

TITLE 177 NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH

CHAPTER 1 RULES AND REGULATIONS RELATING TO ANALYSES FOR THE
DETERMINATION OF THE ALCOHOL CONTENT IN BLOOD OR BREATH

001 DEFINITIONS

001.01 Alcohol means ethyl alcohol.

001.02 Alcohol analysis means the use of a chemical test to determine the concentration of alcohol per 100 milliliters of blood, or the concentration of alcohol per 210 liters of breath.

001.03 Analyst means a holder of a Class A, B, or C permit.

001.04 Breath means exhaled lung air that is used for alcohol analysis which contains a large portion of air from the alveolar region of the lungs where the exchange of gases between the blood and air occurs.

~~001.05 Breath simulator solution means a premixed, certified ethyl alcohol and water solution.~~

001.065 Breath testing means the analysis of breath for alcohol content.

001.076 Body fluid refers to blood or breath.

001.087 Categories of Permits.

001.087A Class A Permit is a permit to perform a chemical test to analyze a subject's blood for alcohol content by an approved laboratory method.

001.087B Class B Permit is a permit to perform a chemical test to analyze a subject's breath for alcohol content by an approved method.

001.087C Class C Permit is a permit to perform preliminary breath tests for alcohol content by an approved method.

001.098 Chemical test means an examination which measures the alcohol content in a chemical reaction, or chemical transformation such as infrared absorption.

~~001.4009 Department means the Department of Health and Human Services, Division of Public Health.~~

001.140 DHHS means the Department of Health and Human Services.

001.11 Dry Gas Standard means a premixed, certified mixture of alcohol and nitrogen.

001.12 Into service means that an instrument is being placed for the first time at a testing site, not when it is returned from being repaired.

001.13 Instrument means an item of testing equipment used for performing chemical tests.

001.14 Laboratory method means a chemical analysis using laboratory procedures and instrumentation.

001.15 Maintenance officer means the person responsible for maintenance and calibration verification at a testing site.

001.16 Method means the name of the principle of analysis. The method may be a laboratory method.

001.17 mg/ml means milligrams per milliliter.

001.18 Record card ~~Test record~~ means any results printed/transmitted/produced ~~the card or tape printed~~ by an evidentiary breath testing device.

001.19 Refusal or deficient sample means the failure to provide a sufficient sample of body fluid to complete a blood or breath test or the refusal to submit to a chemical test of blood or breath.

001.20 Stoppered means any cork, plug, or other object used to close a bottle, drain, tube and so on, to prevent leakage of liquid or vapor.

001.21 Technique means a set of written instructions which describe the procedure, equipment, and equipment preventive maintenance necessary to obtain an accurate alcohol content test result.

001.22 Test means a chemical analysis to determine the presence of or quantification of alcohol.

001.23 Test run means the performance of test(s) which begin at a time and are carried to completion for a sample, or samples grouped in a consecutive manner.

001.24 Testing site means the physical location where a testing device(s) is located; and where testing is conducted.

001.25 Valid permit means an authorization issued by the Department to an individual to a permit which has been executed with proper legal authority and is in force, and allows the holder of the permit to perform alcohol analysis, tests by the method listed on the permit. Permits are non-expiring. Permits issued under Rule 3 are valid permits; 177 NAC 1 was formerly entitled Rule 3 of the State Health Department. Permits issued under prior versions of 177 NAC 1 regulations are valid permits.

~~001.25A Previously issued Class C permits that list Attachment 18 as the approved technique are valid permits. Attachment 18 has been replaced by Attachment 4, and operators are to adhere to the current rules.~~

001.26 Valid test means an analysis performed according to methods approved by the Department by an individual possessing a valid permit.

001.27 Wet bath simulator solution means a premixed, certified ethyl alcohol and water solution.

002 REPORT OF ALCOHOL TEST RESULTS FOR MEDICO-LEGAL PURPOSES

002.01 Breath Test Results. Report of Breath Test Results of a test for alcohol content of breath shall be reported as ~~hundredths or thousandths~~ of a gram of alcohol per 210 liters of breath on the checklist. ~~Test results shall not be rounded upward. For example, an analysis producing a result of .138 shall be reported as .13 or as .138.~~

002.01A No digital result shall be reported on the checklist unless the device has received a sufficient breath sample and completely executes its prescribed program and prints a test record ~~card~~ to indicate that the program has been completed.

002.01B Prescribed Program. ~~When a breath testing device fails to print a record card or the record card~~ test record indicates an incomplete or deficient sample, this indicates that the device has not completed its prescribed program. Such deficient sample does not constitute a completed test or sufficient sample of breath and would be considered to be a refusal. Such deficient sample does not constitute a completed test, but is scientifically probative up to the amount indicated by the testing device at the time that the breath testing procedure stopped.

002.01B1 Preliminary breath testing devices are not required to produce a printed test record. When a sufficient breath sample is provided, the results of a preliminary breath test may be reported as a digital readout or as a pass or fail.

002.01C The completed checklist as found in these rules and regulations shall be the official record of breath test results.

~~002.01D The printing of a test record card indicates that the prescribed program of the evidentiary breath testing device has been completed.~~

~~002.01D1 Preliminary breath testing devices are not required to produce a printed test record. When a sufficient breath sample is provided, the results of a preliminary breath test may be reported as a digital readout or as a pass or fail.~~

002.01E Record Requirements in Performance of Tests. The testing records must show adherence to the approved method, and techniques.

002.02 Blood Test Results. Results of a test of blood for alcohol content shall be reported in terms of ~~hundredths or thousandths~~ of a gram of alcohol per 100 milliliters of blood. ~~Rounding upward of the test results shall not occur. For example, an analysis producing a result of .138 shall be reported as .13 or as .138.~~

003 PERMITS

003.01 Permit Issuance. The permit shall be issued by the Department, and shall state the class of permit, and the approved method. The Department shall keep record of all permits issued. ~~003.02 Duplicate permits.~~ The Department may re-issue a duplicate permit, when a written request is received from the permit holder.

003.032 Application. The applications shall be Attachment 8, Attachment 9, or Attachment 10, attached and incorporated herein by reference.

003.043 Name Change. The Department may reissue a permit, when a permit holder changes his or her name and a written request is received from the permit holder.

004 REVOCATION OF PERMITS

004.01 Class A, B, or C permits are nonexpiring permits. Class A, B, or C permits may be revoked by the Department whenever the Department determines a permit holder is in noncompliance with these rules and regulations.

005 BLOOD SPECIMEN COLLECTION AND PRESERVATION

005.01 Blood specimens shall be taken by personnel authorized by law. The antiseptic solution used shall be non-alcoholic.

005.02 Blood specimens shall be collected in clean containers/tubes and stoppered. The container/tube shall contain an anticoagulant-preservative substance.

005.03 Specimen containers shall be labeled and shall show the following information on the label: name of person tested, date and time of specimen collection, and initials of person collecting the specimen.

005.04 While not in transit to be tested, or while not under examination, all blood specimens shall be refrigerated as soon as practical.

006 CLASS A PERMITS

006.01 Qualifications for Class A Permit Holder. A Class A permit holder shall have knowledge of the chemistry of alcohol and other substances of proper concern in body fluid alcohol tests and the ability to perform satisfactory tests for alcohol as demonstrated by:

006.01A Twelve semester hours of academic work in chemistry from a recognized college or university; or

006.01B Two years of experience consisting of performance of routine laboratory tests in a usual and customary laboratory organization.

006.02 Issuance of Class A Permits.

006.02A Applications for Class A permits shall be made on Attachment 8, attached and incorporated herein by reference.

006.03 Initial Performance Evaluation Studies Prior to Permit Issuance. A performance evaluation study for permit issuance shall consist of four audit samples. Satisfactory performance of analyses on the audit samples is defined as the ability to produce acceptable data on all samples.

006.03A Unacceptable data is defined, for the purpose of section 006 of these regulations, as an error in the analysis of an audit sample greater than a 10.00% deviation. Percent deviation shall be computed as the total deviation from the mean value, divided by the mean value, and multiplied by 100.

006.03B Results on audit samples shall be reported to the third decimal point.

006.03C A prospective permit holder shall be allowed two attempts to produce acceptable data.

006.04 List of Approved Methods for Class A Permits.

1. Gas Chromatography
2. Enzymatic Alcohol Dehydrogenase
3. Radiative Energy Attenuation

006.05 Operating Procedures for Class A Permit. A Class A permit holder for the determination of alcohol content in blood shall:

006.05A Be responsible for maintaining the legal continuity of all specimens received.

006.05B Conduct all tests with an inclusion of a quality control sample in the test run. The quality control sample result shall be used to:

006.05B1 Determine standard deviation data computed as shown:

$$\text{Standard Deviation} = \sqrt{\frac{\text{sum } (X - \bar{X})^2}{N - 1}}$$

where: N = number of measurements

X = value of single measurement

\bar{X} = mean of all X's

006.05B2 Determine if test results are to be reported. No test results shall be reported if a quality control sample result is greater than +/- three standard deviations.

006.05C On or before July 1 of each even-numbered year, Class A permit holders must submit his/her reports of standard deviation data for the previous 24 month period of time to the Department.

006.05D Ongoing Performance Evaluation Studies for Permit Holders. Ongoing performance evaluation studies shall be in effect with acceptable performance for test results to be valid. An ongoing performance evaluation study shall be enrollment in the College of American Pathologists' Whole Blood Alcohol/Volatiles survey

program or a survey program at the department's discretion. Unacceptable performance is defined as two or more values outside of the acceptable ranges in two successive survey shipments. On or before July 1 of each even-numbered year, Class A permit holders shall submit his/her copies of proficiency testing evaluations for the previous 24 month period of time to the Department.

006.05D1 Reporting of test results of alcohol content in blood of individuals shall not occur by a permit holder who has been notified of unacceptable performance in proficiency testing.

006.05D2 A permit holder shall be allowed two attempts to produce acceptable performance after being notified of unacceptable performance.

006.05D3 A permit holder shall not resume reporting of test results for alcohol content in blood of individuals until the Department notifies a permit holder that he/she is again in an acceptable performance status following an acceptable performance.

006.05E Maintain the following records:

006.05E1 The permit to perform chemical tests.

006.05E2 Records of specimen receipts, tests performed and results.

006.05E3 The method and description of steps used by the permit holder.

006.05E4 Records of quality control results and related data as prescribed in part 006.05D of this subsection.

006.05E5 A current copy of these rules and regulations.

006.05E6 Records of maintenance performed on instrument.

006.06 Inspection, Maintenance, and Repair of Laboratory Instruments for Class A Methods.

006.06A Maintenance of instruments shall be performed as prescribed in the Operators/manufacturers manual that is intended for an instrument which may be utilized to produce results in this regulation. Maintenance shall be performed by a person trained to do maintenance or a manufacturer's representative.

006.06B When inspection of a instrument reveals the need for repair, the repair shall be performed by a manufacturer's representative, or by a person trained for repair.

006.06C Malfunctions of instruments, maintenance activities, and repair occurrences shall be recorded and shall show the name of the person and the agency or business organization performing maintenance activities and repair work.

006.06D A Class A permit holder shall document that instrument maintenance has occurred with at least the frequency recommended by the manufacturer.

007 CLASS B PERMITS

007.01 Application for Class B Permit.

007.01A Application for a Class B Permit shall be made on a form prescribed by the Department as shown in Attachment 9, attached and incorporated by reference.

007.01B The Class B permit applicant shall ~~attend a training session consisting of a minimum of six hours of instruction. The course shall include the method and technique of the testing device.~~ be trained and tested in the following areas:

- a. ~~It will include t~~ The basic operation of the device and its proper use for evidentiary testing;
- b. The applicant shall demonstrate the ability to properly operate the appropriate device;
- c. Instruction may include physiology and pharmacology of alcohol as it pertains to driving, ~~Instruction may include~~ relevant legal matters, and court testimony.

007.01C To ~~earn~~ obtain a Class B permit, the applicant shall achieve at least 70% on a written examination from the Department.

007.02 Operating Rules for Class B Permit. To determine the alcohol content in breath, a Class B permit holder shall:

007.02A Ascertain that maintenance and calibration checks have been performed on devices prior to testing by reviewing the current 40-day maintenance and calibration checks performed on the testing device.

007.02B Use the appropriate checklist to record each test, and retain the test record ~~card or tape~~ produced by the instrument for each evidentiary test.

008 LIST OF APPROVED METHODS, BREATH TESTING INSTRUMENTS, CALIBRATION DEVICES, AND INTERNAL REFERENCE STANDARDS FOR CLASS B PERMIT HOLDERS

008.01 All evidentiary breath testing devices that have been evaluated and approved by the National Highway Traffic Safety Administration (NHTSA) and published on the Conforming Products Lists of Evidential Breath Measuring Devices are approved devices in the State of Nebraska for the purposes of this rule and for Drug and Alcohol Testing in the Workplace (Title 177 NAC 6). Prior to use of a NHTSA approved device for evidentiary breath tests conducted by law enforcement, the checklist technique and operating procedures for that device must be included in these regulations.

For Drug and Alcohol Testing in the Workplace (Title 177 NAC 6) testing, the operator is to conduct the test in accordance with the instructions provided by the manufacturer for the instrument. Although a checklist is not required, the test record ~~card or tape~~ produced by the instrument must be retained. The instrument is to be calibrated in conformance with the manufacturer's instructions.

008.01A Approved evidentiary breath testing methods and instruments conducted by law enforcement, except preliminary breath testing devices, are listed below.

- a. Intoxilyzer, all models
- b. DataMaster, all models

008.01B Infrared absorption analysis using the Intoxilyzer and all instruments under the Intoxilyzer name. Model 5000, including all devices under the Model 5000 name. Checklist technique, as found in Attachment ~~15~~ 16, attached and incorporated herein by reference, is approved for the Intoxilyzer. Model 5000.

008.01C Infrared absorption analysis using the Model DataMaster and all instruments under the DataMaster name. Checklist technique, as found in Attachment ~~2~~ 16, ~~attached and incorporated herein by reference,~~ is approved for the DataMaster.

008.02 All calibration equipment that has been approved by the National Highway Traffic Safety Administration and published on the Conforming Product List of Calibrating Units for Breath Alcohol Testers is approved for calibration and verification of calibration of breath testing devices.

008.03 Approved reference standards and their use in calibration verification of evidentiary breath testing devices are described below and shall be used by a Class B permit holder with the applicable instrument.

008.03A DataMaster with Internal Reference standard consisting of a known quartz filter used as a known standard specific to each instrument is an approved reference standard. Prior to placement into service at a testing site, the DataMaster device with the internal quartz standard shall have the calibration checked with an alcohol ~~breath~~ wet bath simulator solution or dry gas standard.

008.03A1 Following the DataMaster calibration check, an internal calibration analysis shall be performed. The results of this internal calibration check must be within +/- 5% of the target value.

008.03A1a If the internal check is not within +/- 5%, the instrument will abort the test and "Calibration Error" is displayed and printed on the test record card.

008.03A2 Attachment 5, attached and incorporated herein by reference, shall be used for certifying the accuracy of the internal quartz standard used for calibration checks.

008.03B Intoxilyzer ~~Model 5000~~ Internal Reference standard consisting of filters of predetermined values which correspond to the calibration setting of the instrument is an approved reference standard.

008.03B1 Prior to placement into service, the Intoxilyzer breath testing device with the internal reference standard(s) shall have the calibration checked with an alcohol ~~breath~~ wet bath simulator solution or dry gas standard.

008.03B2 Following the Intoxilyzer ~~5000~~ calibration check, an internal

calibration analysis shall be performed. The result of this internal calibration check must indicate that all predetermined target values are within +/- 5% of the target values.

008.03B2a If any of the internal standards are not within +/- 5% of the target values, the instrument will abort the test and indicate the error by displaying and printing an error message.

008.03B3 Attachment 12, attached and incorporated herein by reference, shall be used for certifying the accuracy of the internal calibration reference standards.

008.04 Alcohol Breath Wet Bath Simulator Solutions or Dry Gas Standards. Testing device calibration and calibration verification shall be performed using either dry gas standards or wet bath simulator solutions as follows:

008.04A Certification. ~~The alcohol breath simulator solutions must be prepared with a certificate of Analysis as shown in Attachment 1, attached and incorporated herein by reference. The wet bath simulator solution or dry gas standard must be accompanied by a certificate of analysis. The certificate of analysis must contain the following information:~~

- a. Name of the company which prepared the solution;
- b. Name of the person who tested the solution;
- c. Solution identification;
- d. Chemical analysis of the solution;
- e. Expected breath instrument calibration check test result;
- f. Name of the accreditation institution (ISO, NIST, etc.) for the testing laboratory; and
- g. A notarized signature of the responsible individual (company president or testing operator, e.g.).

008.04B Alcohol breath Wet bath simulator solutions can be used for 100 analyses when used with devices that use vapor recirculation.

008.04C Dry gas standards may be used until their date of expiration.

008.04CD Alcohol breath Wet bath simulator solutions and dry gas standards may be stored at ambient room temperature. It shall be stored in a tightly stoppered device or other tightly stoppered container. The useful life of an ~~alcohol breath wet bath~~ simulator solution is 24 months.

009 MAINTENANCE OFFICER

009.01 Each testing site shall have a maintenance officer(s) who is responsible for maintenance and calibration verification of the testing device(s). The maintenance officer shall:

009.01A Be a Class B permit holder.

009.01B Be familiar with the testing device as a result of consultation with a

manufacturer representative or other individual knowledgeable about the use of the device.

009.01C Notify the Department of the name of the maintenance officer(s) for each site and the serial number of each unit for which the maintenance officer is responsible.

009.01D Perform scheduled maintenance procedures for all approved evidentiary breath testing devices. Check the general condition of the instrument within 40 days prior to an analysis. This includes inspection of all display and operation lights and ~~verify~~ verification of printer operation. The maintenance may include simple replacement of peripherals such as keyboards, hoses or printers ~~paper~~, basic cleaning, etc.

~~009.01E Perform calibration verification of the breath testing device. Calibration verification shall be performed every 40 days by the use of two certified breath simulator solutions. These two certified solutions will be of different target values. Results of these two checks shall be recorded in the maintenance log.~~

009.01E Within 40 days prior to an analysis, the maintenance officer is to conduct the calibration verification in accordance with the instructions provided by the manufacturer for the instrument and 010 below. Results must be recorded in the maintenance log.

010 CALIBRATION VERIFICATION. Calibration verification of evidentiary breath testing devices will be conducted by a maintenance officer every 40 days. It will consist of two verifications using different target values from wet bath simulator solutions, dry gas standards, or internal references. ~~may be performed either by using a certified alcohol breath simulator solution, or the device's internal standard.~~

010.01 When calibration verification checks are performed with certified alcohol breath wet bath simulator solutions, all approved evidentiary breath testing instruments shall be able to produce results within +/- ~~.010~~ 5% of the target value of the certified wet bath simulator solution.

010.02 When calibration verification checks are performed by means of approved internal standard(s), all approved evidentiary breath testing instruments shall be able to produce results within +/- 5% of the known target values of the standard(s). This tolerance shall be verified by the normal prescribed program and operation of the testing devices.

010.03 When calibration verification checks are performed with dry gas standards, all approved evidentiary breath testing instruments shall be able to produce results within +/- 5% of the target value of the dry gas standard after applying applicable altitude or topographic elevation correction factor supplied by the manufacturer. Such correction factor may be applied by the operator, the dry gas standard supplier, or by the instrument if pre-programmed.

~~010.034~~ If the instrument calibration cannot be verified to be accurate within the above cited limits, the instrument will be taken out of service and repairs made as set forth in section 011.

011 REPAIR OF CLASS B BREATH TESTING DEVICES

011.01 When inspection of a testing device reveals the need for repair which may affect the validity of the test and requires the attention of a manufacturer's representative or an individual trained for repair, it shall be repaired by the appropriate repairman and a record of each repair will be retained at the testing site.

011.02 Repair of a testing device, as opposed to maintenance (009.01D), includes the removal of the malfunctioning part(s) and the installation of the repair part(s). The removal or installation of all parts or electronic boards shall be recorded.

011.03 Calibration verification procedures shall be performed on a testing device following its repair, before it is returned to service.

011.04 The records to be maintained for repair activities shall include the type of malfunction of a testing device, the nature of the repair, the date of the repair, and shall show the name of the person performing these activities or the name of the person's agency or business organization.

011.05 The repair records, or copies of the repair records, for a testing device shall be made available to the Department upon request.

012 CLASS C PERMITS

012.01 Qualifications For Class C Permit Holders. Permit holder qualifications to operate approved devices to perform preliminary breath tests are:

012.01A Have knowledge of calibration and use of the testing device.

012.01A1 Evidence of knowledge shall be a passing grade of at least 70% on a written examination which shall be taken by every applicant and successfully passed prior to issuance of a permit, be prepared and administered by the Department, and consist of questions regarding calibration and use of the testing device.

012.01B Have demonstrated ability and competence to the satisfaction of the Department by completing a two and one half hour class and the satisfactory performance of analyses on audit samples.

012.01B1 Unacceptable performance on audit samples is defined as an error in the analyses greater than +/- 0.010 of the target value.

012.01B2 A prospective permit holder shall be allowed two attempts to achieve acceptable results of audit samples.

012.02 Issuance of Class C Permit.

012.02A Application for a Class C Permit shall be made on Attachment 10, attached and incorporated herein by reference.

012.02B A Class C Permit is valid for all approved preliminary breath test instruments.

012.03 List of Approved Methods and Devices for Class C Permits. Fuel cell analysis is the approved method of analysis for the following preliminary breath testing devices, and the checklist technique as found in Attachment 4, attached and incorporated herein by reference, is approved for the following preliminary breath testing devices.

1. Alco-Sensor, all models
2. Intoxilyzer, all models that use fuel cell analysis
3. Lifeloc, all models that use fuel cell analysis

012.04 Maintenance and Repair of Preliminary Breath Testing Devices.

012.04A The periodic fuel cell replacement, recognized by inspection when it is not possible to adjust the calibration up to the desired value, shall be performed by a manufacturer's representative or person trained by manufacturer.

012.04B The periodic electrical battery replacement, recognized when the light display indicates a low battery, may be performed by a permit holder.

012.04C Repair of a testing device shall be performed by a manufacturer's representative or a person trained by the manufacturer.

012.04D Malfunctions of testing devices, maintenance, and repair occurrences shall be recorded and shall show the name of the agency or business organization performing these activities.

012.05 Calibration of Testing Devices. All preliminary breath test devices are to be calibrated, or calibration verified, within 30 days prior to testing, and a record kept of the activity.

013 BLOOD OR BREATH TESTS FOR FATALITY ACCIDENT REPORTS

013.01 Tests performed for purposes of accidents involving fatalities shall be performed by either a Class A permit holder or a Class B permit holder according to these rules and regulations.

013.02 The provisions of these rules and regulations apply to all samples and tests prescribed in Nebraska Revised Statutes sections 60-6,101 to 60-6,107 for determining alcohol content of blood in certain persons involved in fatality accidents.

014 BLOOD OR BREATH TESTS FOR BOATING WHILE INTOXICATED

014.01 Chemical tests performed for purposes of the determination of the alcohol content in blood or breath of any person operating any motorboat or vessel or manipulating any water skis, surfboard, or similar device while intoxicated shall be performed by either a Class A permit holder or a Class B permit holder, as authorized by Nebraska Revised Statutes Section 37-1254.

014.02 The provisions of these rules and regulations apply to all preliminary breath testing conducted pursuant to the provisions of Nebraska Revised Statutes Section 37-1254. Any violation of the provisions of Nebraska Revised Statutes Section 37-1254 shall be established by blood or breath tests conducted by either a Class A permit holder or a Class B permit holder with all provisions of this Rule, 177 NAC 1, pertaining to either a Class A or Class B permit applying thereto.

015 TRANSITION TO NEW RULES, VALID TESTS: Instruments may be maintained and tests may be administered in conformity with 177 NAC 1 (~~effective February 22, 2004~~) for up to 40 days from the effective date of these amendments.

These Amended Regulations Replace Title 177, Chapter 1, Rules and Regulations Relating to Analyses for the Determination of the Alcohol Content in Blood or Breath, last effective date December 23, 2009.

Approved by the Attorney General: _____ ~~December 3, 2009~~
Approved by the Governor: _____ ~~December 18, 2009~~
Filed with the Secretary of State: _____ ~~December 18, 2009~~
EFFECTIVE DATE: _____ **December 23, 2009**

Division of Public Health, Licensure Unit
P.O. Box 94986, Lincoln, Nebraska 68509-4986
402-471-2117

Chemical Analysis Certification of Alcohol Breath Simulator Solution

I, _____, do hereby certify, depose and state that I am designated by the Department of Health and Human Services, Division of Public Health in Lincoln, Nebraska, as a supplier of alcohol breath simulator solutions.

1. That on the _____ day of _____, _____ (year), I prepared the alcohol breath simulator solution numbered _____ at a value of _____ of a gram of alcohol per 210 liters of breath (+/- 0.003) when used in an approved simulator operating at 34 degrees +/- 0.5 degrees C.

2. That on the _____ day of _____, _____ (year), I conducted a chemical analysis of the above solution and the analysis revealed the value to be _____ g/210L.

3. That on the _____ day of _____, _____ (year), the container of above solution was sealed by _____.

(Signature of Official)

STATE OF _____)
_____) ss.
COUNTY OF _____)

Affirmed to before me and subscribed in my presence on this _____ day of _____, _____ (year).

(Notary Public)



Division of Public Health, Licensure Unit
P.O. Box 94986, Lincoln, Nebraska 68509-4986
402-471-2117

ATTACHMENT 2

DATAMASTER Checklist Technique

This checklist technique is approved and proscribed by 177 NAC 1 of the DHHS for the ~~INFRARED ABSORPTION ANALYSIS USING THE DATAMASTER TESTING DEVICE, FOR BREATH SPECIMENS.~~

This analysis is on the breath specimen from: _____

(Name of Person Tested)

CHECK TO SHOW COMPLETION

- _____ Prior to step 1, verify that maintenance, repair, and calibration verification have been performed by reviewing the maintenance record.
- 1. _____ Observe subject for 15 minutes prior to testing. No smoking during this waiting period. Record the time observation began: _____
- 2. _____ Attach a clean mouthpiece when instructed to "Please Blow".
- 3. _____ Have the subject blow into the breath tube until a sufficient sample is delivered. If the breath sample is insufficient the display panel will instruct you to "PLEASE BLOW" and will continue to do so until a proper test is completed. The testing device will terminate the test if a proper breath test has not been obtained in two minutes.
- 4. _____ SUBJECT DIGITAL READING: 0. _____ of a gram of alcohol per 210 liters of breath.
- 5. _____ Discard the used mouthpiece and remove the evidence ticket at completion of printing.

Permit Holder

ATTACHMENT 3
Deleted Checklist

Division of Public Health, Licensure Unit
P.O. Box 94986, Lincoln, Nebraska 68509-4986
402-471-2117

PRELIMINARY BREATH TESTS

Checklist Technique To Be Used by Class C Permit Holders ~~for Preliminary Breath Tests~~

Case Identification #:

This analysis was on the breath specimen from: _____
(name of person tested)

CHECK TO SHOW COMPLETION

- Prior to step 1, verify that the instrument has been calibrated within 30 days prior to use.
- 1 Observe the subject for 15 minutes prior to testing. No smoking during waiting period.

Time observation began: _____

- 2 Attach the mouthpiece and prepare the instrument for testing.
- 3. Instruct the subject to blow continuously as long as possible with the breath sample taken toward the end of exhalation.
- 4. Record the results and the time the test was taken.

Results: _____ Time sample was taken: _____

Test administered by:

(Permit Holder)

(Date)

DATAMASTER

Certification of Accuracy of the Internal Reference Standard used for Calibration Verification

Datamaster Serial Number: _____

Date of analysis: _____

- Simulator is operating at 34 degrees +/- 0.5 degrees C.

- 1. Calibration check with wet bath simulator solution lot #: _____, or
dry gas standard canister/cylinder #: _____
bottle number: _____ gave a reading of 0. _____ of a gram of alcohol per 210 liters of
simulated breath.

- 2. Run a normal test. The internal calibration check should indicate agreement within +/- 5% of the target
value. Attach the test record to this form.

The above analysis was performed as set forth on this form by: _____
(Name of Permit Holder)

Testing Site address: _____

ATTACHMENT 6
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ATTACHMENT 7
Deleted Checklist

Application for Class A Permit

The undersigned applicant hereby makes application for a Class A permit to perform chemical tests to determine blood alcohol content as prescribed in 177 NAC 1 of the Nebraska DHHS and as set forth below.

1. Identify method selected from list of approved methods for a Class A permit:
 - Gas Chromatography
 - Enzymatic Alcohol Dehydrogenase
 - Radiative Energy Attenuation
2. Attach laboratory technique and instrument maintenance plan.
3. Name of Laboratory instrument and the manufacturer: _____

4. Total semester hours of chemistry _____ (hours) -completed at the following institutions:
(attach a copy of your transcript verifying these hours) ~~(Hours)~~
 - (a) _____ (College or University) _____ (City and State)
 - (b) _____ (College or University) _____ (City and State)
 - (c) _____ (College or University) _____ (City and State)

Work experience consisting of performance of routine laboratory tests amounts to _____ from the following laboratory, or laboratories. (Years)

- (a) _____ (Laboratory Name) _____ (City and State)
- (b) _____ (Laboratory Name) _____ (City and State)
- (c) _____ (Laboratory Name) _____ (City and State)
- (d) _____ (Laboratory Name) _____ (City and State)

5. A performance evaluation study will be conducted as prescribed for Class A Permits in 177 NAC 1, section 006.03. You must submit a copy of the completed performance evaluation study which consisted of at least 4 audit samples. ~~of the DHHS. A copy of this form will be returned to you with the audit samples. At that time record your audit sample results in the space provided on the back of the form.~~

ATTACHMENT 8 - Continued

PERFORMANCE EVALUATION STUDY

Number of Audit Sample	Your Analysis Results	FOR DEPARTMENT USE Mean Value of Audit Sample

Date of Analyses

(Print Name of Applicant - First/Middle/Last)

(Applicant's Signature)

Address of testing performance:

Business (Laboratory) Name and Address ~~as given~~
~~below.~~

Application for Class B Permit

INFRARED ABSORPTION ANALYSIS

The undersigned applicant hereby makes application for a Class B permit to perform chemical tests to determine body fluid alcohol content as prescribed in 177 NAC 1 of the Nebraska **DHHS** and as set forth below.

1. Identify ~~instrument device and method from the list of approved methods and devices for a Class B permit:~~
 - Intoxilyzer ~~Model 5000—Infrared absorption analysis (checklist technique Attachment 15)~~
 - DataMaster ~~—Infrared absorption analysis (checklist technique Attachment 2)~~

(Type or Print Name of Applicant – First/Middle/Last)

Name and Address of Agency:

Agency Name: _____

Agency Address: _____

Agency Phone #: _____

(Signed Name of Applicant)

(Date)

Application for Class C Permit

The undersigned applicant hereby makes application for a Class C permit to perform preliminary breath tests with breath testing ~~devices~~ instruments as prescribed in 177 NAC 1 using fuel cell analysis.

1. PERFORMANCE EVALUATION STUDY RESULTS as prescribed for Class C Permits in 177 NAC 1 of the **DHHS**. Record your audit sample results in the space provided below.

PERFORMANCE EVALUATION STUDY

Number of Audit Sample of Breath	Record Analysis Results	Target Value

 (Type or Print Name of Applicant – First/Middle/Last)

 Date of Analyses

Name and Address of Agency:

Agency Name: _____

Agency Address: _____

Agency Phone #: _____

 (Signed Name of Applicant)

 (Date)

ATTACHMENT 11
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Intoxilyzer ~~INTOXILYZER~~ Model 5000

**Certification of Accuracy of the Internal Reference Standards
used for Calibration Verification**

Intoxilyzer Serial Number: _____

Date of analysis: _____

Simulator is operating at 34 degrees +/- 0.5 degrees C.

1. Calibration check with simulator solution lot **number:#.** _____, **or**

dry gas standard canister/cylinder #: _____

bottle number: _____ gave a reading of 0. _____ of a gram of alcohol per 210 liters of simulated breath.

2. The Internal Reference Standards Check should indicate that all predetermined target values are within +/- 5% of the target values. Attach test record **card** of printed values to this form.

The above analysis was performed as set forth on this form by: _____
(Name of Permit Holder)

At this address: _____

ATTACHMENT 13
Deleted Checklist

ATTACHMENT 14
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Division of Public Health, Licensure Unit
P.O. Box 94986, Lincoln, Nebraska 68509-4986
402-471-2117

INTOXILYZER MODEL 5000
Checklist Technique

This checklist technique is approved and prescribed by 177 NAC 1 of the DHHS for the INFRARED ABSORPTION ANALYSIS USING THE INTOXILYZER MODEL 5000 FOR BREATH SPECIMENS.

This analysis is on the breath specimen from: _____

(Name of Person Tested)

CHECK TO SHOW COMPLETION

Prior to step 1, verify that maintenance, repair, and calibration verification have been performed by reviewing the maintenance record.

1. Observe the subject for 15 minutes prior to testing. No smoking during this waiting period.

Record the time observation began: _____

2. Push "START TEST" Button and insert test record card when instructed to do so.

3. Attach a clean mouthpiece when instructed to "Please Blow".

4. Have the subject blow into the breath tube until a sufficient sample is delivered. If the breath sample is insufficient the display panel will instruct you to "PLEASE BLOW" and will continue to do so until a proper test is completed. The testing device will terminate the test if a proper breath test has not been obtained in three minutes.

5. SUBJECT DIGITAL READING:

0. _____ of a gram of alcohol per 210 liters of breath.

6. Discard the used mouthpiece and remove the card at completion of printing.

Permit Holder

Division of Public Health, Licensure Unit
P.O. Box 94986, Lincoln, Nebraska 68509-4986
402-471-2117

INFRARED ABSORPTION **Checklist Technique**

This checklist technique is approved and prescribed by 177 NAC 1 of the DHHS for the INFRARED ABSORPTION ANALYSIS FOR BREATH SPECIMENS.

This analysis is on the breath specimen from:

_____ (Name of Person Tested)

CHECK TO SHOW COMPLETION

Prior to step 1, verify that maintenance, repair, and calibration verification have been performed by reviewing the maintenance record.

1. Observe the subject for 15 minutes prior to testing.

Record the time observation began: _____

2. START TEST. insert test record when instructed to do so, if applicable.

3. Attach a clean mouthpiece when instructed to "Please Blow".

4. Have the subject blow into the breath tube until a sufficient sample is delivered. If the breath sample is insufficient the display panel will instruct you to "PLEASE BLOW" and will continue to do so until a proper test is completed. The testing device will terminate the test if a proper breath test has not been obtained by the testing instrument.

5. SUBJECT DIGITAL READING:

0. _____ of a gram of alcohol per 210 liters of breath.

6. Discard the used mouthpiece and remove the test record at completion of printing.

Permit Holder

(Date)