this rule. The emissions inspection equipment shall be updated as needed to accommodate new technology vehicles. The updates shall be provided by the state's contractor without cost to the state or the licensed emissions inspection stations.

B. At a minimum, *[emissions inspection equipment]* the MDAS shall be:

- (I) Automated to the highest degree commercially available to minimize the potential for intentional fraud and/or human error;
- (II) Secure from tampering and/or abuse; and
- (III) Based upon written specifications.

2. Functional characteristics of *[computerized test systems]* emissions inspection equipment. The *[test system]* MDAS shall be composed of *[motor]* vehicle *[test]* inspection equipment controlled by a computer.

A. The *[test system]* MDAS shall automatically:

(I) Make pass/fail decisions for all *[measurements]* computer-determined aspects of the emissions inspection as described in paragraphs (5)(B)3. through (5)(B)5. of this rule;

(II) Record test data to *[an electronic medium]* the MDAS hard drive and the contractor's VID;

(III) Conduct regular self-testing of recording accuracy;

(IV) Perform electrical calibration and system integrity checks before each test, as applicable; and

(V) Initiate immediate system lockouts for—

(a) Tampering with security aspects of the *[test system]* MDAS;

(b) Fraudulent *[testing]* inspection activity; *[or]*

(c) *[For a full data recording medium.]* Exceeding the limit of offline emissions inspections established by the department and the MSHP; or

(d) Failing the OBD verification tool self-check.

B. *[Test systems]* The MDAS shall include a telecommunications data link to the contractor's Vehicle Inspection Database (VID) as specified in the contract between the department and the contractor. Emissions inspection information shall be uploaded **immediately** to the VID via this telecommunications data link according to subparagraphs (3)(F)2.C. and (3)(F)5.D. of this rule so that all inspection information can be electronically verified by the department, the MSHP, and the MDOR using the contractor-provided Internet solution.

C. The *[test system]* MDAS shall ensure accurate data collection by limiting, cross-checking, and/or confirming manual data entry.

3. OBD test equipment. OBD test equipment shall meet the standards specified in 40 CFR part 85, subpart W, section 2231. Section 2231 is incorporated by reference in this rule, as published by the EPA, Office of Transportation and Air Quality, 2000 Traverwood, Ann Arbor, MI 48105 on April 5, 2001. This rule does not incorporate any subsequent amendments or additions to section 2231. The OBD test equipment shall be able to communicate with all known OBD protocols and connect to and communicate with a minimum of ninety-eight percent (98%) of all subject vehicles.

4. All emissions inspection equipment shall meet the quality control requirements described in paragraph (3)(L)5. of this rule. **Newly acquired emissions inspection equipment and all applicable MDAS software updates shall be subject to the acceptance test procedures administered by the department's contractor to ensure compliance with the emissions inspection program specifications.**

(F) Emissions Inspection Station Requirements.

1. Premises.

A. Each licensed emissions inspection station shall have an **emissions** inspection area within an enclosed building of sufficient length, width, and height to accommodate a full size light duty vehicle or light duty truck.

B. The licensed emissions inspection station shall be in compliance with applicable city, county, and state regulations relating to zoning, merchant licensing, fictitious names, and retail sales tax numbers.

C. The emissions inspection area shall be sufficiently lighted, adequately heated and cooled, and properly ventilated to conduct an emissions inspection.

2. Equipment. Each licensed emissions inspection station shall have the following equipment located at or near the inspection area:

A. Scraper. The scraper may be used to remove old windshield stickers;

B. Emissions inspection equipment, including hardware, software, forms, and windshield stickers. The equipment **hardware described in subsection (2)(R) of this rule** shall be purchased or leased by the inspection station from the state's contractor. **All of the equipment must be present and functional. The equipment software shall be provided with the MDAS equipment purchase or lease and updated periodically at no cost to the licensed inspection stations. The forms described in section (4) of this rule shall be provided by the MDAS software. The windshield stickers described in section (4) of this rule shall be provided by the contractor at no cost to licensed emissions inspection stations;** and

C. Telecommunications. The station shall provide **dedicated** data transmission capabilities for the emissions inspection equipment **to stay online with the contractor's VID**. The telecommunications capabilities may be either high-speed or low-speed. The cost of this telecommunications service, **including initial installation and ongoing maintenance**, is the responsibility of the licensed emissions inspection station.

3. Personnel.

A. Each licensed emissions inspection station shall have a minimum of one (1) licensed emissions inspector on duty during all business days during the station's hours of inspection, except for short periods of time due to illness or annual vacation.

B. Each licensed emissions inspection station will designate, on the station license application, the emissions inspection station manager who will be in charge of emissions inspections. The emissions inspection station manager shall be responsible for the daily operation of the station and will ensure that complete and proper emissions inspections are being performed. The emissions inspection station manager shall be present at the licensed emissions inspection station during all business days during the station's hours of inspection, except for short periods of time due to illness or annual vacation.

C. If the station is without at least one (1) emissions inspector or one (1) emissions inspection station manager, then the station shall be prohibited from conducting emissions inspections.

4. Licensing.

A. Any person, firm, corporation, partnership, or governmental entity requesting an emissions inspection station license shall submit a completed emissions inspection station application to the department or to the MSHP.

B. A vehicle emissions inspection station license shall be valid for twelve (12) months from the date of issuance. A completed emissions inspection station license application shall be accompanied by a check or money order for one hundred dollars (\$100) made payable to the Director of Revenue and submitted to either the Missouri Department of Natural Resources, Air Pollution Control Program, Attn: Inspection and Maintenance, PO Box 176, Jefferson City, MO 65102-0176 or the MSHP. Under no circumstances will cash be accepted for the license fee.

C. For the purposes of emissions and safety inspection

license synchronization, a vehicle emissions inspection station license may be valid for fewer than twelve (12) months from the date of issuance. A completed emissions inspection station license application shall be accompanied by a check or money order made payable to the Director of Revenue and submitted to either the Missouri Department of Natural Resources, Air Pollution Control Program, Attn: Inspection and Maintenance, PO Box 176, Jefferson City, MO 65102-0176 or the MSHP. The check or money order shall submit the pro-rated fee of eight dollars and thirty-three cents (\$.33) times the number of months between the month of the application, including the month of application, for the emissions inspection license and the month that the safety inspection license will be renewed. Under no circumstances will cash be accepted for the license fee.

D. Except as provided by subparagraph (3)(F)4.C. of this rule, station licenses are valid for a period of one (1) year from the date of issuance, unless the license is suspended or revoked by the department or the MSHP. The owners of licensed emissions inspection stations that are renewing their emissions inspection license shall complete the requirements of subparagraph (3)(F)4.B. of this rule.

E. Along with the application fee, applicants shall submit the following information on a form provided by either the department or the MSHP:

- (I) Proof of liability insurance;
- (II) The business's federal and state taxpayer identification number;
- (III) The physical address of the inspection station;
- (IV) The mailing address, if different from physical address, of the inspection station;
- (V) The phone number and, if available, fax number of the inspection station;
- (VI) The last name, first initial, and, if already licensed by the MSHP, the inspector number of the licensed emissions inspector(s) employed by that station; and
- (VII) The first and last name of the emissions inspection station manager(s) employed by that station.

F. No license issued to an emissions inspection station may be transferred or used at any other location. Any change in ownership or location shall void the current station license. The department must be notified immediately when a change of ownership or location occurs or when a station discontinues operation. Businesses that change locations will be charged another license fee for the cost of the new license. Businesses that change owners will be treated as new licensees and charged another license fee for the new license.

G. When an emissions inspection station license has been suspended or revoked, or when a station discontinues operation, all emissions inspection supplies including, but not limited to, blank *[vehicle inspection reports and] windshield stickers described in section (4) of this rule and the emissions inspection station sign described in subparagraph (3)(F)7.C.*, shall be released on demand to the department or the MSHP. The failure to account for all emissions inspection supplies will be sufficient cause for the department or the MSHP to not reinstate an emissions inspection station license. *[The department will refund the station for the number of prepaid emissions inspections remaining on the inspection equipment at the time the station discontinues operation or chooses not to renew its emissions inspection license.]*

H. No emissions inspection station license will be issued to a spouse, child or children, son/daughter-in-law, employee, or any person having an interest in the business for the privilege to conduct emissions inspections at the same location or in close proximity to the location of an emissions inspection station whose license is under suspension or revocation, unless the applicant can provide reasonable assurance that the licensee under suspension or revocation will not be employed, manage, assist in the station operation, or otherwise benefit financially from the operation of the business in any way.

5. Operations.

[A. Every emissions inspection must be performed

according to the procedures described in this rule. Once an emissions inspection has begun, it shall be completed and shall not be terminated. A vehicle may not be passed or failed based upon a partial inspection.]

[B. A proper and complete emissions inspection shall consist of the OBD test method described in section (5) of this rule, the immediate printing and subsequent issuance of a vehicle inspection report to the motorist, and the immediate uploading of the emissions inspection data to the contractor's VID.]

[C. For each completed emissions inspection, the emissions inspection equipment shall print a vehicle inspection report that meets the requirements of subsections (4)(A) and (4)(B) of this rule.]

[D. All emissions inspection records shall be transmitted to the state's contractor as soon as an inspection is complete for the purpose of real time registration verification by the Department of Revenue and program oversight by the department or the MSHP.]

[E. The emissions inspection fees described in subsection (3)(D) of this rule shall be charged for each inspection performed, except at locations where the fleet operator is inspecting fleet vehicles at their own inspection facility.]

[F. Emissions inspection windshield stickers will be issued to an emissions inspection station by the MSHP, and can be printed by only that station. Emissions inspection windshield stickers shall be kept secure to prevent them from being lost, damaged or stolen. If windshield stickers are lost, damaged or stolen, the incident shall be reported immediately to the MSHP.]

[G.]A. All emissions inspections must be conducted at the licensed emissions inspection station in the approved emissions inspection area described in paragraph (3)(F)1. of this rule.

[H.]B. The inspection of a vehicle shall be made only by an individual who has a current, valid emissions inspector license.

*[I.] No person without a current, valid emissions inspector license shall issue an emissions *[vehicle inspection report] VIR* or a windshield sticker.*

*[J.] No owner, operator, or employee of an inspection station shall furnish, loan, give, or sell an emissions *[vehicle inspection report] VIR* or windshield sticker to any person except those entitled to receive it because their vehicle has passed the emissions inspection.*

[K.]C. If an emissions inspector or an emissions inspection station manager or owner resigns or is dismissed, the emissions inspection station manager or station owner shall report these changes to the department and the MSHP immediately or within two (2) business days. The emissions inspection station manager or station owner shall complete an amendment form to inform the department and the MSHP of these changes in personnel.

*[L.]D. All current manuals, bulletins, or other rules issued by the department must be read *[and initialed]* by the station owner or operator and each emissions inspector. These resources must be available, either in printed or electronic form, at all times for ready reference by emissions inspectors, department, and MSHP staff.*

[M.]E. If the department is asked to settle a difference of opinion between a vehicle owner and an emissions inspection station manager or emissions inspector concerning the inspection standards and procedures, the decisions of the department concerning emissions inspection standards and procedures will be final.

[N.]F. Emissions inspection station operators are permitted to advertise as official emissions inspection stations.

6. Hours of operation.

A. The normal business hours and business days of every public inspection station shall be at least eight (8) continuous hours per day, five (5) days per week, excluding all state holidays.

B. *[Both inspection station managers and emissions] Emissions* inspectors are obligated to conduct emissions inspections and reinspections of vehicles during normal business hours.

(I) A vehicle shall be emissions inspected within a two (2)-hour period after being presented unless other vehicles are already being emissions inspected.

(II) A reinspection must begin within one (1) hour when a vehicle is presented during the twenty (20) consecutive-day period [allowed by law] for reinspections excluding Saturdays, Sundays, and state holidays.

7. Display of inspection station and inspector licenses, sign, and poster.

A. The department or the department's designee shall provide each licensed emissions inspection station with one (1) station license certificate. The station license certificate shall be framed under clean glass or plastic and displayed in a conspicuous location discernible to those presenting vehicles for emissions inspections.

B. The department or the department's designee shall provide each licensed emissions inspector with one (1) inspector license certificate. The emissions inspector licenses must be framed under clean glass or plastic and displayed in a conspicuous location discernible to those presenting vehicles for emissions inspections.

C. The department or the department's designee shall provide each licensed emissions inspection station one (1) official sign, made of metal or other durable material, to designate the station as an official emissions inspection station. The sign designating the station as an emissions inspection station shall be displayed in a location visible to motorists driving past the inspection station. Additional signs may be purchased for a fee equal to the cost to the state for each additional sign.

D. The department or the department's designee shall provide each licensed emissions inspection station with one (1) poster that informs the public that required repairs or corrections need not be made at that inspection station. The poster must be displayed in a conspicuous location discernible to those presenting vehicles for emissions inspections. Additional posters may be purchased for a fee equal to the cost to the state for each additional poster.

(H) Emissions Inspection Procedures. The emissions inspection procedure shall meet the following requirements:

1. [Vehicles shall be inspected in as-received condition. An official inspection, once initiated, shall be performed in its entirety regardless of immediate outcome, except in the case of an invalid test condition;] Every emissions inspection must be performed according to the procedures described in this rule. Once an emissions inspection has begun, it shall be completed and shall not be terminated. A vehicle may not be passed or failed based upon a partial inspection;

2. [The initial emissions inspection shall be performed according to the test method described in section (5) of this rule without repair or adjustment at the emission inspection station prior to commencement of any tests. Emissions inspections performed within ninety (90) days of the initial emissions inspection shall be considered a reinspection and are subject to provisions of subsection (3)(J) of this rule;] A proper and complete emissions inspection shall consist of the OBD test method described in section (5) of this rule, the immediate printing and subsequent issuance of a VIR to the motorist, and the immediate uploading of the emissions inspection data to the contractor's VID;

3. [If a subject vehicle passes the emissions test method described in section (5) of this rule according to the standards described in subsection (3)(I) of this rule, the emissions inspection station shall issue the vehicle owner or driver a vehicle inspection report certifying that the vehicle has passed the emissions inspection, and provide a windshield sticker for the windshield of the subject vehicle according to subsection (4)(A) of this rule. The positioning of the windshield sticker on the windshield of the vehicle shall take place on the premises of the emissions inspection station;] All emissions inspection records shall be transmitted to the state's contractor as soon as an inspection is complete for the

purpose of real time registration verification by the MDOR and program oversight by the department or the MSHP;

4. [If a subject vehicle fails the emissions test method described in section (5) of this rule according to the standards described in subsection (3)(I) of this rule, the emissions inspection station shall provide the vehicle owner or driver with a vehicle inspection report indicating what parts of the test method of the emissions inspection that the vehicle failed, a repair facility performance report, and a copy of the customer complaint procedure according to subsection (4)(B) of this rule; and] The emissions inspection fees shall be charged for each inspection performed as described in subsection (3)(D) of this rule;

5. [If a subject vehicle fails the emissions test method described in section (5) of this rule, the vehicle owner shall have the vehicle repaired. The vehicle shall be reinspected according to the appropriate inspection period as determined by paragraphs (3)(C)2. and (3)(C)3. of this rule and the reinspection procedures described in subsection (3)(J) of this rule.] Emissions inspection windshield stickers will be issued to an emissions inspection station by the MSHP and can be printed by only that station. Emissions inspection windshield stickers shall be kept secure to prevent them from being lost, damaged, or stolen. If windshield stickers are lost, damaged, or stolen, the incident shall be reported immediately to the MSHP;

6. The emissions inspector will ensure that all required information is properly and accurately entered into the MDAS. This includes three (3) mandatory photos, a vehicle description including the license plate number at the time of inspection, VIN, vehicle make, vehicle model, vehicle model year, fuel type, GVWR range, odometer reading at the time of the emissions inspection, and the complete mailing address (street address, city, and zip code) of the vehicle owner;

7. Using the MDAS digital camera, the emissions inspector shall take three (3) readily identifiable digital pictures showing the current license plate, VIN, and odometer reading. The picture of the license plate, VIN, and odometer must match the plate, VIN, and odometer reading that is printed on the VIR. These pictures shall then be immediately uploaded to the VID via the docking station provided with the MDAS.

A. License plate pictures. Pictures of the rear license plate shall be of the entire rear portion of the vehicle from taillight to taillight. If the vehicle license plate is located only on the front of the vehicle, then the license plate picture shall be of the entire front of the vehicle. License plate pictures must be clearly legible.

B. VIN pictures. The camera should be set to the macro picture taking mode. VIN pictures should be of the dashboard VIN plate. It may be helpful to illuminate the VIN plate with supplemental lighting, block overhead lighting with a solid object, or take the photo at angle so that the camera flash or overhead lights are not reflected by the windshield glass. VIN pictures must be clearly legible.

C. Odometer pictures. The camera should be set to the macro picture taking mode. In the case of digital odometers, the ignition switch must be on to illuminate the odometer reading. Trip odometer photos are not permissible. It may be helpful to turn on the dashboard lights to help illuminate the odometer without the use of the camera's flash. Odometer pictures must be clearly legible;

8. Inspection stations shall ensure that the station analyzer USB digital camera is mounted on top of the station analyzer monitor and aimed, with a clear line of sight, towards the emissions inspection bay every time a vehicle emissions inspection is performed so that the inspection process can be remotely observed by state agencies throughout the entire vehicle emissions inspection;

9. Vehicles shall be inspected in as-received condition,

including vehicles whose MIL is lit or whose readiness monitors are unset. The inspector shall connect the OBD cable or wireless transmitter to the data link connector of the actual vehicle submitted for emissions testing. The connection shall remain intact and functioning during the entire test procedure. Clean scanning as defined in subsection (2)(B) of this rule is prohibited. An official inspection, once initiated, should be performed in its entirety regardless of immediate outcome, except in the case of an invalid test condition or determination by the emissions inspector;

10. The initial emissions inspection shall be performed according to the test method described in section (5) of this rule without repair or adjustment at the emission inspection station prior to commencement of any tests. Emissions inspections performed within ninety (90) days of the initial emissions inspection shall be considered a reinspection and are subject to provisions of subsection (3)(J) of this rule;

11. If a subject vehicle passes the emissions test method described in section (5) of this rule, according to the standards described in subsection (3)(I) of this rule, the emissions inspection station shall issue the vehicle owner or driver a passing VIR described in subsection (4)(A) of this rule, certifying that the vehicle has passed the emissions inspection, and provide a windshield sticker for the windshield of the subject vehicle according to subsection (4)(A) of this rule. The positioning of the windshield sticker on the windshield of the vehicle shall take place on the premises of the emissions inspection station;

12. If a subject vehicle fails the emissions test method described in section (5) of this rule, according to the standards described in subsection (3)(I) of this rule, the emissions inspection station shall provide the vehicle owner or driver with a failing VIR described in subsection (4)(B) of this rule that indicates what parts of the OBD test method the vehicle failed, a repair facility performance report described in subsection (4)(H) of this rule that lists the ten (10) nearest Missouri Recognized Repair Technicians (MRRITs) to the licensed emissions inspection station, and a repair data sheet described in subsection (4)(D) of this rule that is used to collect emissions repair data for the repair facility performance report;

13. If a subject vehicle fails the emissions test method described in section (5) of this rule, the vehicle owner shall have the vehicle repaired. The vehicle shall be reinspected according to the appropriate inspection period as determined by paragraphs (3)(C)2. and (3)(C)3. of this rule and the reinspection procedures described in subsection (3)(J) of this rule; and

14. If the emissions inspection is aborted by the MDAS software or the emissions inspector, the emissions inspection station shall provide the vehicle owner or driver with the emissions VIR described in subsection (4)(K) of this rule that indicates that the OBD test was aborted.

(J) Emissions Reinspection Procedures.

[1. Emissions reinspection fee.]

[A. To qualify for one free reinspection, the vehicle owner or driver shall present the previous vehicle inspection report and the completed repair data sheet to the emissions inspection station that conducted the initial emissions inspection, within twenty (20) business days of the initial emissions inspection.]

[B. Reinspections occurring more than twenty (20) business days after the initial emissions inspection shall only be performed upon payment of the emissions inspection fee to the emissions inspection station, except at locations where the fleet operator is inspecting fleet vehicles at their own facility.]

[2.1. [Reinspection procedure.] Vehicles that fail the emissions inspection described in section (5) of this rule shall be reinspected according to the test method described in section (5) of this rule to determine if the repairs were effective for correcting failures

on the previous inspection, thereby reducing or preventing an increase in present and future tailpipe or evaporative emissions.

A. The inspector shall enter the data from the repair data sheet described in subsection (4)(D) of this rule in the MDAS prior to initiating the reinspection, even if the vehicle receives multiple reinspections.

B. The inspector shall ensure that the VIN of the reinspected vehicle matches the VIN of the originally inspected vehicle.

C. The inspector shall enter the current odometer reading of the vehicle at the time of the reinspection into the MDAS.

D. The inspector shall take three (3) new photographs following the procedure described in paragraph (3)(H)7. of this rule.

E. The inspector shall connect the OBD cable or wireless transmitter to the data link connector of the actual vehicle submitted for emissions testing. The connection shall remain intact and functioning during the entire test procedure. Clean scanning as defined in subsection (2)(B) of this rule is prohibited.

[3.2. If the subject vehicle passes a reinspection, then the procedures in paragraph [3](H)3.1(3)(H)11. of this rule shall be followed.

[4.3. If the subject vehicle fails a reinspection, the vehicle owner may either:

A. Have more repairs performed on the vehicle and have the vehicle reinspected; or

B. Apply for a cost-based waiver according to the requirements in paragraphs (3)(K)1.–(3)(K)4.5. of this rule.

(K) Emissions Inspection Waivers and Exemptions.

1. Cost-based waivers. Vehicle/s/ owners or purchasers shall be issued a cost-based waiver for their vehicle under the following conditions:

A. The subject vehicle has failed the initial emissions inspection, has had qualifying repairs, and has failed an emissions reinspection;

B. [The vehicle owner or operator has taken the vehicle to the department or has made an appointment for the department representative to travel to the location of the vehicle and presented to the department representative the vehicle inspection reports, stating that the vehicle presented has failed the initial emissions inspection and all subsequent emissions reinspections;] The vehicle has passed the bulb check test described in subparagraph (5)(B)2.A. of this rule, the data link connector test described in subparagraph (5)(B)3.A. of this rule, the communications test described in subparagraph (5)(B)3.B. of this rule, and the readiness monitor test described in paragraph (5)(B)4. of this rule;

C. The subject vehicle has all of its emissions control components correctly installed and operating as designed by the vehicle manufacturer.

(I) To the extent practical, the department representative shall use the MSHP air pollution control device inspection method described in 11 CSR 50-2.280 to fulfill the requirement of this subparagraph.

(II) If the vehicle fails the visual inspection described in 11 CSR 50-2.280, then the vehicle will be denied a cost-based waiver;

D. The vehicle operator has [presented] submitted to the department [representative] the appropriate waiver application with all required information and necessary signatures completed, along with all itemized receipts of qualifying repairs. The qualifying repairs must meet the requirements of paragraph (3)(K)2. of this rule. The itemized receipts must meet the requirements of paragraph (3)(K)3. of this rule; [and]

E. At the discretion of the department, the vehicle owner or operator may be required to make arrangements to bring the vehicle to the department or the department's designee for visual verification of the vehicle's repairs or estimated repairs in the case of a cost-based estimate waiver application; and

[E/F. To the extent practical, the department representative

has verified that the repairs indicated on the itemized receipts for qualifying repairs were made and that the parts were repaired/replaced as claimed.

2. The minimum amount spent on qualifying repairs for cost-based waivers shall—

A. Exceed four hundred fifty dollars (\$450) for vehicles not **fully** repaired **solely** by the owner of the failed vehicle;

B. Exceed four hundred dollars (\$400) for all vehicles repaired **solely** by the owner of the failed vehicle. **If the emissions failure is not related to the parts listed in this subparagraph, the cost of replacing such parts will not count towards the waiver minimum. Only qualified repairs that include the part/s/ costs for the purchase and installation of the following parts listed in 40 CFR 51.360(a)(5) will be accepted:**

- (I) Oxygen sensors;
- (II) Catalytic converters;
- (III) EGR valves;
- (IV) Evaporative canisters;
- (V) PCV valves;
- (VI) Air pumps;
- (VII) Distributors;
- (VIII) Ignition wires;
- (IX) Coils;
- (X) Spark plugs; and
- (XI) Any hoses, gaskets, belts, clamps, brackets, or other accessories directly associated with these parts;

C. Exceed two hundred dollars (\$200) for all motorists who provide the department representative with reasonable and reliable proof that the owner is financially dependent on state and federal disability benefits and other public assistance programs. *[The proof must be provided thirty (30) calendar days prior to each emissions inspection.]* The proof shall consist of government issued documentation providing explanation of the motorist's disability and financial assistance with regard to personal income. **The motorist must also submit the appropriate cost-based waiver application with their "Financial Eligibility Waiver Request";**

D. Be inclusive of part/s/ costs paid by motorists performing qualified vehicle repairs by themselves or for qualified emissions repair services performed by any repair technician. *[Recognized labor]* Labor costs shall **only** be applied toward a cost-based waiver **if the qualified repair work was performed by/.** *For qualifying repairs performed by someone other than] a Recognized Repair Technician[, parts costs, but not labor costs, shall be applied toward a cost-based waiver];*

E. Not include the fee for an emissions inspection or reinspection;

F. Not include the fee for a safety inspection or reinspection;

G. Not include charges for obtaining a written estimate of needed repairs;

H. Not include the charges for repairs necessary for the vehicle to pass a safety inspection;

I. Not include costs for repairs performed on the vehicle before the initial emissions inspection failure or more than ninety (90) days after the initial emissions inspection failure;

J. Not include expenses that are incurred for the repair of:

(I) *[emissions]* Emissions control devices or data link connectors that have been found during either a safety or an emissions inspection to be tampered with, rendered inoperative, or removed;

(II) the MIL; or

(III) for OBD communications failures; *[and]*

K. Not include expenses that are incurred for the restoration of the vehicle manufacturer's emissions control system due to the installation of sensor simulators, engine control module upgrades, or other aftermarket components that disable readiness monitors or in any way bypass or compromise the vehicle manufacturer's emissions control system; and

[K./L.] Not include costs for emissions repairs or adjustments

covered by a vehicle manufacturer's warranty, insurance policy, or contractual maintenance agreement. The emissions repair costs covered by warranty, insurance, or maintenance agreements shall be separated from other emissions repair costs and shall not be applied toward the cost-based waiver minimum amount. The operator of a vehicle within the statutory age and mileage coverage under subsection 207(b) of the federal Clean Air Act shall present a written denial of warranty coverage, with a complete explanation, from the manufacturer or authorized dealer in order for this provision to be waived.

3. The vehicle operator shall present the original of all itemized repair receipts to the department representative to demonstrate compliance with paragraph (3)(K)2. of this rule. The itemized repair receipt(s) shall—

A. Include the name, physical address, and phone number of the repair facility and the model year, make, model, and VIN of the vehicle being repaired;

B. Describe the diagnostic test(s) performed to identify the reason the vehicle failed an emissions inspection;

C. Describe the emissions repair(s) that were indicated by the diagnostic test(s);

D. Document the emissions repairs performed were authorized by the vehicle owner or operator;

[D./E.] Describe the emissions repairs that were *[authorized by the vehicle owner or driver and]* performed by the repair technician or vehicle owner;

[E./F.] Describe the vehicle part(s) and the quantity or each type of part(s) that were serviced or replaced;

[F./G.] Describe the readiness monitors that were either set to ready or left unset;

[G./H.] Describe the diagnostic test(s) performed after the repairs were completed to verify that the vehicle's emissions control system is now operating as it was designed to operate by the manufacturer;

[H./I.] Clearly list the labor costs, if the vehicle was repaired by a repair technician, and part/s/ costs separately for each repair item. Unclear repair receipts that do not identify the vehicle that was repaired, do not itemize the actual cost of the parts that were serviced, do not list the labor costs separately from the part/s/ costs, do charge state sales tax on parts exempted from state sales as defined in 10 CSR 10-6.320, or contain fraudulent information or part/s/ costs as determined by department representative may not be accepted for the purpose of obtaining a cost-based waiver;

[I./J.] Include the repair technician's name (printed or typed), signature and, if applicable, the unique identification number of the Recognized Repair Technician that performed the repair work; and

[J./K.] Confirm that payment was collected or financed for the services rendered and/or parts replaced as listed on the itemized repair receipt(s).

4. Cost-based estimate waivers. Vehicles shall be issued a cost-based estimate waiver under the following conditions:

A. The subject vehicle has failed the initial emissions inspection or reinspection after repair(s) with a single DTC;

B. The vehicle has passed the bulb check test described in subparagraph (5)(B)2.A. of this rule, the data link connector test described in subparagraph (5)(B)3.A. of this rule, the communications test described in subparagraph (5)(B)3.B. of this rule, and the readiness monitor test described in paragraph (5)(B)4. of this rule;

C. The subject vehicle cannot have received either a cost-based waiver or a cost-based estimate waiver during a previous biennial inspection cycle for the same single DTC;

D. The vehicle owner has paid for a diagnostic test of that DTC by a Recognized Repair Technician or a vehicle repair business that specializes in a particular make of vehicle or type of repair (e.g., transmission repairs), with the items tested and the results described on the repair estimate; and

E. The diagnostic test results and parts required for the repair of the single DTC are documented by the shop to exceed

four hundred fifty dollars (\$450).

[4.]5. The department reserves the right to investigate all cost-based waiver requests and submitted receipts. Cost-based waiver requests with incomplete information or questionable receipts will not be approved. If the conditions of paragraphs (3)(K)1.–(3)(K)/3./4. of this rule have been met, the department representative shall issue a cost-based waiver and *[affix]* provide the windshield sticker to **be affixed to the vehicle by the vehicle owner.** The windshield sticker shall meet the requirements of paragraph (4)/(A)/(F)2. of this rule.

[5.]6. The contractor shall provide the means to issue cost-based waivers, VIRs, and windshield stickers from either the department's offices or from a portable solution as required by the contract.

[6.]7. Out-of-area [waivers] exemptions. Provided the vehicle owner or driver submits a completed, signed *[waiver]* **out-of-area affidavit** to the department indicating that the vehicle will be operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355, RSMo, for the next twenty-four (24) months, the department shall issue an emissions inspection *[vehicle inspection report]* **VIR**, with an indicator to show that the vehicle has received an out-of-area *[waiver]* **exemption** to the vehicle owner or driver, and a windshield sticker shall be affixed to the subject vehicle.

[7.]8. Reciprocity waivers. Provided the vehicle owner or driver presents proof, acceptable to the department, that the subject vehicle has successfully passed an OBD emissions inspection in another state within the previous sixty (60) calendar days, the department shall issue an emissions inspection *[vehicle inspection report]* **VIR** with an indicator to show that the vehicle has received a reciprocity waiver to the vehicle owner or driver, and a windshield sticker shall be affixed to the subject vehicle.

A. Reciprocity waivers shall be issued if the motorist submits proof of a passing OBD emissions inspection from one (1) of the following states: Alaska, Arizona, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Louisiana, Maine, Massachusetts, Maryland, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee unless tested in Shelby County (Memphis), Rhode Island, Texas, Utah, Vermont, Virginia, Washington, and Wisconsin.

B. Should any of these states discontinue the use of pass/fail OBD inspections, the reciprocity waiver shall not be granted.

9. Mileage exemptions. Provided the vehicle owner or driver submits the required information described in subsection (4)(H) of this rule, the department or the MDAS shall issue an emissions inspection VIR, with an indicator to show that the vehicle has received a mileage-based exemption to the vehicle owner or driver.

10. GVWR exemptions. Provided the emissions inspector verifies that the vehicle is over eight thousand five hundred (8,500) pounds GVWR, the MDAS shall issue an emissions inspection VIR, with an indicator to show that the vehicle has received a GVWR exemption to the vehicle owner or driver.

[8.]11. The contractor shall provide the means to issue out-of-area, [and] reciprocity, mileage and GVWR waivers, exemptions, and VIRs from either the department's offices or from a portable solution as required by the contract.

(L) Quality Control Requirements.

1. Quality control for the contractor(s). The department shall appoint entities under contractual agreement with the department to facilitate the operating of decentralized emissions inspection stations that will conduct vehicle emissions for the purpose of reducing or preventing vehicle pollution that contributes to ground-level ozone formation.

2. Quality control for emissions inspection stations.

A. Licensed emissions inspection stations shall conduct their business in such a way that it satisfies the intent of the vehicle emissions inspection program, which is to accurately identify the vehicles

that fail to meet the OBD emissions test standards so that these vehicles may be effectively repaired.

B. Failure to comply with the provisions of this rule and the purposes stated in subparagraph (3)(L)2.A. of this rule shall be considered a violation of this rule *[and shall be sufficient cause for the department or MSHP to immediately suspend emissions and/or safety inspection station licenses and the ability to conduct emissions and/or safety inspections]* **and will result in the penalties described in paragraphs (3)(N)2.–(3)(N)5. of this rule.**

C. Licensed emissions inspection stations shall be financially responsible for all vehicles that are being inspected.

3. Quality control for emissions inspectors.

A. The contractor shall provide to the department an education and training plan, to be approved by the department prior to implementation, for licensed emissions inspectors. Inspectors shall not be licensed unless they have passed all training requirements.

B. Failure to comply with the provisions of this rule and the contract shall be considered a violation of this rule *[and shall be sufficient cause for the department or MSHP to immediately suspend safety and/or emissions inspector licenses and the ability to conduct safety and/or emissions inspections]* **and will result in the penalties described in paragraphs (3)(N)2.–(3)(N)5. of this rule.**

C. As specified in the contract, the contractor shall maintain for the department an electronic database of licensed emissions inspector information $[,]$ that, at a minimum, includes the inspector's name, unique identification number, date of license issuance, stations of employment, date of any license suspensions or revocations, and a list of inspection results by date and by model year, make, model, and VIN.

4. Quality control for emissions inspection records.

A. All inspection records, calibration records, and control charts shall be accurately created, recorded, maintained, and secured by the contractor.

B. The contractor shall make available all records and information requested by the department and shall fully cooperate with the department, MSHP, and other state agency representatives who are authorized to conduct audits and other quality assurance procedures.

C. The contractor shall maintain emissions inspection records, including all inspection results and repair information.

(I) These records shall be kept readily available to the department and the MSHP for at least three (3) years after the date of an initial emissions inspection.

(II) These records shall be made available to the department and the MSHP on a real time continual basis through the use of *[an automated data communication system]* **the contractor's VID** as specified in the contract.

(III) These records shall also be made available immediately upon request for review by department and MSHP personnel.

5. Quality control for all emissions inspection equipment.

A. At a minimum, the practices described in this section and in the contract shall be followed.

B. Preventive maintenance on all emissions inspection equipment shall be performed on a periodic basis, as provided by the contract between the department and the contractor and consistent with the EPA's and the equipment manufacturer's requirements.

C. To assure quality control, computerized analyzers shall automatically record quality control check information, lockouts, attempted tampering, and any circumstances which require a service representative to work on the equipment.

D. To assure test accuracy, equipment shall be maintained by the contractor according to demonstrated good engineering procedures.

E. Computer control of quality assurance checks shall be used whenever possible. The emissions inspection equipment shall transmit the quality control results to the department's contractor as

prescribed in the contract between the department and the contractor.

(M) Vehicle Registration. After a subject vehicle has passed the emissions inspection according to either paragraphs (3)(H)/3./11. or (3)(J)/3./2. of this rule, or received a waiver according to subsection (3)(K) of this rule, the contractor shall make electronically available to the [Department of Revenue] MDOR on a real time basis the emissions and any associated safety inspection compliance records to enable vehicle registration and compliance enforcement. Paper [vehicle inspection reports] VIRs may not be used for registration purposes, unless the contractor's real time vehicle inspection database is not providing inspection information to the [Department of Revenue] MDOR on a real time basis. The department shall expressly authorize, either in writing or by voice authorization, the use of the paper [vehicle inspection reports] VIRs by the [Department of Revenue] MDOR and/or its contract offices.

(N) Violations and Penalties.

1. **Criminal penalties.** Persons violating this rule shall be subject to the criminal penalties contained in section 643.355, RSMo. [Any person who knowingly misrepresents himself or herself as an official emissions inspection station or an inspector or a Recognized Repair Technician is guilty of a class C misdemeanor for the first offense and a class B misdemeanor for any subsequent offense. Any person who is found guilty or who has pleaded guilty to a violation of this paragraph shall be considered to have committed an offense for the purposes of this paragraph.]

2. **Procedural penalties. Fraudulent emissions inspections or repairs are a violation of this rule.** All emissions inspection station operators and emissions inspectors shall comply with the emissions inspection law, sections 643.300-643.355, RSMo, and this emissions inspection rule. All emissions inspections and repairs shall be conducted in accordance with this emissions inspection rule. **The department shall conduct unannounced tests of facilities which inspect, repair, service, or maintain motor vehicle emissions components and equipments, including submitting known high emission vehicles with known defects for inspection and repair without prior disclosure to the repair facility.** Failure to comply with the emissions inspection law or the emissions inspection rule will subject the emissions inspection station manager and emissions inspector(s) to one (1) or more of the following [enforcement actions] procedural penalties:

A. Warning;

B. [Suspension of inspection licenses;] Lockouts as described in paragraph (3)(N)3. of this rule;

C. [Revocation of inspection licenses; and] Fines as described in paragraph (3)(N)4. of this rule;

D. [Arrest by the MSHP] Suspension or revocation of emissions inspection station and/or inspector licenses as described in (3)(N)5. of this rule;

E. The department's refusal to accept repair receipts from an inspection station or repair facility for the purpose of issuing cost-based waivers;

F. The department's revocation of Recognized Repair Technician status if the repair technician is reported by the department to the attorney general for unlawful merchandising practices according to section 643.330.4, RSMo;

G. Reporting of unlawful merchandising practices as defined in Chapter 407, RSMo, by the department to the attorney general for appropriate legal proceedings under sections 407.095 and 407.100, RSMo; and

H. Department or MSHP requests for investigation and/or criminal and civil penalties by the U.S. Environmental Protection Agency.

3. [Before any emissions inspection station license or emissions inspector license is suspended or revoked by the department, the holder will be notified, either in writing by certified mail or by personal service at the station's address

of record, and given the opportunity to have an administrative hearing as provided by 643.320.3, RSMo.] Lockouts. The department or MSHP may electronically lock out any emissions inspector, station, MRRT, or equipment if the department or MSHP identifies any irregularities within the emissions inspection database or any irregularities identified during either overt or covert audits. The lockout may precede warnings, license suspensions or revocations, or arrests. The state's contractor shall display a lockout warning on the monitor of any inspection equipment that is locked out by the department or MSHP. Lockouts shall prevent the performing of emissions inspections by the locked-out party. Lockouts shall be cleared when the department or MSHP is satisfied that there is no longer a need for the lockout. Irregularities include, but are not limited to:

A. Failure to enter all required information properly and accurately as described in paragraph (3)(H)6. of this rule;

B. Uploading unclear pictures, uploading license plate pictures that do not match the license plate recorded on the VIR, or failing to upload pictures as described in paragraph (3)(H)7. of this rule;

C. Disconnecting or misdirecting the view of the USB lane camera described in subparagraph (3)(H)8. of this rule;

D. Clean scanning as described in subsection (2)(B) and paragraph (3)(H)9. of this rule;

E. Performing more inspections than are physically possible for a given time duration;

F. Performing emissions inspections using another emissions inspector's fingerprint or password;

G. Conducting off-line inspections while the MDAS is not connected to the VID, unless the VID is off-line;

H. Conducting improper safety inspection of the air pollution control devices described in 11 CSR 50-2.280;

I. Bad faith or fraudulent repairs performed at the emissions inspection station or MRRT repair facility where—

(I) Vehicles repeatedly fail reinspections for the same reasons that they initially failed the OBD test;

(II) Vehicle repairs are not qualifying repairs as described in subsection (2)(W) of this rule; or

(III) Physical visual inspection of the repaired vehicles determines that the repairs were not performed as described on the submitted repair receipts;

J. Installing or assisting motorists with the installation of aftermarket components that disable or compromise the capabilities of the vehicle manufacturer's EPA-certified emissions control system;

K. Failure to maintain a positive balance of emissions inspection credit authorizations described in subparagraph (3)(D)3.B. of this rule;

L. Failure to upload the emissions inspection results to the VID immediately upon completion of the inspection per paragraph (3)(H)2. of this rule;

M. Failure to properly reinspect vehicles that failed an initial emissions test per paragraph (3)(J)1. of this rule;

N. Failure to pay the VID Service Fees according to the terms of the contract between the contractor and licensed emissions inspection stations as described in paragraph (3)(D)4. of this rule;

O. Failure to download and install the latest version of lane software to the MDAS; and

P. Failure to maintain dedicated data transmission capabilities for the emissions inspection equipment to stay online with the contractor's VID.

4. [Lockouts. The department or MSHP may electronically lockout any emissions inspector, station, or equipment if the department or MSHP identifies any irregularities within the emissions inspection database or any irregularities identified during either overt or covert audits. The lockout may precede warnings, license suspensions or revocations,

or arrests. The state's contractor shall display a lockout warning on the monitor of any inspection equipment that is locked out by the department or MSHP. Lockouts shall prevent the performing of emissions inspections by the locked out party. Lockouts shall be cleared when the department or MSHP is satisfied that there is no longer a need for the lockout.] Fines. If anyone is found to have committed an intentional procedural violation of this rule or that anyone's procedural violation involved gross negligence of this rule, they are subject to a fine, and such fine shall be not less than five (5) times the amount of the fee described in paragraph (3)(D)1. of this rule.

5. Emissions inspection license suspension and revocation. Before any emissions inspection station license or emissions inspector license is suspended or revoked by the department or the MSHP, the holder will be notified, either in writing by certified mail or by personal service at the station's address of record, and given the opportunity to have an administrative hearing as provided by section 643.320.3, RSMo.

A. Suspension of emissions inspection station and/or inspector licenses shall be for a period no less than thirty (30) days and not more than one (1) year.

B. Revocation of emissions inspection station and/or inspector licenses shall be for a period no less than one (1) year and not more than three (3) years.

6. Civil penalties. Installing aftermarket components that in any way bypass or compromise the vehicle manufacturer's emissions control system on a vehicle operated in the ozone nonattainment area is a violation of this rule and the federal Clean Air Act section 203(a)(3) and may result in the penalties described in the federal Clean Air Act section 205(a).

A. Any manufacturer or dealer who violates section 203(a)(3)(A) of the federal Clean Air Act shall be subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000).

B. Any person other than a manufacturer or dealer who violates section 203(a)(3)(A) of the federal Clean Air Act or any person who violates section 203(a)(3)(B) of the federal Clean Air Act shall be subject to a civil penalty of not more than two thousand five hundred dollars (\$2,500).

(4) Reporting and Record Keeping.

(A) **Passing Vehicles.** [The contractor shall provide all licensed emissions inspection stations with vehicle inspection report forms and windshield stickers for vehicles that pass an emissions inspection. After the effective date of this rule, any revision to the contractor supplied forms shall be presented to the regulated community for a forty-five (45)-day comment period.]

1. The [vehicle inspection report] VIR for the passing vehicle shall include:

A. A vehicle description, including the license plate number at the time of inspection, VIN, vehicle make, vehicle model, vehicle model year, fuel type, [and] GVWR range, odometer reading at the time of the vehicle's passing the OBD test, county of registration, and the complete mailing address (street address, city, and zip code) of the vehicle owner;

B. The date and time of inspection;

C. The unique identification number of the licensed emissions inspector performing the inspection, the unique identification number and location of the inspection station, and the unique identification number of the inspection equipment;

D. The applicable inspection standards;

E. The passing OBD test results;

F. The results of the recall provisions check, if applicable, including the recall campaign;

G. A statement that the emissions inspection was performed in accordance with this state regulation;

H. A waiver indicator, if applicable;

I. An off-line test indicator if the MDAS was not connected to the VID when the inspection was performed;

[I./J. The statement: "This inspection is mandated by your United States Congress"; and

[J./K. A statement that the results have been transmitted directly to the [Department of Revenue] MDOR, and that the paper [vehicle inspection report] VIR may not be used for vehicle registration purposes.

2. The windshield sticker for the passing vehicle shall—

A. Be affixed on the inside of the vehicle's front windshield in the lower left hand corner by the emissions inspector for each vehicle that passes the emissions inspection, or by the department representative for each vehicle that has been issued a waiver. A windshield sticker affixed to a vehicle that has been issued a waiver shall have a waiver indicator clearly visible on the sticker. Previous windshield stickers affixed to the windshield shall be removed;

B. Be as fraud resistant as required by the contract between the department and the contractor;

C. Be valid until the next emissions inspection is required as defined in subsection (3)(B) of this rule; and

D. Contain the statement: "This inspection is mandated by your United States Congress."

(B) **Failing Vehicles.** [The contractor shall provide all licensed emissions inspection stations with vehicle inspection reports for vehicles that fail an emissions inspection. After the effective date of this rule, any revision to the contractor supplied forms shall be presented to the regulated community for a forty-five (45)-day comment period.] The [vehicle inspection report] VIR for the failing vehicle shall include:

1. A vehicle description, including the license plate number at the time of inspection, VIN, vehicle make, vehicle model, vehicle model year, fuel type, [and] GVWR range, odometer reading at the time of the vehicle's OBD test, county of registration, and the complete mailing address (street address, city, and zip code) of the vehicle owner;

2. The date and time of inspection;

3. The unique identification number of the licensed emissions inspector performing the test, the unique identification number and location of the inspection station, and the unique identification number of the inspection equipment;

4. The applicable inspection standards;

5. The passing and failing OBD test results according to 40 CFR part 85, subpart W, section 2223. Section 2223 is incorporated by reference in this rule, as published by the EPA, Office of Transportation and Air Quality, 2000 Traverwood, Ann Arbor, MI 48105 on April 5, 2001. This rule does not incorporate any subsequent amendments or additions to section 2223;

6. The results of the recall provisions check, if applicable, including the recall campaign;

7. A statement that the emissions inspection was performed in accordance with this state regulation;

8. The statement: "This inspection is mandated by your United States Congress"; [and]

9. A statement that the vehicle may be reinspected for free according to [sub]paragraph [(3)(J)1.A.]/(3)(D)2. of this rule;

10. An off-line test indicator if the MDAS was not connected to the VID when the inspection was performed;

11. If the vehicle fails the DLC test described in subparagraph (5)(B)3.A. of this rule, the DLC failure reason as determined by the emissions inspector; and

12. If the vehicle fails the communications test described in subparagraph (5)(B)3.B. of this rule, the non-communications reason as determined by the MDAS.

(C) **Repair Facility Performance Report.** [The contractor shall provide all licensed emissions inspection stations with a repair facility performance report for each failing vehicle.] The repair facility performance report [may be included on the

vehicle inspection report] shall be printed by the MDAS for each failing vehicle and provided by the inspection station to the motorist with the VIR described in subsection (4)(B) of this rule. The repair facility performance report shall, at a minimum, list the ten (10) facilities employing at least one (1) Recognized Repair Technician that are nearest to the inspection station that conducted the failing emissions inspection. If the inspection station employs at least one (1) Recognized Repair Technician, the repair facility performance report shall include the inspection station in the list of ten (10) facilities. The report shall include, but not be limited to, the following:

1. The name of each facility, address, and phone number;
2. The percentage of vehicles repaired by the repair facility that passed [a] the first reinspection [after one (1) reinspection];
3. Other information as required by the contract between the department and the contractor; and
4. How motorists may obtain the full or customized list of facilities employing Recognized Repair Technicians from the contractor at no cost to the motorist. The list shall be viewable on a publicly available website maintained by the contractor.

(D) **Repair Data Sheet.** [The contractor shall provide a mechanism for collecting vehicle repair information from all Recognized Repair Technicians. This information may be collected through the emissions inspection equipment or through an Internet solution.] The repair data sheet shall be printed by the MDAS for each failing vehicle and provided by the inspection station to the motorist. The information on repair data sheets shall be collected and entered by emissions inspectors into the MDAS as described in subparagraph (3)(J)1.A. of this rule and used to generate the repair facility performance report described in subsection (4)(C) of this rule. The information to be collected shall include, but not be limited to, the following:

1. The total cost of repairs, divided into parts and labor;
2. The name of the person who performed the repairs and, if applicable, their Recognized Repair Technician's identification number;
3. The name of the repair facility and, if applicable, the repair business's inspection station number and/or the MRRT facility's identification number; and
4. The inspection failure the vehicle was being repaired for and the emissions-related repairs performed.

(E) **Motorist Comment Form.** [The contractor shall provide all licensed emissions inspection stations and businesses employing Recognized Repair Technicians with customer complaint forms. After the effective date of this rule, any revision to the contractor supplied forms shall be presented to the regulated community for a forty-five (45)-day comment period.] Inspection stations may print motorist comment forms from the MDAS to give to motorists for providing feedback on emissions inspections. The [customer complaint] motorist comment form shall include the telephone numbers of the department and the MSHP and the complete mailing address (street address, city, and zip code), phone number, fax number, and website of the contractor.

1. Any challenge regarding the performance or results of the emissions inspection must be made within [ten (10)] twenty (20) business days of the failing emissions inspection.

2. Any challenge regarding the results or effectiveness of the repairs made by either licensed emissions inspection stations or Missouri Recognized Repair Technicians must be made within twenty (20) business days of the date of vehicle repair.

(F) **Cost-Based Waivers.**

1. The cost-based waiver VIR shall include:

A. A vehicle description, including the license plate number at the time of inspection, VIN, vehicle make, vehicle model, vehicle model year, fuel type, GVWR range, odometer reading at the time of the most recent emissions inspection, county of registration, and the complete mailing address (street address, city, and zip code) of the vehicle owner;

tration, and the complete mailing address (street address, city, and zip code) of the vehicle owner;

B. The amount of money accepted by the department toward the cost-based waiver and the date and time that the cost-based waiver is issued;

C. The unique identification number of the department staff issuing the cost-based waiver, the location of the department staff person issuing the cost-based waiver, and the unique identification number of the inspection equipment used to issue the cost-based waiver;

D. A statement that the results have been transmitted directly to the MDOR, and that the paper VIR may not be used for vehicle registration purposes; and

E. The statement: "This inspection is mandated by your United States Congress."

2. The front of the cost-based waiver windshield sticker shall—

A. Be affixed on the inside of the vehicle's front windshield in the lower left-hand corner by the motorist. A waiver indicator shall be clearly visible on the sticker. Previous windshield stickers affixed to the windshield shall be removed;

B. Be as fraud resistant as required by the contract between the department and the contractor;

C. Be valid until the next emissions inspection is required as defined in subsection (3)(B) of this rule; and

D. Contain the statement: "This inspection is mandated by your United States Congress."

(G) **Reciprocity Waivers.**

1. The reciprocity waiver VIR shall include:

A. A vehicle description, including the license plate number at the time of inspection, VIN, vehicle make, vehicle model, vehicle model year, fuel type, GVWR range, odometer reading at the time of the vehicle's passing the OBD test, county of registration, and the complete name and address of the vehicle owner;

B. The reciprocity waiver determination;

C. The date and time that the reciprocity waiver is issued;

D. The unique identification number of the department staff person issuing the reciprocity waiver, the location of the department staff person, and the unique identification number of the inspection equipment used to issue the reciprocity waiver;

E. The state where the vehicle passed its OBD test;

F. A statement that the results have been transmitted directly to the MDOR, and that the paper VIR may not be used for vehicle registration purposes; and

G. The statement: "This inspection is mandated by your United States Congress."

2. The reciprocity waiver windshield sticker shall—

A. Be affixed on the inside of the vehicle's front windshield in the lower left-hand corner by the motorist. A waiver indicator shall be clearly visible on the sticker. Previous windshield stickers affixed to the windshield shall be removed;

B. Be as fraud resistant as required by the contract between the department and the contractor;

C. Be valid until the next emissions inspection is required as defined in subsection (3)(B) of this rule; and

D. Contain the statement: "This inspection is mandated by your United States Congress."

(H) **Mileage-based Emissions-exempt Vehicles.** The VIR for the mileage-based emissions-exempt vehicle shall include:

1. A vehicle description, including the license plate number at the time of inspection, VIN, vehicle make, vehicle model, vehicle model year, fuel type, GVWR range, odometer reading at the time of the most recent safety inspection, county of registration, and the complete mailing address (street address, city, and zip code) of the vehicle owner;

2. The date that the exemption is applied for and/or the date and time that the exemption was issued;

3. The unique identification number of the licensed emissions inspector performing the safety inspection, the unique identification number and location of the inspection station, and the unique identification number of the inspection equipment;

4. The type of mileage exemption, as described in paragraphs (1)(B)7. and (1)(B)8. of this rule;

5. A statement that the results have been transmitted directly to the MDOR, and that the paper VIR may not be used for vehicle registration purposes; and

6. The statement: "This inspection is mandated by your United States Congress."

(I) GVWR-based Emissions-exempt Vehicles. The VIR for the GVWR-based emissions-exempt vehicle shall include:

1. A vehicle description, including the license plate number at the time of inspection, VIN, vehicle make, vehicle model, vehicle model year, fuel type, GVWR range, odometer reading at the time of the most recent safety inspection, county of registration, and the complete mailing address (street address, city, and zip code) of the vehicle owner;

2. The date and time of the vehicle's safety inspection during which the licensed inspector verified that the vehicle had a GVWR in excess of eight thousand five hundred (8,500) pounds;

3. The unique identification number of the licensed emissions inspector performing the safety inspection, the unique identification number and location of the inspection station, and the unique identification number of the inspection equipment;

4. The GVWR exemption determination;

5. A statement that the results have been transmitted directly to the MDOR, and that the paper VIR may not be used for vehicle registration purposes; and

6. The statement: "This inspection is mandated by your United States Congress."

(J) Out-of-Area Emissions-exempt Vehicles. The out-of-area waiver VIR shall include:

1. A vehicle description, including the license plate number at the time of inspection, VIN, vehicle make, vehicle model, vehicle model year, fuel type, county of registration, and the complete name and address of the vehicle owner;

2. The date and time that the out-of-area exemption is issued;

3. The unique identification number of the department staff person issuing the out-of-area waiver, the unique identification number and location of the department staff person, and the unique identification number of the inspection equipment used to issue the out-of-area waiver;

4. The county where the vehicle is being operated;

5. A statement that the results have been transmitted directly to the MDOR, and that the paper VIR may not be used for vehicle registration purposes; and

6. The statement: "This inspection is mandated by your United States Congress."

(K) Aborted Emissions Inspections. The aborted emissions VIR shall include:

1. A vehicle description, including the license plate number at the time of inspection, VIN, vehicle make, vehicle model, vehicle model year, fuel type, GVWR range, odometer reading at the time of the most recent safety inspection, county of registration, and the complete mailing address (street address, city, and zip code) of the vehicle owner;

2. The date and time that the vehicle's emissions inspection was aborted;

3. The unique identification number of the licensed emissions inspector performing the emissions inspection, the unique identification number and location of the inspection station, and the unique identification number of the inspection equipment;

4. The aborted test result; and

5. The statement: "This inspection is mandated by your United States Congress."

[(F)](L) Beginning January 1, 2008, using a method provided by the contractor, federal, state, and local government agencies shall submit a list of vehicles, by VIN, that are operated by the government agencies and that are required to be inspected during each calendar year. Submittals are due by February 1 of each calendar year. If the first is not a business day or is a state holiday, the list shall be submitted to the contractor by the following business day. The contractor will audit these submittals by comparing the list of submitted vehicles to the database of inspected vehicles to track government fleet compliance. The contractor shall provide the department with the results of this audit by April 1 of each calendar year.

(5) Test Methods.

(A) To the extent possible, an OBD test, as defined in subsection (2)/(S)/(V) of this rule, and the contract shall be performed on all 1996 and later model year light duty vehicles and light duty trucks powered by gasoline and all 1997 and later model year light duty vehicles and light duty trucks powered by diesel.

(B) The OBD test shall follow the procedures described in 40 CFR part 85, subpart W, section 2222. Section 2222 is incorporated by reference in this rule, as published by the EPA, Office of Transportation and Air Quality, 2000 Traverwood, Ann Arbor, MI 48105 on April 5, 2001. This rule does not incorporate any subsequent amendments or additions to section 2222.

1. If the subject vehicle cannot be tested with the OBD test due to manufacturer design, then the subject vehicle shall be tested with only a bulb check test described in [sub]paragraph (5)(B)2. of this rule.

2. Bulb check test.

A. Vehicles will fail the bulb check portion of the OBD test if the malfunction indicator light is not illuminated while the key is in the on position and the engine is off (KOEO).

B. Vehicles will fail the bulb check portion of the OBD test if the malfunction indicator light is illuminated while the key is in the on position and the engine is running (KOER).

C. Vehicles with keyless ignitions shall be subject to a bulb check test.

D. Vehicles that fail the KOEO bulb check portion described in subparagraph (5)(B)2.A. of this rule of the OBD test shall fail the OBD test. Repairs made to correct bulb check failures shall not be eligible for cost-based or estimate-based waivers.

3. Data link connector and [communications] Communications tests.

A. Data link connector test. Vehicles will fail the data link connector portion of the OBD test if the DLC is inaccessible due to manufacturer design, tampered with, blocked, or not located where the manufacturer located the DLC. The emissions inspector shall determine and record the reason for this failure in the MDAS for printing on the emissions VIR.

B. Communications test. Vehicles will fail the communications portion of the OBD test if the vehicle does not maintain sufficient voltage to the DLC during OBD communication or transmit the necessary information to the inspection equipment after [a ten (10)] three (3) thirty (30)-second attempts[, followed by two (2) additional thirty (30)-second attempts].

(I) If the vehicle does not communicate after two (2) thirty (30)-second communication attempts, inspectors shall verify that a valid communications failure exists by using the MDAS OBD verification tool to verify the communication failure according to the lane software procedures.

(II) If the OBD verification tool determines that the equipment is not capable of communicating with the vehicle, the MDAS shall automatically abort the OBD test and generate the emissions VIR described in subsection (4)(K) of this rule.

(III) If the OBD verification tool determines that the equipment is capable of communicating with the vehicle, inspectors shall make one (1) additional thirty (30)-second communication attempt. If the vehicle does not communicate with the

MDAS, the MDAS shall determine and record the reason for this failure and print this reason on the emissions VIR.

C. Vehicles that fail the DLC or communications portion of the OBD test shall fail the OBD test.

D. Repairs made to correct failures for DLCs *[tampering]* that have been tampered with, rendered inoperative, or removed, or failures for OBD communications as described in parts (5)(B)3.A. and (5)(B)3.B. of this rule, shall not be eligible for cost-based or estimated-based waivers.

4. Readiness monitor test.

A. 1996–2000 model year gasoline-powered vehicles may pass the readiness monitor portion of the OBD test if they have no more than two (2) unset non-continuous readiness monitors.

B. 2001 and newer model year gasoline-powered vehicles may pass the readiness monitor portion of the test if they have no more than one (1) unset non-continuous readiness monitor.

C. Gasoline-powered vehicles that fail the OBD test with a catalytic converter DTC (P0420-P0439) present must have the catalyst monitor reset to pass the readiness monitor portion of the OBD retest.

D. Gasoline-powered vehicles will fail the readiness monitor portion of the OBD test if the following non-continuous monitors are not supported:

- (I) Oxygen sensor; and
- (II) Catalyst.

E. Vehicles that are on the readiness exemption table maintained by the contractor and authorized by the department shall be exempt from the readiness monitor portion of the OBD test.

F. Vehicles that fail the readiness monitor portion of the OBD test shall fail the OBD test. **Vehicles must pass the readiness monitor portion of the OBD test to be eligible for a cost-based or estimate-based waiver.**

G. Repairs made to correct failures for readiness monitor tampering caused by the installation of aftermarket components shall not be eligible for cost-based or estimated-based waivers.

5. Diagnostic trouble code test.

A. Vehicles will fail the diagnostic trouble code test if the OBD system has stored at least one (1) mature (non-pending, non-historic) DTC that commands the malfunction indicator light to be illuminated.

B. Vehicles will fail the diagnostic trouble code test if the vehicle commands the MIL to be illuminated but the OBD system has no mature (non-pending, non-historic) DTCs stored in the system.

C. The contractor shall ensure that their inspection equipment's request for DTCs does not cause the MIL to be illuminated.

D. Vehicles that fail the DTC portion of the OBD test shall fail the OBD test.

(D) If the subject vehicle fails the OBD test according to the OBD test standards specified in subsection (3)(I) of this rule or any of the OBD test procedures described in section (5) of this rule, then the procedures in paragraphs (3)(H)4.16., (3)(H)5.17., and (3)(J)2. of this rule shall be followed.

AUTHORITY: section 643.310.1, RSMo Supp. 2007. Original rule filed Jan. 16, 2007, effective Aug. 30, 2007. Amended: Filed Oct. 1, 2008.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., December 4, 2008. The public hearing will be held at

the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., December 11, 2008. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.061 Construction Permits Exemptions. The commission proposes to amend subsection (3)(A). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/reggs/index.html.

PURPOSE: This rule lists specific construction or modification projects that are not required to obtain permits to construct under 10 CSR 10-6.060. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the February 20, 2002 Recommendations from the "Managing For Results" presentation, the Air Program Advisory Forum 2001 and 2002 Recommendations and a January 28, 2003 memorandum to the department's Air Pollution Control Program recommending exemption language changes. This proposed amendment will add an exemption from construction permits for the construction of temporary storage structures throughout the state of Missouri that occur as a result of exceptional events (e.g., natural disasters or abundant harvests exceeding available storage capacity). The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, are letters to the Missouri Department of Natural Resources' Air Pollution Control Program on behalf of the Missouri Ag Industries Council, Inc. dated August 26, 2004, September 12, 2005, and August 2, 2007, showing the need for exempting temporary grain storage structures when exceptional events occur.

(3) General Provisions. The following construction or modifications are not required to obtain a permit under 10 CSR 10-6.060:

(A) Exempt Emission Units.

1. The following combustion equipment is exempt from 10 CSR 10-6.060 if the equipment emits only combustion products, and the equipment produces less than one hundred fifty (150) pounds per day of any air contaminant:

A. Any combustion equipment using exclusively natural gas or liquefied petroleum gas or any combination of these with a capacity of less than ten (10) million British thermal units (Btus) per hour heat input;

B. Any combustion equipment with a capacity of less than one (1) million Btus per hour heat input;

C. Drying or heat treating ovens with less than ten (10) million Btus per hour capacity provided the oven does not emit pollutants other than the combustion products and the oven is fired exclusively by natural gas, liquefied petroleum gas, or any combination thereof; and

D. Any oven with a total production of yeast leavened bakery products of less than ten thousand (10,000) pounds per operating day heated either electrically or exclusively by natural gas firing with a maximum capacity of less than ten (10) million Btus per hour.

2. The following establishments, systems, equipment, and operations are exempt from 10 CSR 10-6.060:

A. Office and commercial buildings, where emissions result solely from space heating by natural or liquefied petroleum gas of less than twenty (20) million Btus per hour heat input. Incinerators operated in conjunction with these sources are not exempt unless the incinerator operations are exempt under another section of this rule;

B. Comfort air conditioning or comfort ventilating systems not designed or used to remove air contaminants generated by, or released from, specific units of equipment;

C. Equipment used for any mode of transportation;

D. Livestock markets and livestock operations, including animal feeding operations and concentrated animal feeding operations as those terms are defined by 40 CFR 122.23 and all manure storage and application systems associated with livestock markets or livestock operations, that were constructed on or before November 30, 2003. This exemption includes any change, installation, construction, or reconstruction of a process, process equipment, emission unit, or air cleaning device after November 30, 2003, unless such change, installation, construction, or reconstruction involves an increase in the operation's capacity to house or grow animals.

E. Any grain handling, storage, and drying facility which—

(I) Is in noncommercial use only (used only to handle, dry, or store grain produced by the owner) if—

(a) The total storage capacity does not exceed seven hundred fifty thousand (750,000) bushels;

(b) The grain handling capacity does not exceed four thousand (4,000) bushels per hour; and

(c) The facility is located at least five hundred feet (500') from any recreational area, residence, or business not occupied or used solely by the owner;

(II) Is in commercial or noncommercial use and—

(a) *[t]*The total storage capacity of the new and any existing facility(ies) does not exceed one hundred ninety thousand (190,000) bushels; *[or]*

[[III] Is in commercial or noncommercial use and]

(b) *[h]*Has an installation of additional grain storage capacity in which there is no increase in hourly grain handling capacity and that utilizes existing grain receiving and loadout equipment; **or**

(c) **Is a temporary installation used for temporary storage as a result of exceptional events (e.g., natural disasters or abundant harvests exceeding available storage capacity) that meets the following criteria:**

I. Outside storage structures shall have a crushed lime or concrete floor with retaining walls of either constructed metal or concrete block. These structures may be either oval or round and must be covered with tarps while storing grain. These structures may be filled by portable conveyor or by spouts added from existing equipment;

II. Existing buildings may be filled by portable conveyors directly or by overhead fill conveyors that are already in the buildings;

III. The potential to emit from the storage structures is less than one hundred (100) tons of each pollutant;

IV. The attainment or maintenance of ambient air quality standards is not threatened; and

V. There is no significant impact on any Class I area.

F. Restaurants and other retail establishments for the purpose of preparing food for employee and guest consumption;

G. Any wet sand and gravel production facility that obtains its material from subterranean and subaqueous beds where the deposits of sand and gravel are consolidated granular materials resulting from natural disintegration of rock and stone and whose maximum production rate is less than five hundred (500) tons per hour. All permanent in-plant roads shall be paved and cleaned, or watered, or properly treated with dust-suppressant chemicals as necessary to achieve good engineering control of dust emissions. Only natural gas shall be used as a fuel when drying;

H. Equipment solely installed for the purpose of controlling fugitive dust;

I. Equipment or control equipment which eliminates all emissions to the ambient air;

J. Equipment, including air pollution control equipment, but not including an anaerobic lagoon, that emits odors but no regulated air pollutants;

K. Residential wood heaters, cookstoves, or fireplaces;

L. Laboratory equipment used exclusively for chemical and physical analysis or experimentation, except equipment used for controlling radioactive air contaminants;

M. Recreational fireplaces;

N. Stacks or vents to prevent the escape of sewer gases through plumbing traps for systems handling domestic sewage only. Systems which include any industrial waste do not qualify for this exemption;

O. Noncommercial incineration of dead animals, the on-site incineration of resident animals for which no consideration is received or commercial profit is realized as authorized in section 269.020.6, RSMo 2000;

P. The following miscellaneous activities:

(I) Use of office equipment and products, not including printing establishments or businesses primarily involved in photographic reproduction. This exemption is solely for office equipment that is not part of the manufacturing or production process at the installation;

(II) Tobacco smoking rooms and areas;

(III) Hand-held applicator equipment for hot melt adhesives with no volatile organic compound (VOC) in the adhesive formula;

(IV) Paper trimmers and binders;

(V) Blacksmith forges, drop hammers, and hydraulic presses;

(VI) Hydraulic and hydrostatic testing equipment; and

(VII) Environmental chambers, shock chambers, humidity chambers, and solar simulators provided no hazardous air pollutants are emitted by the process;

Q. The following internal combustion engines:

(I) Portable electrical generators that can be moved by hand without the assistance of any motorized or non-motorized vehicle, conveyance, or device;

(II) Spark ignition or diesel fired internal combustion engines used in conjunction with pumps, compressors, pile drivers, welding, cranes, and wood chippers or internal combustion engines or gas turbines of less than two hundred fifty (250) horsepower rating; and

(III) Laboratory engines used in research, testing, or teaching;

R. The following quarries, mineral processing, and biomass facilities:

(I) Drilling or blasting activities;

(II) Concrete or aggregate product mixers or pug mills with a maximum rated capacity of less than fifteen (15) cubic yards per hour;

(III) Riprap production processes consisting only of a grizzly feeder, conveyors, and storage, not including additional hauling activities associated with riprap production;

(IV) Sources at biomass recycling, composting, landfill, publicly owned treatment works (POTW), or related facilities specializing in the operation of, but not limited to, tub grinders powered by a motor with a maximum output rating of ten (10) horsepower, hoggers and shredders and similar equipment powered by a motor with a maximum output rating of twenty-five (25) horsepower, and other sources at such facilities with a total throughput less than five hundred (500) tons per year; and

(V) Land farming of soils contaminated only with petroleum fuel products where the farming beds are located a minimum of three hundred feet (300') from the property boundary;

S. The following kilns and ovens:

(I) Kilns with a firing capacity of less than ten (10) million Btus per hour used for firing ceramic ware, heated exclusively by natural gas, liquefied petroleum gas, electricity, or any combination thereof; and

(II) Electric ovens or kilns used exclusively for curing or heat-treating provided no hazardous air pollutants (HAPs) or VOCs are emitted;

T. The following food and agricultural equipment:

(I) Any equipment used in agricultural operations to grow crops;

(II) Equipment used exclusively to slaughter animals. This exemption does not apply to other slaughterhouse equipment such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;

(III) Commercial smokehouses or barbecue units in which the maximum horizontal inside cross-sectional area does not exceed twenty (20) square feet;

(IV) Equipment used exclusively to grind, blend, package, or store tea, cocoa, spices, or coffee;

(V) Equipment with the potential to dry, mill, blend, grind, or package less than one thousand (1,000) pounds per year of dry food products such as seeds, grains, corn, meal, flour, sugar, and starch;

(VI) Equipment with the potential to convey, transfer, clean, or separate less than one thousand (1,000) tons per year of dry food products or waste from food production operations;

(VII) Storage equipment or facilities containing dry food products that are not vented to the outside atmosphere or which have the potential to handle less than one thousand (1,000) tons per year;

(VIII) Coffee, cocoa, and nut roasters with a roasting capacity of less than fifteen (15) pounds of beans or nuts per hour, and any stoners or coolers operated with these roasters;

(IX) Containers, reservoirs, tanks, or loading equipment used exclusively for the storage or loading of beer, wine, or other alcoholic beverages produced for human consumption;

(X) Brewing operations at facilities with the potential to produce less than three (3) million gallons of beer per year; and

(XI) Fruit sulfuring operations at facilities with the potential to produce less than ten (10) tons per year of sulfured fruits and vegetables;

U. Batch solvent recycling equipment provided the recovered solvent is used primarily on-site, the maximum heat input is less than one (1) million Btus per hour, the batch capacity is less than one hundred fifty (150) gallons, and there are no solvent vapor leaks from the equipment which exceed five hundred (500) parts per million;

V. The following surface coating and printing operations:

(I) Batch mixing of inks, coatings, or paints provided good housekeeping is practiced, spills are cleaned up as soon as possible, equipment is maintained according to manufacturer's instruction and property is kept clean. In addition, all waste inks, coating, and paints shall be disposed of properly. Prior to disposal, all liquid waste shall be stored in covered containers. This exemption does not apply to ink, coatings, or paint manufacturing facilities;

(II) Any powder coating operation, or radiation cured coating operation where ultraviolet or electron beam energy is used to initiate a reaction to form a polymer network;

(III) Any surface-coating source that employs solely non-refillable hand-held aerosol cans; and

(IV) Surface coating operations utilizing powder coating materials with the powder applied by an electrostatic powder spray gun or an electrostatic fluidized bed;

W. The following metal working and handling equipment:

(I) Carbon dioxide (CO₂) lasers, used only on metals and other materials that do not emit a HAP or VOC in the process;

(II) Laser trimmers equipped with dust collection attachments;

(III) Equipment used for pressing or storing sawdust, wood chips, or wood shavings;

(IV) Equipment used exclusively to mill or grind coatings and molding compounds in a paste form provided the solution contains less than one percent (1%) VOC by weight;

(V) Tumblers used for cleaning or deburring metal products without abrasive blasting;

(VI) Batch mixers with a rated capacity of fifty-five (55) gallons or less provided the process will not emit hazardous air pollutants;

(VII) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives provided the process will not emit hazardous air pollutants;

(VIII) Equipment used exclusively for the packaging of lubricants or greases;

(IX) Platen presses used for laminating provided the process will not emit hazardous air pollutants;

(X) Roll mills or calendars for rubber or plastics provided the process will not emit hazardous air pollutants;

(XI) Equipment used exclusively for the melting and applying of wax containing less than one percent (1%) VOC by weight;

(XII) Equipment used exclusively for the conveying and storing of plastic pellets; and

(XIII) Solid waste transfer stations that receive or load out less than fifty (50) tons per day of nonhazardous solid waste;

X. The following liquid storage and loading equipment:

(I) Storage tanks and vessels having a capacity of less than five hundred (500) gallons; and

(II) Tanks, vessels, and pumping equipment used exclusively for the storage and dispensing of any aqueous solution which contains less than one percent (1%) by weight of organic compounds. Tanks and vessels storing the following materials are not exempt:

(a) Sulfuric or phosphoric acid with an acid strength of more than ninety-nine percent (99.0%) by weight;

(b) Nitric acid with an acid strength of more than seventy percent (70.0%) by weight;

(c) Hydrochloric or hydrofluoric acid with an acid strength of more than thirty percent (30.0%) by weight; or

(d) More than one (1) liquid phase, where the top phase contains more than one percent (1%) VOC by weight;

Y. The following chemical processing equipment or operations:

(I) Storage tanks, reservoirs, pumping, and handling equipment, and mixing and packaging equipment containing or processing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized; and

(II) Batch loading and unloading of solid phase catalysts;

Z. Body repair and refinishing of motorcycle, passenger car, van, light truck, and heavy truck and other vehicle body parts, bodies, and cabs, provided—

(I) Good housekeeping is practiced; spills are cleaned up as soon as possible, equipment is maintained according to manufacturers' instructions, and property is kept clean. In addition, all waste coatings, solvents, and spent automotive fluids including, but not limited to, fuels, engine oil, gear oil, transmission fluid, brake fluid, antifreeze, fresh or waste fuels, and spray booth filters or water wash sludge are disposed of properly. Prior to disposal, all liquid waste

shall be stored in covered containers. All solvents and cleaning materials shall be stored in closed containers;

(II) All spray coating operations shall be performed in a totally enclosed filtered spray booth or totally enclosed filtered spray area with an air intake area of less than one hundred (100) square feet. All spray areas shall be equipped with a fan which shall be operated during spraying, and the exhaust air shall either be vented through a stack to the atmosphere or the air shall be recirculated back into the shop through a carbon adsorption system. All carbon adsorption systems shall be properly maintained according to the manufacturer's operating instructions, and the carbon shall be replaced at the manufacturer's recommended intervals to minimize solvent emissions; and

(III) Spray booth, spray area, and preparation area stacks shall be located at least eighty feet (80') away from any residence, recreation area, church, school, child care facility, or medical or dental facility;

AA. Sawmills processing no more than twenty-five (25) million board feet, green lumber tally of wood per year, in which no mechanical drying of lumber is performed, in which fine particle emissions are controlled through the use of properly engineered baghouses or cyclones, and which meet all of the following provisions:

(I) The mill shall be located at least five hundred feet (500') from any recreational area, school, residence, or other structure not occupied or used solely by the owner of the facility or the owner of the property upon which the installation is located;

(II) All sawmill residues (sawdust, shavings, chips, bark) from debarking, planing, saw areas, etc., shall be removed or contained to minimize fugitive particulate emissions. Spillage of wood residues shall be cleaned up as soon as possible and contained such that dust emissions from wind erosion and/or vehicle traffic are minimized. Disposal of collected sawmill residues must be accomplished in a manner that minimizes residues becoming airborne. Disposal by means of burning is prohibited unless it is conducted in a permitted incinerator; and

(III) All open-bodied vehicles transporting sawmill residues (sawdust, shavings, chips, bark) shall be covered with a tarp to achieve maximum control of particulate emissions;

BB. Internal combustion engines and gas turbine driven compressors, electric generator sets, and water pumps, used only for portable or emergency services, provided that the maximum annual operating hours shall not exceed five hundred (500) hours. Emergency generators are exempt only if their sole function is to provide back-up power when electric power from the local utility is interrupted. This exemption only applies if the emergency generators are operated only during emergency situations and for short periods of time to perform maintenance and operational readiness testing. The emergency generator shall be equipped with a non-resettable meter;

CC. Commercial dry cleaners; and

DD. Carving, cutting, routing, turning, drilling, machining, sawing, sanding, planing, buffing, or polishing solid materials, other than materials containing any asbestos, beryllium, or lead greater than one percent (1%) by weight as determined by Material Safety Data Sheets (MSDS), vendor material specifications and/or purchase order specifications, where equipment—

(I) Directs a stream of liquid at the point where material is processed;

(II) Is used only for maintenance or support activity not conducted as part of the installation's primary business activity;

(III) Is exhausted inside a building; or

(IV) Is ventilated externally to an operating cyclonic inertial separator (cyclone), baghouse, or dry media filter. Other particulate control devices such as electrostatic precipitators or scrubbers are subject to construction permitting or a permit-by-rule, unless otherwise exempted.

3. Construction or modifications are exempt from 10 CSR 10-6.060 if they meet the requirements of subparagraph/s/ (3)(A)3.B. of

this rule for each hazardous air pollutant and the requirements of subparagraph (3)(A)3.A., (3)(A)3.C., or (3)(A)3.D. of this rule for each criteria pollutant. The director may require review of construction or modifications otherwise exempt under paragraph (3)(A)3. of this rule if the emissions of the proposed construction or modification will appreciably affect air quality or the air quality standards are appreciably exceeded or complaints involving air pollution have been filed in the vicinity of the proposed construction or modification.

A. At maximum design capacity the proposed construction or modification shall emit each pollutant at a rate of no more than the amount specified in Table 1.

TABLE 1. Insignificant Emission Exemption Levels

| Pollutant | Insignificance Level (lbs per hr) |
|--|-----------------------------------|
| Particulate Matter 10 Micron (PM ₁₀) (Emitted solely by equipment) | 1.0 |
| Sulfur Oxides (SO _x) | 2.75 |
| Nitrogen Oxides (NO _x) | 2.75 |
| Volatile Organic Compounds (VOCs) | 2.75 |
| Carbon Monoxide (CO) | 6.88 |

B. At maximum design capacity, the proposed construction or modification will emit a hazardous air pollutant at a rate of no more than one-half (0.5) pound per hour, or the hazardous emission threshold as established in subsection (12)(J) of 10 CSR 10-6.060, whichever is less.

C. Actual emissions of each criteria pollutant, except lead, will be no more than eight hundred seventy-six (876) pounds per year.

D. Actual emissions of volatile organic compounds that do not contain hazardous air pollutants will be no more than four (4) tons per year.

AUTHORITY: section 643.050, RSMo 2000. Original rule filed March 5, 2003, effective Oct. 30, 2003. Amended: Filed July 1, 2004, effective Feb. 28, 2005. Amended: Filed Dec. 1, 2005, effective July 30, 2006. Amended: Filed Oct. 1, 2008.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., December 4, 2008. The public hearing will be held at the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., December 11, 2008. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.