Maine Criminal Justice Academy

15 Oak Grove Road
Vassalboro, ME 04989

Breath Testing Device Operation and Certification

Student Manual

9-1-2023

2023/R-1

The term Breath Testing Device (BTD), as used in this manual, refers to the Intoxilyzer 8000 (I-8000) and Intoxilyzer 9000 (I-9000). The terms are interchangeable and intend to identify the current breath testing instruments being used in Maine for collecting breath samples for evidentiary purposes.

A Breath Testing Device (BTD) Operator is a person certified by the Maine Criminal Justice Academy (MCJA) to operate the I-8000 or I-9000 for collecting breath samples for evidentiary purposes.

The term Instrument as used in this manual refers to the I-8000 and I-9000 unless otherwise specifically noted.

Operators must complete the I-9000 Transition Training class prior to using the I-9000 to collect evidential samples. Taking the BTD Re-certification training, which includes components of the I-9000, does not qualify the operator to operate the I-9000 without first taking the I-9000 Transition Training class.

Significant changes to this manual for 2023:

1. Introduction to the Intoxilyzer 9000 and dry gas simulators.
2. Change to MCJA S-26 which no longer requires the operator to perform a calibration check during certification or re-certification training.

ACKNOWLEDGEMENTS

The Academy appreciates all the professionals who contributed to the original development of the Breath Testing Device (BTD) program in Maine. Their work created a sound foundation from which we continue to strengthen the BTD program.

Thanks to Robert Morgner, retired, and Maria Pease current chemist and Breath Testing Program Administrator with the Maine Department of Health and Human Services (DHHS) at the Health and Environmental Testing Laboratory (HETL). Their background and experience with the breath testing program has been crucial to the program. This continued professional oversight ensures that our high standards will be maintained into the future.

Special thanks are due to the instructors for their hard work and oversight in the Breath Testing Device (BTD) program and for their work on the program upgrades. As senior instructors, they have worked diligently to improve program standards and ensure that the Breath Testing Device Operator training at the academy meets those standards. The continued support of their agencies has made it possible for them to provide oversight for the program:

Sergeant Don Finnegan, retired, Rockland Police Department.

Detective Robert Libby, retired, South Portland Police Department,

Sergeant Douglas Maifeld, retired, Rumford Police Department,

Specialist Seth Allen, Maine State Police, Impaired Driving Coordinator,

Scot Mattox, Esq. Traffic Safety Resource Prosecutor, MeBHS

Thanks, are also due to the Breath Testing Device (BTD) instructors and site coordinators for their work in keeping our program standards consistent. Without the diverse network of these professionals, it would not be possible to maintain our certification standards statewide.

As a group, we are all working to provide the best possible training and experience for the BTD operator. The continued success of this program as well as impaired driving programs overall, ultimately rests with the ability of the BTD operator and the investigating officer.

James A. Lyman, MCJA Training Supervisor, Impaired Driving Programs

Table of Contents

Section 1 – Introduction

Breath Testing Device Operation and Certification Course
Goals and Performance Objectives

GOAL-

The goal of the Breath Testing Device (BTD) Operation and Certification Course is to provide students with the knowledge and skills required to obtain certification as a BTD operator. The course will provide an overview of the theory of breath testing, how alcohol interacts with the body, instrument components, testing procedures, administrative and courtroom procedures.

PERFORMANCE OBJECTIVES-

At the end of this unit of instruction the student will be able to:

1.1.1 Identify the three levels of program authority for breath testing in Maine

1.1.2 Identify the three properties of ethyl alcohol

1.1.3 Identify the three primary functions the human body undertakes when alcohol is introduced, and briefly explain each

1.1.4 Identify major instrument components of the I-8000 and I-9000

1.1.5 Demonstrate the standardized operating procedures for the I-8000

1.1.6 Identify the standard display and exception messages for the I-8000 and I-9000

1.1.7 Identify common legal / administrative procedures for breath testing

1.1.8 Demonstrate the proper administration of subject breath tests.

Students must pass a written exam with 80% accuracy and demonstrate proficiency with the I-8000 or I-9000 instrument.

Program Authority

The Maine Bureau of Highway Safety (MeBHS) is the entity that manages the oversight of blood and breath alcohol testing in the State of Maine. MeBHS has contracted with the Health and Environmental Testing Laboratory (HETL) within the Department of Health and Human Services, for administration of the blood and breath testing programs. The HETL ensures that statewide quality assurances are adhered to within the testing programs. The HETL has established rules governing the guidelines for testing procedures which are included in the manual [1].

There are approximately 90 Intoxilyzer instruments at law enforcement agencies statewide. The HETL staff physically checks the calibration and condition of each instrument semiannually and attaches an updated approval stamp to the instrument. From the HETL, staff can electronically download data from all instruments into their database each week to track statewide tests administered and check quality of data entered. This information is used to generate monthly reports for the MeBHS and the Maine Bureau of Motor Vehicles (MeBMV) who uses the data on OUI arrests for statistical purposes. The HETL staff works closely with many other agencies statewide to assist in training, problem solving, testifying in court, and program insight.

The Maine Criminal Justice Academy (MCJA) is responsible for setting certification and training standards for BTD operators and instructors.[2] The MCJA offers certification training for all basic law enforcement training programs (BLETP) and utilizes a group of approximately 100 certified instructors statewide to conduct certification and re-certification courses. Anyone performing an evidentiary breath test with the instrument must hold an active operator certification.

[1] 29-A M.R.S.A § 2524 (6)
[2] 29-A M.R.S.A § 2524 (3)

BREATH TESTING DEVICE CERTIFICATION

Certification Training: The BTD Operator Certification training includes information on the I-8000 and I-9000 and is for new or expired operators. The class is instructor led and is a combination of classroom and practical application.

New certifications are valid for no more than 4 years. They are valid for the remainder of the year of certification plus 3years, expiring 12-31.XXXX.

Re-certification Training: The BTD Re-certification training includes information on the I-8000 and I-9000 and is required every three years to maintain certification. The classroom portion of the class can be done in a classroom setting or there are several on-line training opportunities. All students must complete a practical exercise reviewed and approved by an instructor.

Recertification training can be completed between January 1 and November 30 of the year of expiration.

Board of Trustees
MAINE CRIMINAL JUSTICE ACADEMY

BREATH TESTING DEVICE OPERATOR CERTIFICATION

Specification S-26

Purpose:

The program is designed to provide the appropriate knowledge and necessary skills for operators of self-contained evidential Breath Testing Devices (BTDs).

General Requirements:

The BTD Operator Certification and Recertification course will consist of classroom and/or on-line training and practical training as approved by the Board. Upon the successful completion of the training, a certificate of proficiency valid for a period not to exceed four (4) years shall be issued by the Director.

Certification:

A. The candidate must:

1. Be sponsored by an agency department head.

2. Successfully complete the BTD Operator Certification course, including:
   a. Final examination cumulative average of 80% or greater.
   b. Completion of the required training breath tests monitored by and to the satisfaction of an MCJA Certified BTD Instructor.

Recertification:

B. The candidate must:

1. Successfully complete the BTD Re-certification classroom or on-line training course and score a minimum of 80% on the recertification exam.

2. Successfully complete the required training breath tests (a practical assessment) reviewed by and to the satisfaction of an MCJA Certified BTD Instructor.

3. Submit or cause to be submitted all supporting materials for the recertification to the Academy between January 1st and November 30th of the year in which their certification expires.

4. Recertification materials received by the Academy after November 30th will not be accepted and the candidate's BTD Operator Certification will expire on December 31st of that year.

5. A BTD Operator whose certification expires must repeat all the requirements for the initial certification, as outlined above in the certification section of this specification.

Suspension of Certificate:

A. The BTD Operator certificate may be suspended by the Academy Director for:

1. Failure to maintain certification or recertification requirements listed above, or

2. Failure to follow program curriculum guidelines that would jeopardize the integrity of the program.

Adopted: 10/23/2009
Amended: 01/27/2023
Review Date: 01/27/2026

Richard R. Desjardins, Director
Maine Criminal Justice Academy

Brian R. Pellerin, Chair
MCJA Board of Trustees

10-144 DEPARTMENT OF HEALTH AND HUMAN SERVICES
MAINE CDC, HEALTH AND ENVIRONMENTAL TSTING LABORATORY

Chapter 269: RULES GOVERNING SELF-CONTAINED BREATH ALCOHOL TESTING EQUIPMENT

SUMMARY: All self-contained breath alcohol testing equipment must be approved by the U.S. Department of Transportation as stated in the Federal Register and the State of Maine, Department of Health and Human Services. Each instrument must be tested and approved by the Public Health Laboratory and retested and re-approved semi-annually. Certain procedures are specified for calibration checks and use of self-contained breath alcohol testing equipment.

SECTION 1. EQUIPMENT

1. Only those instruments approved by the U.S. Department of Transportation for the purpose of breath testing will be considered. Evidence of this approval must be submitted by the manufacturer. An approved simulator must be provided for use with each instrument.

2. The accuracy and sensitivity of the equipment should be such as to obtain results within ± 0.01 g/210L or 5%, whichever is greater of the known value in the analysis of appropriate reference materials of known ethyl alcohol concentrations.

3. Before approval each instrument must be tested by a chemist of the Health and Environmental Testing Laboratory (HETL). Approval will be given provided the machine gives results accurate within the limits of the performance requirements of the Department mentioned in Paragraph B and will be indicated by affixing to the instrument a stamp which will be valid for no more than seven months.

4. Each instrument will be retested by a chemist of the HETL at least once semi-annually. A new stamp of approval will be affixed to the instrument with the test date placed thereon.

5. Failure of an instrument to provide results accurate within the limits of the performance requirements of the Department (1.B), when detected, will be investigated by a trained operator or a chemist of the HETL to determine the cause of that failure. If the results of that investigation establish that the instrument itself is out of calibration, or non-functional, that will be cause for immediate withdrawal of approval and removal of the stamp of approval previously affixed.

SECTION 2. PROCEDURES

1. A calibration check must be run for each subject tested.

2. For each person tested, a complete breath-alcohol test must consist of 2 separate breath samples which result in determinations of breath-alcohol concentration which agree within ± 0.02g/210L.

3. If the first 2 breath sample results on the subject do not agree within ± 0.02g/210L, subsequent samples must be taken until 2 tests fall within the prescribed limits. If after 4 separate breath sample results are taken, no 2 breath sample results agree within the prescribed limits, the testing sequence shall be void and either a retest or an alternative procedure shall be required.

4. The two lowest results which agree within ± 0.02 g/210L will be averaged, reporting only the first two decimal places of the average result as the final breath alcohol concentration.

5. The Health and Environmental Testing Laboratory will provide any alcohol solution required by each agency for simulator tests.

STATUTORY AUTHORITY: 29-A M.R.S.A. §2524(6); and 22 M.R.S.A. §42(1); 17-A M.R.S.A. §1057 and 22-A M.R.S.A. §205(2)

EFFECTIVE DATE:
November 15, 1978

AMENDED:
August 1, 1982
October 17, 1988

EFFECTIVE DATE (ELECTRONIC CONVERSION):
May 5, 1996

AMENDED:
December 6, 2004 – filing 2004-553
September 1, 2010 – filing 2010-370

Principles of Operation

In most any criminal investigation process, the collection of evidence does not end with the arrest. Investigators should continue to gather information relevant to the suspect's culpability if it is reasonable to do so. In an Operating Under the Influence (OUI) case, a foundational piece of evidence is the chemical test. Officers must have probable cause that the suspect committed the crime of OUI in order to require the suspect to submit to a chemical test. Once probable cause is established, officers must attempt to gather chemical evidence as soon as possible. In Maine, officers have two methods of obtaining chemical test evidence from the suspect: blood and breath.

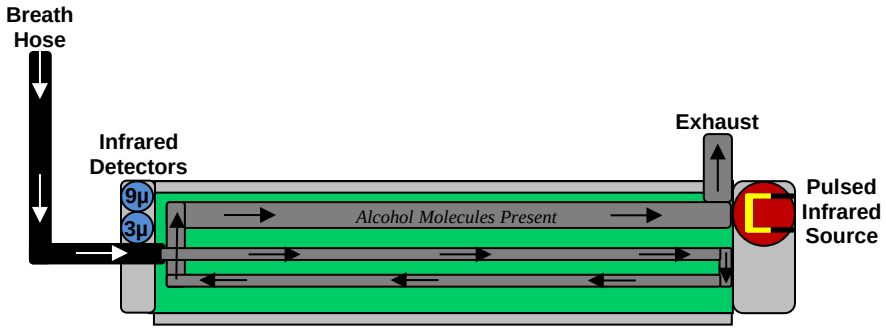
In some cases, obtaining a blood test will be the reasonable and best method for gathering chemical evidence. Examples may include: (1) situations where the suspect is incapable of submitting to a breath test (e.g. injury, medical or other physical impairment which prevents the submission of a breath test); where the environmental conditions preclude the administration of such test (e.g. an arrest where an officer is not within reasonably close proximity to a breath testing instrument, or where the breath testing instrument is not operating properly); or situations in which the suspect prefers a blood test and the officers agrees. In most cases, however, the breath test will be the test of choice. The breath test is obtained using the breath testing instrument.

The Intoxilyzer: A Brief Introduction

The Intoxilyzer 8000 and 9000 are designed for use by the law enforcement community. As such, it is rugged, quick, easy to use and tamperproof. It is internally voltage regulated and factory calibrated. Its digital readout and multi-copy printout present and preserve firm arrest evidence.

The Intoxilyzer utilizes well-accepted technologies based on sound physical principles to analyze the concentration of alcohol in a suspect's breath sample.

The Intoxilyzer 8000: Sample Cell



- A selected narrow band of infrared energy is passed through a sample chamber alternately filled with ambient air and breath from the subject being tested.

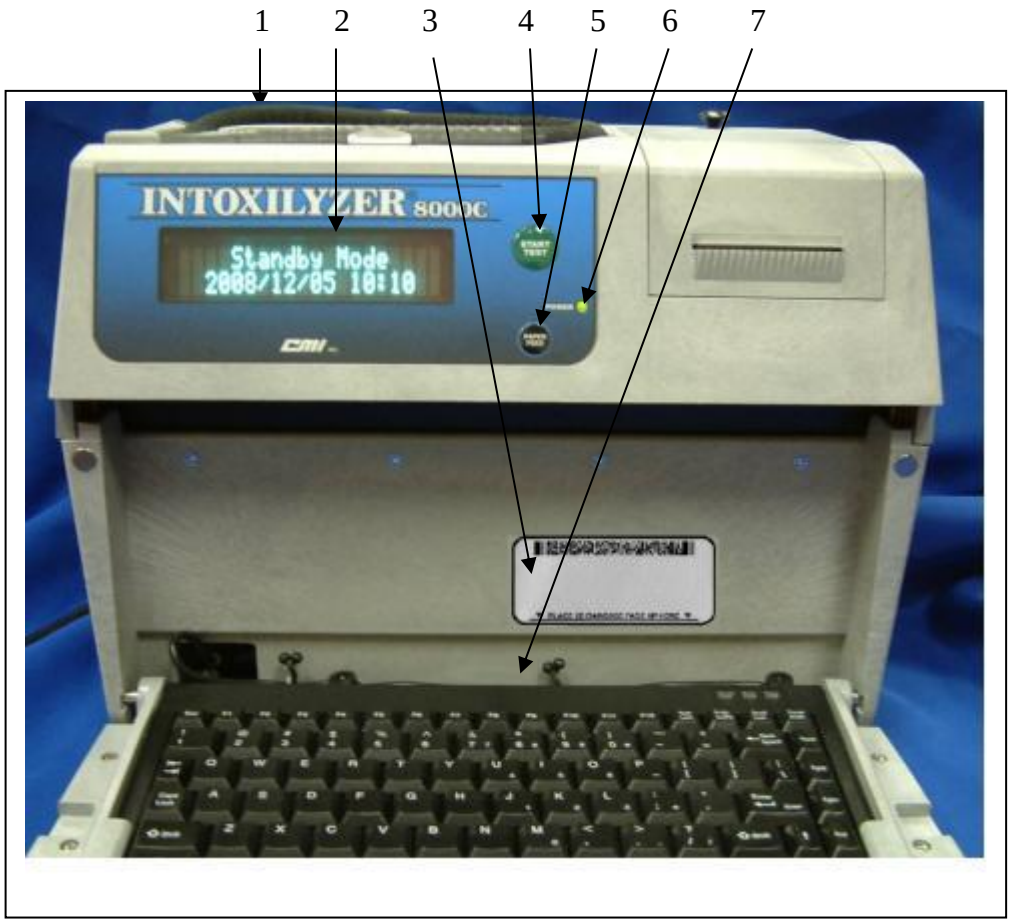
- Infrared energy is absorbed in proportion to alcohol concentration present in accordance with well-established physics.

Section 2 – Instrument Components

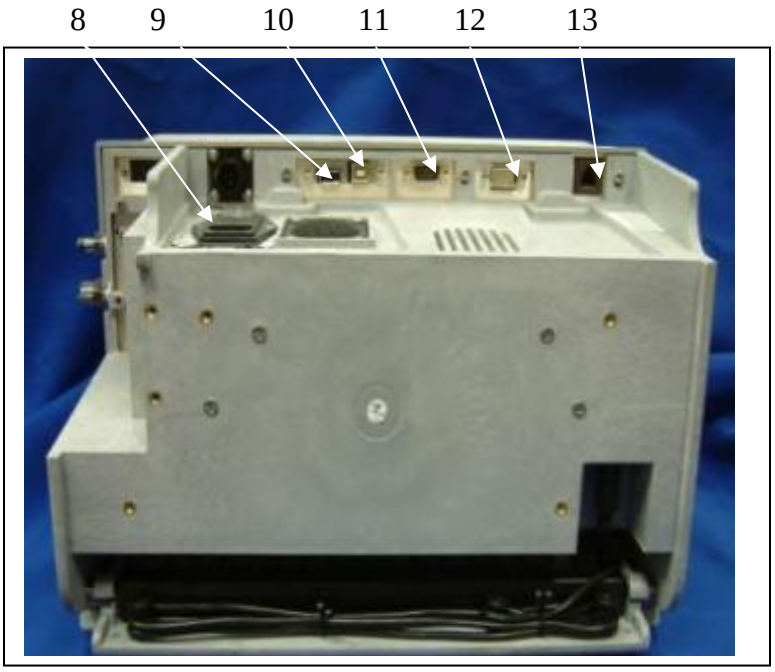
EXTERNAL CHARACTERISTICS OF THE INTOXILYZER 8000

To familiarize yourself with the parts, controls and indicators of the Intoxilyzer 8000, refer to the illustrations and cross-referenced explanations below.

1. **Breath Tube –** A heated, reinforced plastic tube through which the subject blows into the sample chamber.
2. **Display –** An alphanumeric Vacuum Florescent Display (VFD) that relates which operations the instrument is performing, alerts the operator to required actions, and gives the alcohol test concentration in weight per volume.
3. **Bar Code Scanner** –Hold barcode side of license facing up, in this area to scan the barcode data from the license.
4. **Start Test Button –** A push button switch that is used to bring the instrument out of standby and initiates the testing sequence.
5. **Paper Feed** – Advances internal printer paper (**Not included on our models**)
6. **Power LED –** A light that indicates when the power to the instrument is turned on. Green and Red indicate power levels.
7. **Keyboard** – An internal fold up/down keyboard.



8. **DC Power Jack –** This is where the 12 VDC power cord for the instrument is plugged in.
9. **USB Printer Connector** – This USB connector is used to connect the external printer to the instrument.
10. **USB Comm** – This USB connecter allows direct communication between the instrument and a computer.
11. **Simulator Connector –** This 232 connector allows direct communication between the instrument and a simulator.
12. **Ethernet Connector –** This Ethernet connector allows communication between the instrument and a network.
13. **Modem Connector –** The telephone line plugs into this connection to connect the instrument's internal modem for data communications.



Connecting the Wet Bath Simulator to the Intoxilyzer 8000

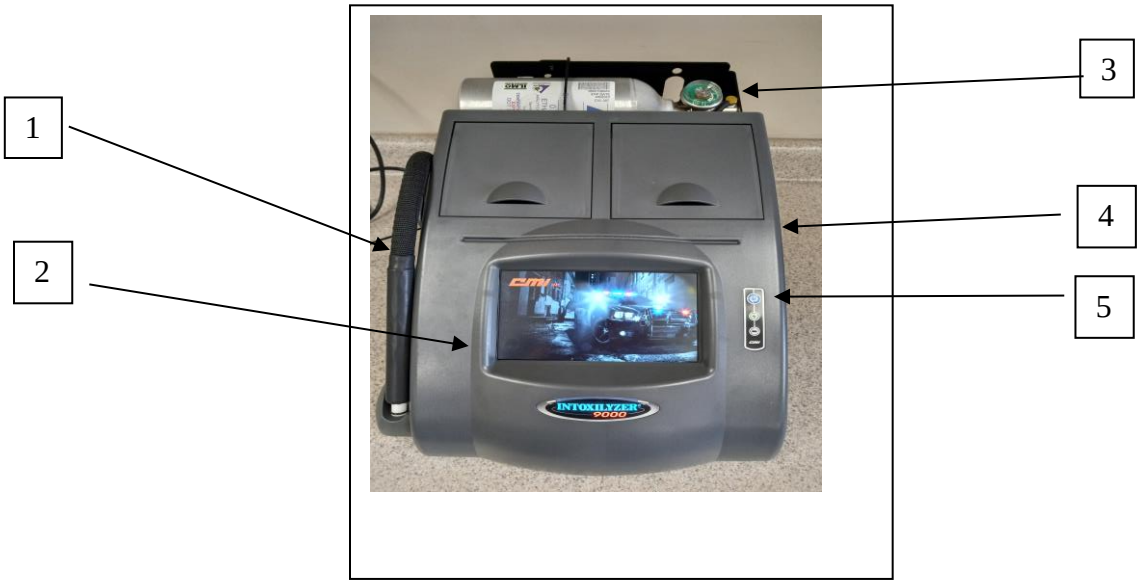
The simulator will be connected to the instrument with ¼ inch flexible tubing. The I- 8000 has a recirculation system that allows the alcohol vapors from the simulator to be recovered and recalculated through the system. This recirculation technique lengthens the life of the simulator solution.

The **VAPOR OUT** port (TO BREATH TESTER) on the simulator connects to the FEMALE port on the right side of the instrument. The **AIR IN** port (PUMP) on the simulator connects to the MALE port on the right side of the instrument. The tubing is an exact fit to minimize condensation. Be careful to make these connections correctly.

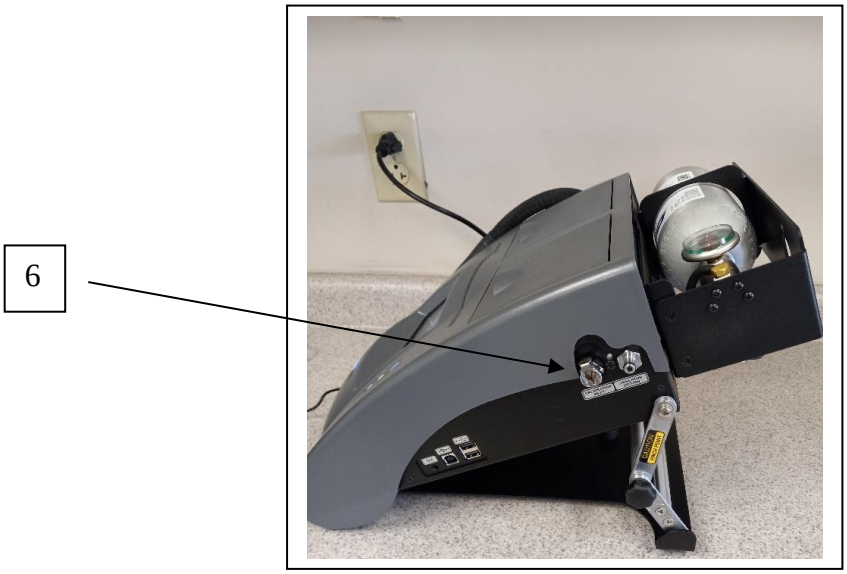
THE INTOXILYZER 9000

- A new shape that provides a more stable adjustable base.
- USB connected keyboard, bar code scanner and printer for ease of changing.
- Dry Gas Simulator replaces the wet bath simulator.
- The screen has a new look with touch screen prompts.
- Four detectors compared to two in the I-8000.
- Battery backup in case power is lost.
- Ethernet connection to HETL allows more efficient data transfers and monitoring of the system and simulator gas levels.
- HETL will monitor simulator gas and replace bottle when low.

To familiarize yourself with the parts, controls and indicators of the Intoxilyzer 9000, refer to the illustrations and cross-referenced explanations below.



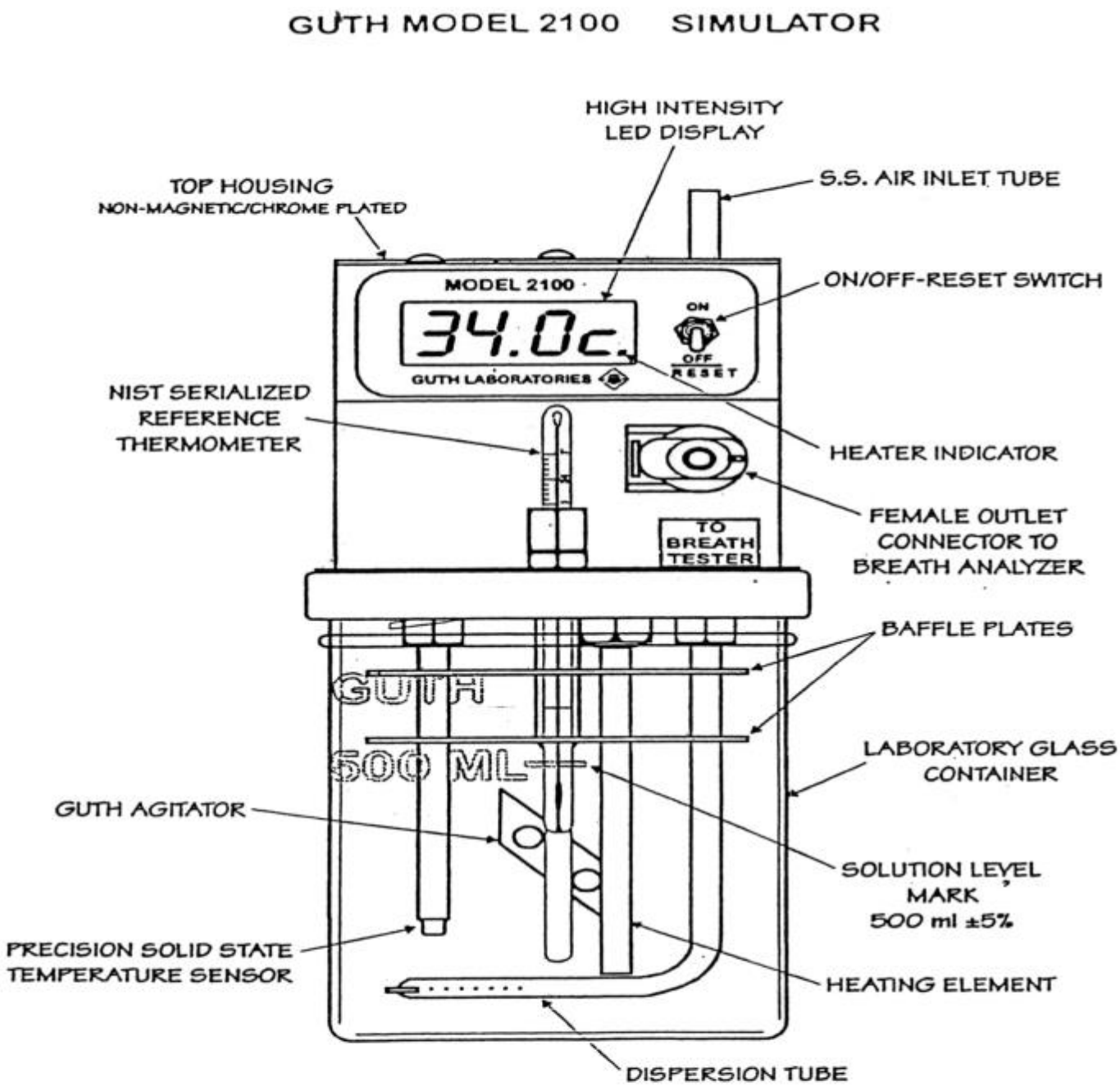
1. **Breath Tube –** A heated, reinforced plastic tube through which the subject blows into the sample chamber.
2. **Display –** Touch screen display that displays current procedure (more detailed info in section 5).
3. **Dry Gas Simulator:** Gas Bottle and gauge (security cover removed for photo clarity)
4. **USB Ports** on side and rear to plug in bar code scanner, keyboard and printer
5. **Power Button –** A push button used for the initial power up of the instrument.

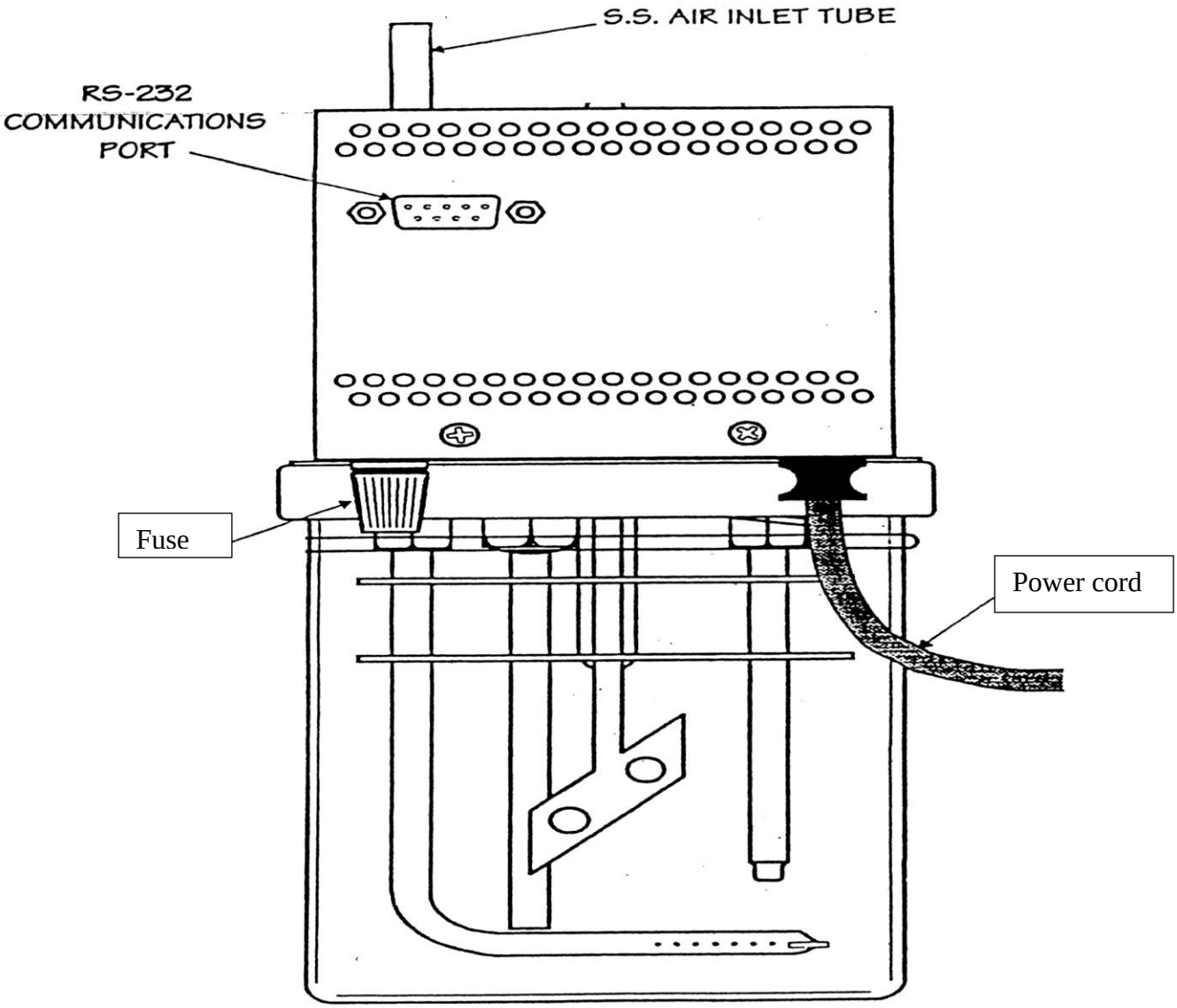


6. Simulator inlet. No return port needed for the dry gas on the I-9000. There will be a hose from the simulator tank valve to the inlet port which is not shown in this photo.

Two types of Simulator are used for the I-8000

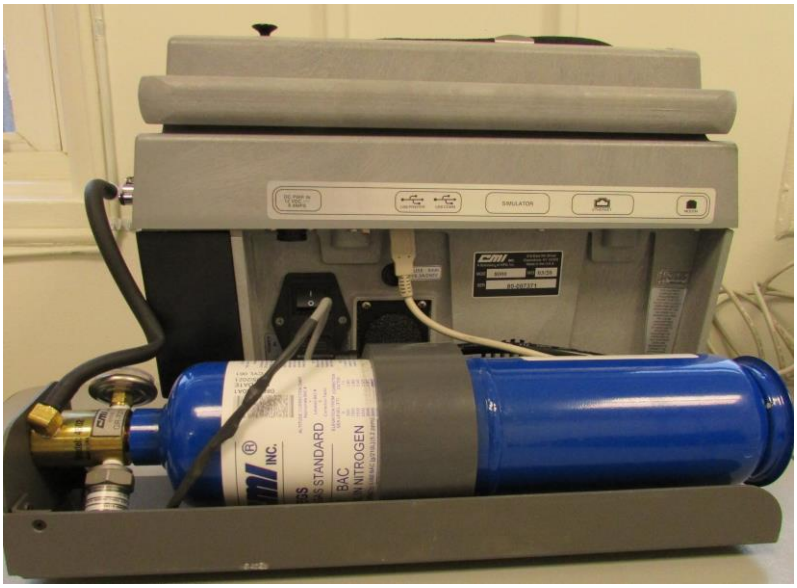
1. Guth Model 2100




S.S. AIR INLET TUBE
RS-232
COMMUNICATIONS
PORT
Fuse
Power cord

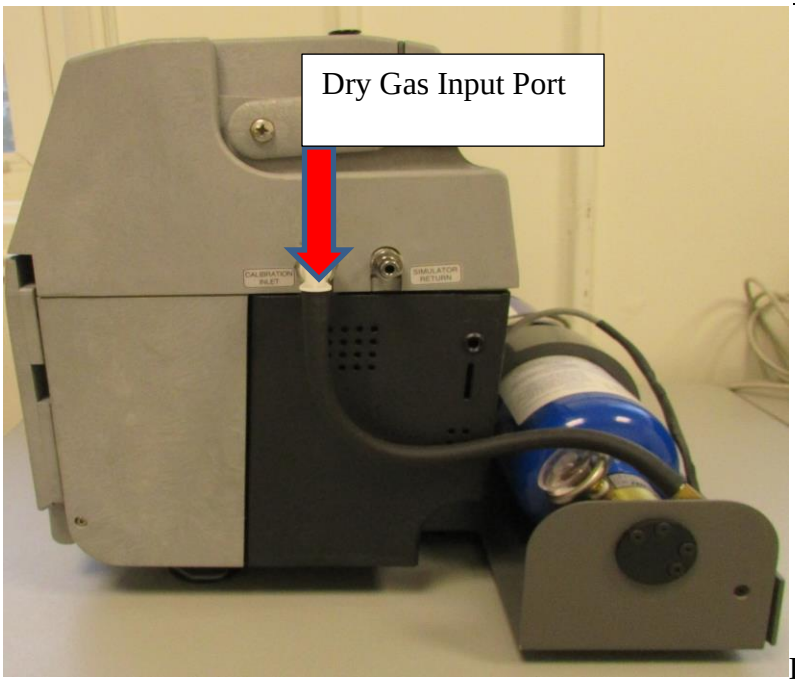
2. Dry Gas Simulator

Some I-8000 and all I-9000 instruments are equipped with an ethanol dry gas system for periodic calibration verification checks and calibration checks performed during the subject test sequence. Ethanol dry gas cylinders consist of a compressed mixture of ethanol and nitrogen at a specific concentration. Ethanol dry gas cylinders are certified and traceable reference materials; they are approved by NHSTA for use with breath testing devices. Gas cylinders are to be installed by the Health and Environmental Testing Laboratory or their designee and shall not be removed or manipulated by unauthorized persons. Site coordinators will monitor the pressure gauge and contact the HETL for replacements. DHHS semi-annual calibration checks will still be performed using wet bath simulators, however the concentration of the gas will be also be checked.



Gas mounting position for the I-8000. See p.21 for a view of the I-9000

Dry Gas Simulator diagram



Dry gas input port. No return line.

Section 3 – Operational Overview

Operational Overview

This section is designed to provide a concise overview of the administration of the breath testing process. It outlines the major points that need to be addressed from an investigation and prosecution point of view in order to serve as a quick reference guide to certified Breath Testing Device (BTD) operators. Section Five (which follows) will address the entire process more thoroughly including the data entry process, internal checks procedures and the proper processing of the associated paperwork.

This Section is broken down into five subcategories, each addressing the highlights of the issues that must be addressed: (1) The Certified BTD Operator; (2) The Test Subject and the 15-Minute Wait / Observation Period; (3) The Start-Up Procedure and Data Entry; (4) Sample Submission; and (5) Associated Paperwork.

(1) The Certified BTD Operator

The taking of a person's breath sample is a form of evidence gathering and subject to State law. M.R.S.A 29A, sections 2524 and 2431 are the governing statutes on point. Essentially, the law requires that for a breath test to be properly submitted into evidence, it must be administered by a person certified by the MCJA. Thus, a test not performed by a certified BTD operator (e.g. by a police officer whose certification has expired), cannot be considered in evidence at a motor vehicle hearing and will be of significantly questionable value in a trial court.

Ultimately, it is the responsibility of the certified BTD operator to be certain that their BTD certification is valid prior to the administration of any test. A recommended practice is for the certified BTD operator to keep their BTD certification card reviewable on hand so that they are aware of their current status as of the date of the test.

(2) The Test Subject and the 15-Minute Observation Period

After ascertaining that the certified BTD operator can administer a proper breath test, the next step is to be certain that the suspect is an appropriate test subject. M.R.S.A. 29A Sec. 2521 regulates the officer's decisions in these circumstances. Essentially, a certified BTD operator shall administer a breath test, unless in that officer's determination, a breath test is unreasonable. There are at least two categories where a breath test is unreasonable: (1) in situations where the operational ability of the instrument is compromised (discussed more fully in Section 6); and (2) situations in which the testing subject's ability to submit to a test is compromised (discussed below).

The classic case in which the suspect's ability to submit to a breath test is compromised is in situations where blood is (or it is reasonably possible that it is) present in the mouth. This includes a suspect: involved in a recent motor vehicle crash, fight, recent oral surgery, (or any other mouth or facial trauma causing event), etc.

Another common scenario is where the suspect is simply physically unable to submit to a breath test. This may occur in situations where; (1) the suspect's injuries require immediate medical treatment; (2) the suspect is physically handicapped or otherwise disabled; and (3) the suspect may be too intoxicated to exert the necessary physical control to successfully submit to the test. The great majority of the cases, however, do not fall under the above categories, and most subjects will easily be good testing candidates.

Once a certified BTD operator has determined that the subject is an appropriate candidate for breath testing, the certified BTD operator should begin the testing process by the initiation of the 15-minute observation period.[3]

At the testing site, the certified BTD operator should power up the BTD and may note the time on the BTD internal clock. The certified BTD operator must complete a visual inspection of the suspect's mouth at the beginning of the observation period and may use the BTD as the time keeping clock for the duration of the 15-minute period. It is poor practice to begin the observation period in any location other than the testing site. More detailed procedures are outlined in Section 5 of this manual.

(3) The Start-Up Procedure and Data Entry

The Intoxilyzer 8000 normally is powered up from **standby mode** by pressing the **start test button** once. The Intoxilyzer 9000 is powered up from **standby mode** by double tapping the screen in any location. The instrument will take several minutes (depending on the surrounding environmental conditions) to enter **ready mode** and become operational. An Intoxilyzer 8000 powered up from a "cold" start, will take much longer to become operational. Depending on a department's operational procedures, it may be beneficial to have someone press the start-test button (and allow the Intoxilyzer 8000 appropriate warm-up time) once the arresting officer makes the arrest. This assists

[3] It is worth noting that the 15-minute observation period is commonly referenced among current practitioners as the single, most problematic area in breath testing. It is strongly urged that MCJA certified BTD operators pay particular attention to the tenants discussed in section 5 of the manual.

in ascertaining a test as soon as possible after the arrest and thus lowering the chances of a successful "rising BrAC" defense in cases of a low test.

Data entry must be completed as discussed in Section 5. This is important not only for reasons of evidentiary integrity, but also for administrative necessities as required by the Department of Health and Human Services.[4] The data entry process is essentially self-explanatory with the exception of entry of the location of the test, and the law enforcement agency entering the data. These pieces of information are entered in a specific way, which may not necessarily be intuitive, according to the protocols discussed in Sec. 5. Officers are required, as a part of certification, to adhere to those protocols.

(4) Sample Submission: See Section 5

(5) Associated Paperwork

There are five different print copies associated with a valid test result: (1) the prosecutor's copy; (2) the BMV copy; (3) the officer's copy (4) the site copy; and (5) the subject's copy; each must ultimately end up at a different location. Each copy should have the BTD operator's signature (the prosecutor's and the BMV copy **must** be signed *in the presence* of a notary – the other three copies *do not* need to be notarized) and the last DHHS inspection date. The DHHS inspection date must be written on the I-8000 printout in the appropriate space. The DHHS inspection date for the I-9000 is automatically printed on the form so there is no need for the officer to record the date. The DHHS inspection date is found on the sticker on top of the Intoxilyzer and must be within seven months of the current testing date.

1. *The Prosecutor's Copy*: must be signed in the presence of a notary and presented to the DA's office as part of the investigation.
2. *The BMV Copy*: must also be signed in the presence of a notary and forwarded to the Bureau of Motor Vehicles, along with the appropriate form and copy of the

[4] DHHS is statutorily responsible for the oversight of the Breath Testing program.

officer's report. Note that officers who make an OUI arrest are required to notify BMV in this manner.[5]

3. *The Officer's Copy*: need not be signed in the presence of a notary and is kept as part of the officer's official report.
4. *The Site Copy*: need not be notarized and is kept on file at the breath testing site.
5. *The Subject's Copy*: need not be notarized and is given to the suspect at the conclusion of the investigation.

If copies fail to print or are damaged during printing, any of the five originals may be used for notarizing as an original. The designation on the form, " Prosecutor, BMV, Officer, Site, Subject" does not matter in this situation and can be used for any or all five.

DHHS cannot alter any clerical data errors once the operator finalizes the data entry process on the Intoxilyzer. Any inconsistencies or typos need to be addressed by explaining them in the report or a supplemental report. If information is crossed out and hand written on the Intoxilyzer printout, it needs to be sworn to/re sworn to after the changes were made.

[5] 29-A M.R.S.A. 2481 (2009). The statute provides in relevant part: "[a] law enforcement officer who has probable cause to believe a person has . . . committed an OUI offense shall send to the Secretary of State a report of all the relevant information . . ."

Section 4 – Concepts of Breath Testing

Alcohol and the Human Body

Pharmacology of Alcohol

Alcohol is a descriptive name for a certain family of chemical compounds. There are many kinds of alcohol, but only ethyl alcohol is used in beverages for human consumption. **Ethyl alcohol**, also referred to as **ethanol**, is in its pure form a volatile, colorless liquid, which possesses an ethereal odor, and produces a burning taste sensation. Ethanol is the alcohol that is routinely referred to, and tested for, in blood alcohol and breath alcohol determinations in OUI investigations. For the purposes of this course of instruction the terms alcohol, ethanol, and ethyl alcohol will be synonymous.

Ethyl alcohol is classified as a drug. It is a **depressant drug** that targets the brain. **It is infinitely soluble in water**, which means that it dissolves in and circulates with all the water-based fluids in the body. The human body being 55% - 68% water allows for blood, urine and vitreous fluid to all be tested for alcohol content.

The distilled alcoholic beverages (whiskey, etc.) are labeled according to the **proof system**. The proof of an alcoholic beverage **is equal to twice the ethanol concentration in the beverage**. For example: 100 proof whiskeys contain 50% ethanol by volume. Pure ethanol is 200 proof because it is 100% ethyl alcohol.

Equivalent amounts of common alcoholic beverages are as follows:
One drink = 12 ounces of beer or **1.25 ounce of 100 proof spirits** or **5-6 ounces of wine**. Each of these "drinks" contains about the same amount of pure ethyl alcohol.

Physiology of Alcohol

Absorption

Alcohol can be absorbed into the human body by several routes. The most common method is by ingesting (drinking) of alcoholic beverages. Alcohol can also be absorbed into the body via direct **injection** or insertion (enema or vagina), but both these routes are extremely irritating and dangerous. Alcohol may reach a detectable level in the blood through **inhalation** or **skin contact**.

Alcoholic beverages that are ingested enter the stomach, and then are emptied through the pyloric sphincter (a valve) into the small intestine. Absorption into the

bloodstream occurs to a small degree (20-25%) through the stomach wall, and to the greatest extent through the wall of the first part of the small intestine (duodenum). This process happens the quickest when drinking on an empty stomach. The presence of food in the stomach at the time of alcohol consumption delays the absorption of alcohol into the bloodstream, and the time required to reach the maximum blood alcohol concentration (BAC).

Distribution

Once the alcohol enters the bloodstream it passes through the liver to the heart, lungs and ultimately the brain, its target organ. As the blood carries the absorbed ethanol throughout the various tissues of the body, it diffuses into these tissues if the concentration of alcohol in the blood is higher than that of the tissue. Eventually the alcohol is evenly distributed throughout the bloodstream and to the various organs of the body. At this point the ethanol is said to have reached a state of "equilibrium" within the body.

Metabolism

Alcohol is eliminated from the human body in two ways:

1. Approximately 90 – 98% of the alcohol is eliminated from the body by being metabolized by the liver. Metabolism is the process by which substances in the body are broken down into other compounds that can be more easily used or removed by the body. The liver breaks down ethanol at a fixed rate of approximately 0.015g/210L per hour, which is not affected by outside influences like exercise, vitamins, or caffeine intake.

2. Some alcohol is excreted unchanged through all body fluids. Urine and breath account for most of this form of elimination. No more than 10% leaves the body by whatever route water exits the body.

BrAC, how it works

When blood carrying ethyl alcohol circulates through the blood vessels in the alveoli of the lungs, alcohol exchanges into the air in the lungs. The alveoli are

tiny tissue sacs within the lungs that are richly supplied with blood. They can be likened to bunches of grapes. The blood vessels in the alveolar sacs border the air spaces and allow for the movement of ethanol from the blood, directly through the blood vessel wall, and into the air spaces in the lungs. This process can be likened to evaporation and is how alcohol appears on the breath of individuals who have ingested alcoholic beverages. The exchange of oxygen into, and carbon dioxide out of, the blood happens in the same way at the same time.

Based on scientific principles, this free exchange permits the level of alcohol in the breath to reach rapid equilibrium with the level of alcohol in the blood in the deep lung (alveolar) air

Physiology Review:

When blood carrying alcohol circulates through the capillaries in the alveoli, alcohol exchanges into the air in the lungs. Alcohol molecules move through the blood vessel walls into the neighboring air spaces and equilibrium is achieved.

Factors that can affect the accuracy of a breath test:

First, the composition of the breath sample. If the breath sample contains a mixture of alveolar and tidal breath, the sample will contain less alcohol than would a pure alveolar sample. Therefore, the test result will be lower than the suspects actual BAC.

Second, Residual Mouth Alcohol (Display: Invalid Sample). When a person takes a drink, some of the alcohol remains in the tissue of the mouth and /or other areas (Dentures). It requires up to 15 minutes for the alcohol left in mouth to dissipate after the last drink. If the breath test is taken less than 15 minutes after a drink, residual mouth alcohol may be carried into the breath sample and affect the test making the result higher than the subject's actual BrAC. Therefore, no breath test should be given for 15 minutes following a drink.

Third, a possible source of error is other substances or contaminants, in the breath. Alcohol is not necessarily the only substance that will react to a breath test for BrAC. Certain substances other than Ethanol, such as acetone, toluene, or acetaldehyde conceivably could be present in breath of some persons. The Intoxilyzer will flag and stop the test in these situations. You should then administer a blood test.

Interfering Substances

Ethyl alcohol is not the only chemical in existence that can absorb infrared light at the same range as alcohol. Acetone, which occurs normally in minute trace amounts on human breath, also absorbs infrared light at this level. To preclude the possibility of a subject test being falsely elevated by acetone, the Intoxilyzer incorporates an interferent detection system that checks for the presence of acetone in samples.

The use of two infrared detectors in the I-8000 and four infrared detectors in the I-9000 to check for interfering substances in the breath sample make the Intoxilyzer's interferent detection system very sensitive to <u>many</u> different chemicals. It should be noted that in general these chemicals are extremely toxic to human beings, and death can result from even small amounts. Medical treatment should be immediately sought for persons with acetone or other harmful chemical substances present in their body, unless the facts and circumstances indicate otherwise. **If a subject provides breath samples that are flagged with an interferent message on the Intoxilyzer printout, they should be given an alternate type of test.**

Deficient Sample

In order to ensure that the breath sample analyzed is primarily an alveolar (deep lung air) sample, and therefore most indicative of the subject's breath alcohol level, there are several criteria that must be met before the Intoxilyzer accepts a subject's breath sample:

1 (**Minimum Pressure**) **The subject must supply a continuous breath sample at a sufficient rate.** The audible tone, triggered by the flow sensor, must be sounding continuously while the person is blowing into the instrument.

2 (**Minimum Time**) **The subject must supply a continuous breath sample of at least 4 seconds.** The audible tone must be sounding continuously while the person is blowing into the instrument.

3 (**Level Slope**) **The rate of change (slope) of the alcohol concentration shown on the digital display must have dramatically slowed and/or stopped**. The concentration of breath alcohol in the sample chamber of the Intoxilyzer must reach a plateau.

4 (**Minimum Volume**) The amount of breath blown into the instrument must be at least **1.1 Liters**.

All four of these criteria must be satisfied for each breath sample before the Intoxilyzer will accept that breath sample as complete. Exception messages in the Intoxilyzer such as "**Deficient Sample**" or "**Invalid Sample**" may accompany results that are incomplete, or in some way unsatisfactory.

Types of Tests:

The two types of tests used to measure alcohol levels in Maine are blood (**BAC**) and breath (**BrAC**) tests. Any body fluid or substance that contains water can be analyzed to determine alcohol concentration. Alcohol dissolves readily in water and is carried throughout the body. Organs and tissues having the highest water content receive the most alcohol. The purpose of any chemical test is to determine the concentration of alcohol in the blood or breath.

Examples of body fluids and tissues that can be analyzed to determine blood/breath alcohol levels include: Blood, breath, urine, saliva, spinal fluid and various tissues (Brain, liver, lung, etc.)

Both blood and breath tests are considered a direct measurement of alcohol concentration. The concentration of alcohol found in the breath sample is displayed in grams per 210 Liters of breath.

Breath Testing

If we know how much alcohol is present in a sample of the suspects deep lung air, we can determine that persons BrAC. All breath tests for BrAC work on the principle of obtaining and analyzing a sample of deep lung air. Deep- lung air is called alveolar air (i.e. it comes from the alveoli). Breath from the upper part of the lungs and from the mouth is called tidal breath. Tidal breath is farther from the alveoli and therefore receives less alcohol.

As an individual exhales, they expel a mixture of tidal breath and alveolar air. The first part of the exhalation consists almost entirely of tidal breath. As they continue to exhale, a greater proportion of alveolar air is expelled. The last part of exhalation (just before running out of breath) consists almost entirely of alveolar air.

Blood Testing

Discussed in a separate class

Section 5 – Detailed Testing Procedure

Note: *The Intoxilyzer is programed from the factory and refers to the "Observation Period" as the "Wait Period" in the data entry mode. Although Observation Period more accurately reflects the process, both terms are interchangeable.*

SUBJECT BREATH TEST

1. Obtain the information needed for data entry.

2. Press the **Start Test** button for the I-8000 or double tap the screen in any location on the I-9000. *The Intoxilyzer 8000, with a wet bath simulator in a cold environment, may take longer to warm up to 34 degrees which may delay the start of the test.*

3. Subjects should be asked if they have anything in their mouth (i.e. food, gum, cough drops, chewing tobacco, etc.) Have them remove anything that is present and advise them not to put anything into their mouth until the test is completed. Ask them to open their mouth so a brief visual exam can confirm that their mouth is empty. In the event the operator notes **loose** devices or objects (i.e.: food items or loose dentures) they should direct the subject to remove such objects and note it in their report.

   Note: Items such as affixed dentures or mouth jewelry do not need to be removed and in fact may cause bleeding and void the breath test if removed.

   - ✓ **If blood is noted, a breath test cannot be given**

4. Personal visual and audible observation of the subject is required for 15 minutes prior to the test to make sure that they do not eat, smoke, drink, burp, belch, regurgitate, or place anything in their mouth. **The observation period extends throughout the entire testing procedure and the subject must be within the certified operator's immediate area of control.** The officer must be positioned in a manner to observe the subject to ensure there are no actions that could compromise the validity of the test.

   Note: *While the certified BTD operator need not stare incessantly at the suspect for the duration of the observation period. The subject must be observed in a sufficient manner to determine that they do not violate any of the preconditions required for testing.*

If there is any doubt that the observation was conducted properly, start a new observation period beginning with a mouth check.

5. When the instrument has warmed up and is in the **Ready Mode**, push the **Start Test** button on the I-8000, or double tap the screen in any location for the I-9000. The instrument will now go through a menu of information requests. This information prints out on the subject's breath test report and is stored in the Intoxilyzer's memory. This data is subject to weekly downloading from each breath testing site by the State of Maine Health and Environmental Testing Lab. This information is used to generate monthly reports for the Bureau of Highway Safety and the Bureau of Motor Vehicles who use the data on OUI arrests. For this reason, it is ***extremely important that the information be correctly spelled and in the proper format.*** **Failure to do so means that the Bureau of Highway Safety, which monitors breath testing sites, will not credit your agency with the correct number or type of tests.**

DATA ENTRY MENU – The following is a listing of the I-8000 prompts in the order they appear on the instrument display:

- SUB LAST NAME
- SUB FIRST NAME
- SUB MID NAME
- SUB DOB
- SUB SEX
- ARST OFF NAME
- **ARREST DEPT** (PROGRAMMED WITH SITE AGENCY)
- OPER NAME LAST
- OPER NAME FIRST
- OPER NAME MID
- OPER CERT NO. (5-digit number)
- STRT WAIT PERIOD (Time of starting wait period ex 00:00)
- CITY/TOWN
- STREET
- **COUNTY** (PROGRAMMED WITH SITE COUNTY)
- VIOL. DATE
- VIOL. TIME
- TST TR JUV CDL COND OUI OT
- REVIEW DATA (Y/N)

The subject test data that is entered during data entry will be retained for up to 3 minutes after the test.

Pressing the **F5 key** or the **Start Button** ends data entry prompting, the instrument will display "**Data Entry Aborted**", and exits back to the scrolling display. This may be useful if for some reason the operator decides not to continue with a subject test after the Start Test button has been pressed.

Please follow these guidelines for the indicated prompts that tend to be the cause of problems or inconsistencies:

Place the subjects **Operator's License** or **State ID Card** under the 2-D Bar Code Reader near the keyboard (barcode facing up).

A "**3 beep tone**" indicates the information has been entered;

* (A "**2-beep tone**" indicates the information **has not** been entered).

Or press **ENTER** to manually enter the required data using the keyboard while following the instrument display.

- SUB LAST, FIRST, MID NAME: Enter subject's legal name from license. If the subject does not have a middle initial, use a hyphen (-) when answering the SUB MID NAME question.

- SUB SEX: Enter M or F.

- SUB DOB: MM/DD/YYYY

- ARST OFF NAME: Do not enter rank or title. Enter the name commonly used, but do not use nicknames.

- ARREST DEPT: This is the arresting officer's department, not the operator's department. The Intoxilyzer is programmed by the HETL to respond to this prompt with the name of the agency housing the instrument. If the displayed

Arresting Department is incorrect, choose the proper agency from the drop-down list by using the arrow or pgup/pgdn keys. Press the **ENTER** key to continue to the next prompt.

- **Members of the agency at which the instrument is located**- When the words **"ARREST DEPT"** are displayed **do not type anything**, **just press the ENTER key.** The name of the agency will appear, correctly spelled and spaced, in response to the prompt. If the displayed Arresting Department is incorrect, choose the proper agency from the drop-down list by using the arrow or pgup/pgdn keys. Press the ENTER key to continue to the next prompt.

- **Members of an agency outside of which the instrument is located -** When the words **"ARREST DEPT"** are displayed, choose the proper agency from the drop-down list by using the arrow or pgup/pgdn keys. Press the **ENTER** key to continue to the next prompt.

START WAIT PERIOD: The time the 15-minute observation period began is entered here. The message, **"WARNING 15 MINUTE WAIT PERIOD HAS NOT ELAPSED"** will appear on the display before the REVIEW prompt at the end of data entry if the START WAIT time entered was less than 15 minutes from the instrument's current internal time. **If** an operator gets the "**15 minute wait period has not elapsed**" warning and does not correct the start wait time through reviewing the data at that point in time, the Intoxilyzer then starts a **"time remaining**" countdown timer until 15 minutes from the entered start wait period has elapsed by its internal clock. The instrument will not proceed with the subject test sequence until the elapsed time is up. This gives the operator, who suspects a typographical error in the entered Start Wait time, a one-time opportunity to make a correction so that their observation period does not turn out to be inordinately long.

- CITY/TOWN: The location of the arrest is entered here, **not** the location of the breath testing site.

- STREET: The location of the arrest is entered here, not the location of the breath testing site.

COUNTY: The Intoxilyzer is programmed by the HETL to respond to this prompt with the name of the county in which the instrument is located. When the word **"COUNTY"** is displayed **do not type anything**, **just press the ENTER key.** The name of the county the Intoxilyzer is located in will appear, correctly spelled, in response to the prompt. If the displayed County is incorrect, choose the proper County from the drop-down list by using the arrow or pgup/pgdn keys. Press the ENTER key to continue to the next prompt.

- VIOL DATE: MM/DD/YYYY

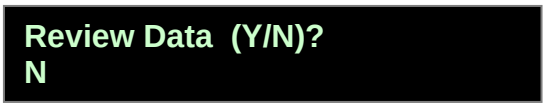
- TST = TR JUV CDL COND OUI OT:

"OUI" is the displayed Test default. For other Test types, choose the correct Test from the drop-down list by using the arrow or pgup/pgdn keys. Press the ENTER key to continue to the next prompt.

  - TR = training, and should be used for all practice, demonstration, diagnostic, and training tests. One copy of the report will print.
  - JUV = for under 21, zero tolerance violations.
  - CDL = for Commercial Vehicle Drivers License violations.
  - COND = for Conditional License violations.
  - OUI = **Title 29A criminal OUI only**.

- OT = other, and should be used for all watercraft, ATV, snowmobile, corrections, work release, probation, DHS ordered, court ordered, etc. testing.

Another helpful feature is that the subject test data that you enter during data entry will be retained for up to 3 minutes after the test. This makes it convenient if the test must be restarted on a subject for some reason. Press the Start Test button again to begin data entry and the previous entries for those questions will still be there. Just press the Enter key at each question to make the previous entry permanent for the new subject test procedure that has begun.



Take the time to review the Data. Once accepted, the data can not be changed.

When data entry has been completed, the instrument automatically begins the testing sequence of Air Blank, Diagnostic, Air Blank, ITP (Internal Test Protocol), Air Blank, Simulator Calibration Check, Air Blank, Subject Test 1, Air Blank with 2 minute wait period, Air Blank, Subject Test 2, Air Blank. The instrument will automatically ask for up to 4 subject samples if exception messages nullify one or more of the results.

Once the Intoxilyzer prompts for the subject to blow into the mouthpiece, **and the 15-minute observation period has been completed**, place a new mouthpiece on the end of the breath tube. For safety reasons, it is recommended that the subject not touch the breath tube or mouthpiece with anything other than their mouth. **The instrument**

allows up to 3 minutes to receive an acceptable sample, before it labels it as a "**Deficient Sample**". Replace the mouthpiece with a new one if they are having trouble blowing through it.

- ✓ Advise the subject to blow until the tone stops or until they are told to stop blowing. Coach them through the test until the reading on the display has leveled off and the zero (0.) (For the I-8000) has appeared in front of the decimal point. **Continue coaching until the displayed result is unchanging**. If subject stops blowing before the instrument has accepted the sample as complete, **they may take another breath and continue blowing**. The result on the display will drop with the reintroduction of upper respiratory air before the influx of alveolar air causes it to rise and level off. After each breath sample is complete, the mouthpiece should be removed and discarded prior to the beginning of a new air blank.
- ✓ After the ensuing Air Blank and 2-minute wait period, a new mouthpiece should be placed on the breath tube and obtain a second sample as requested by the Instrument. The testing procedure may be complete at this point. However, the Instrument will continue to request **up to 4 samples until it obtains 2 acceptable results that are within 0.020 of each other** before ending the test sequence. A new mouthpiece should be used for each additional sample. The **final reported BrAC is the average of the 2 lowest acceptable results, with the third decimal place dropped.**
- ✓ When the testing procedure is complete, the instrument will **automatically print 5 copies** of the subject test report on the external printer. These are labeled at the bottom of each sheet for Prosecutor, Secretary of State, Arresting Officer, Intoxilyzer Site, and Subject**. Notarize the copies for the District Attorney and Secretary of State** (others may be done if you wish).

DATA ENTRY for the I-9000

DATA ENTRY MENU – The testing sequence for both the I-8000 and the I-9000 are very similar. The I-9000 data entry prompts are slightly different as seen below:

- INCIDENT NUMBER
- OPERATOR LAST NAME
- OPERATOR FIRST NAME
- OPERATOR ID NUMBER
- ARE OPERARAOR AND ARESTING OFFICER THE SAME (YES OR NO)?
- IF NO, ARRESTING OFFICER LAST NAME
- ARRESTING OFFICER FIRST NAME
- ARRESTING OFFICER ID NUMBER
- ARRESTING OFFICER AGENCY
- CHOOSE ENTER SUBJECT INFORMATION (KEY BOARD OR SCANNER)?
- IF KEYBOARD, SUBJECT LAST NAME
- SUBJECT FIRST NAME
- SUBJECT MIDDLE INITIAL
- SUBJECT DATE OF BIRTH (MM/DD/YYYY)
- SUBJECT GENDER (MALE, FEMALE, OTHER)
- LOCATION OF ARREST (CITY, STREET, COUNTY)
- VIOLATION DATE
- START OBSERVATION PERIOD TIME
- TEST TYPE (TR, JUV, CDL, COND, OUI, OT)
- REVIEW DATA (Y/N)

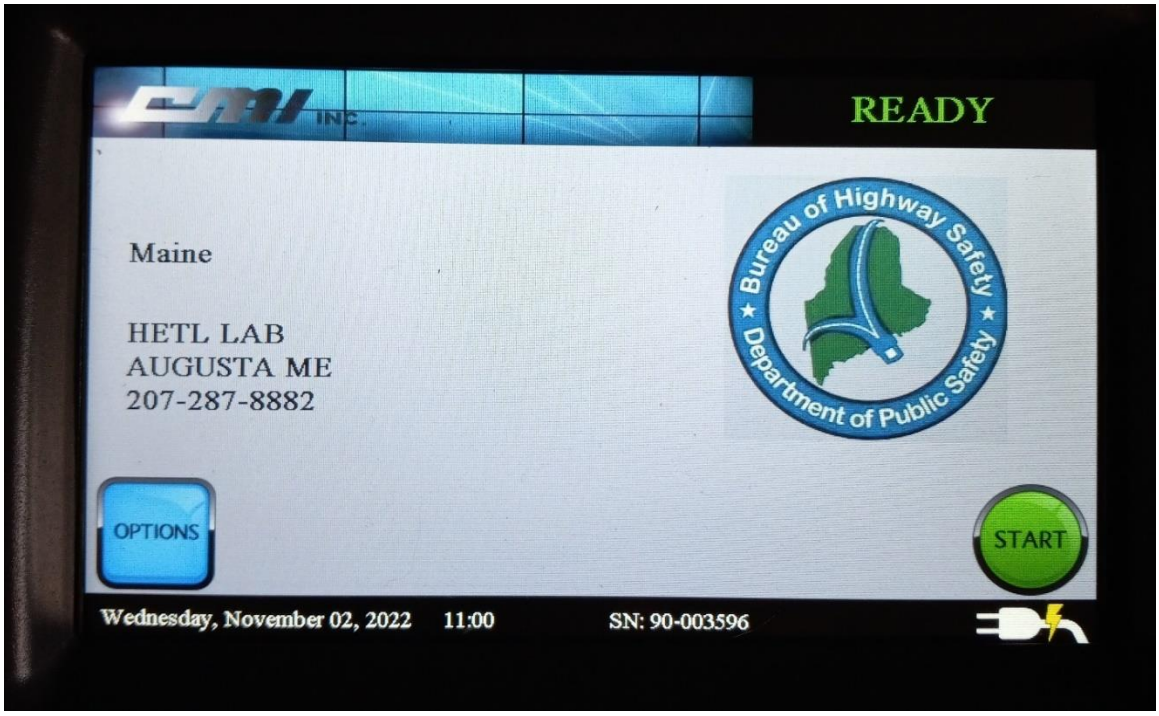
The subject test data that you enter during data entry will be retained for up to 3 minutes after the test.

Pressing the **ABORT** screen tab ends data entry prompting, the instrument will abort the test. This may be useful if for some reason the operator decides not to continue with a subject test after the test has started.

Please follow these guidelines for the indicated prompts that tend to be the cause of problems or inconsistencies:

Let's Get Started

Double tap the screen saver at any location and the instrument enters **warm up** mode. The instrument runs through air blanks and internal diagnostics and stops at READY.

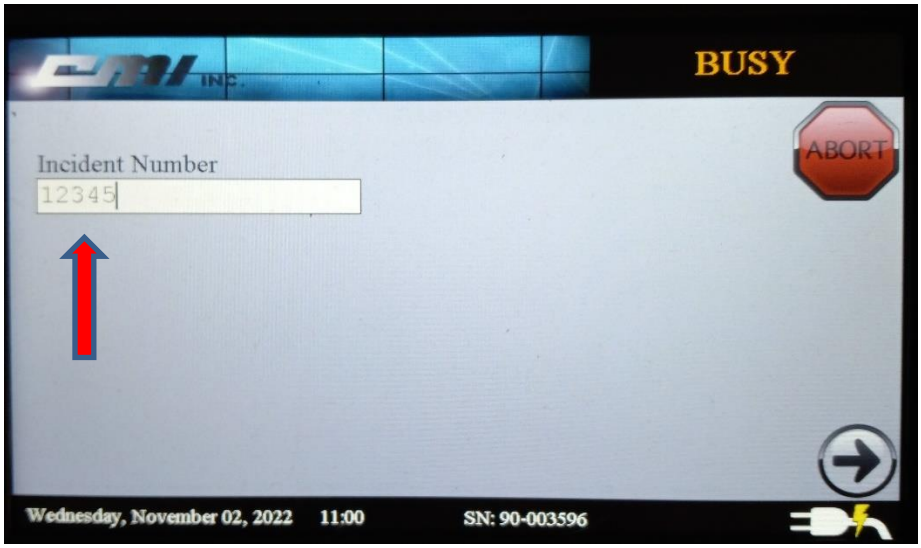


Press the green "START" screen button to begin data entry. The I-9000 will prompt the operator through the **subject test** sequence and **data entry.**

The USB **keyboard** and USB **bar code scanner** are the primary methods for data entry.

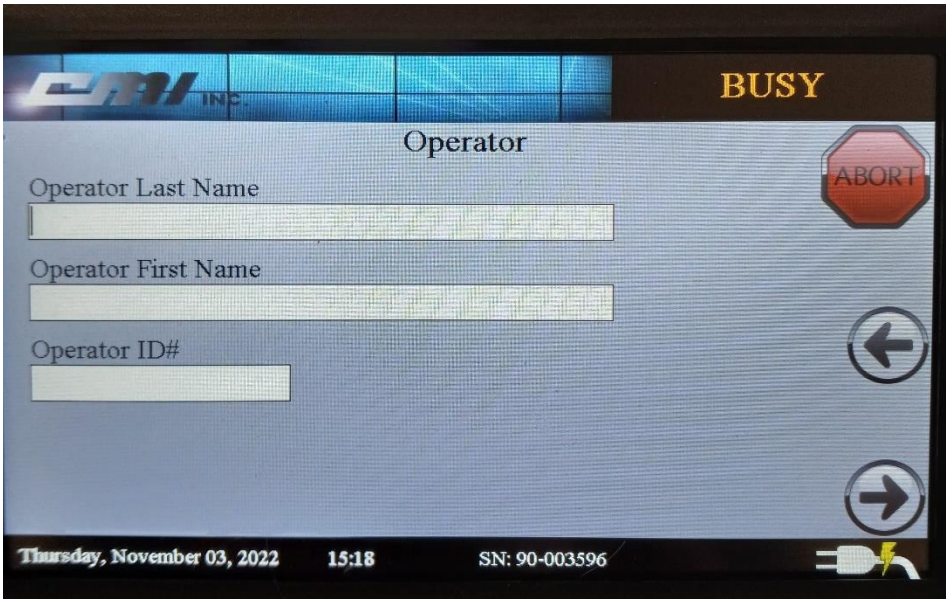
The first screen will require an I**ncident Number**. The operator may use an agency generated number or create one for this field.

The I-9000 will display BUSY during any function or process



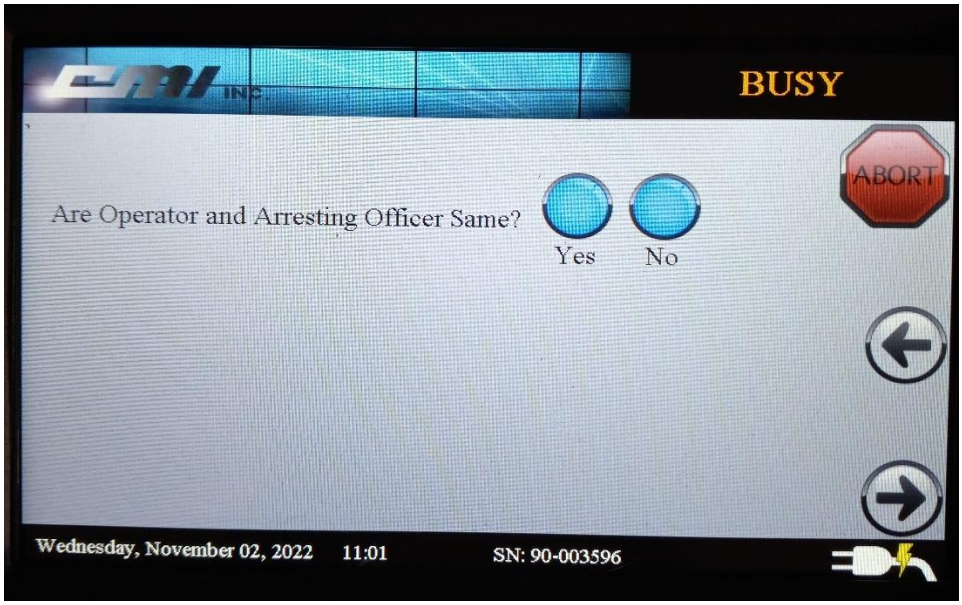
Operator Name: Do not enter rank or title. Enter the name you commonly use, but do not use nicknames.

Operator ID#: Enter the operator BTD certification 5 digit number

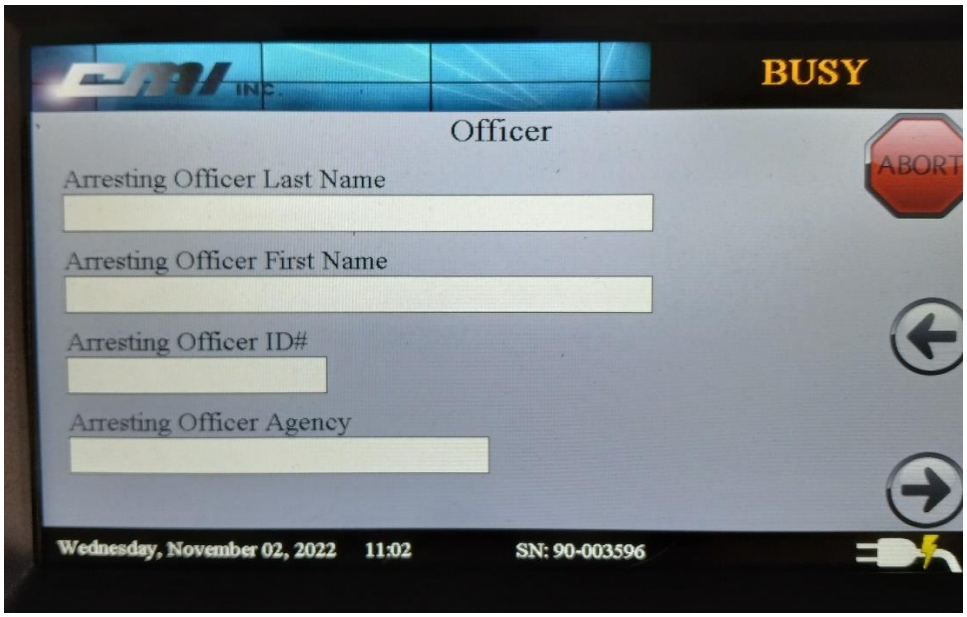


Arrow tabs, under the ABORT tab, are used to advance or back up during data entry.

Are the Operator and Arresting Officer the same? Yes or No.



If no, enter Arresting Officer Last Name, First, ID # and Agency.



Choose to enter the subject information via keyboard or bar code scanner

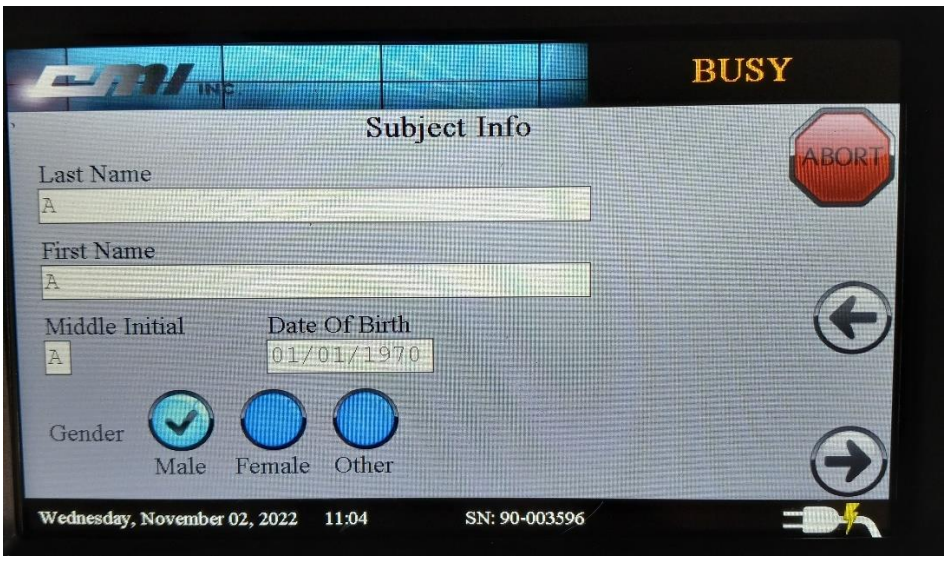
If scanner, Scan license bar code with the wand scanner. 2 beeps is an error, 3 beeps indicates the data was accepted

If keyboard,

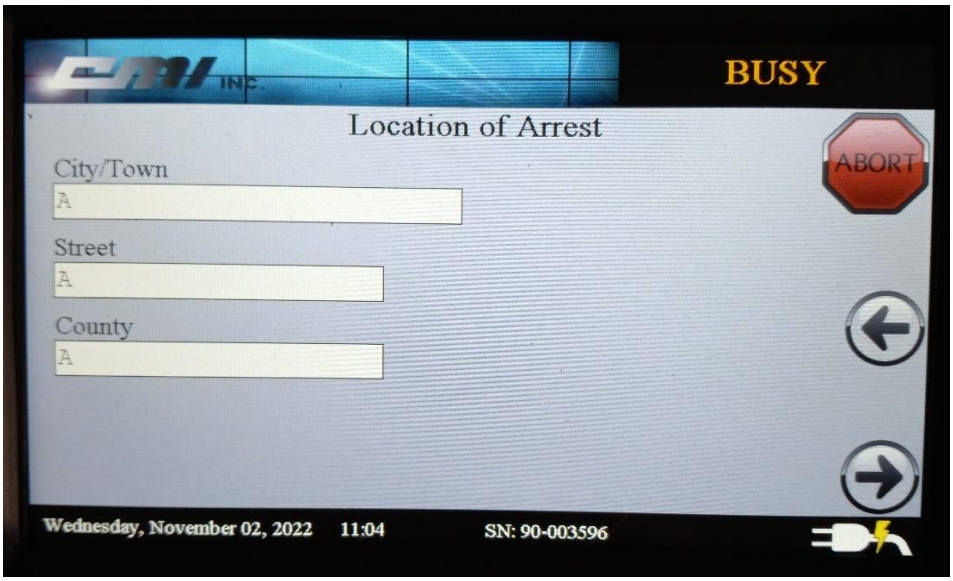
Subject Name: Last Name, First Name, MI, as it appears on the subject's license. Use a (-) hyphen if no middle initial.

Subject DOB: (MM/DD/YYYY format)

Gender. As it appears on the license (Male, Female, Other)



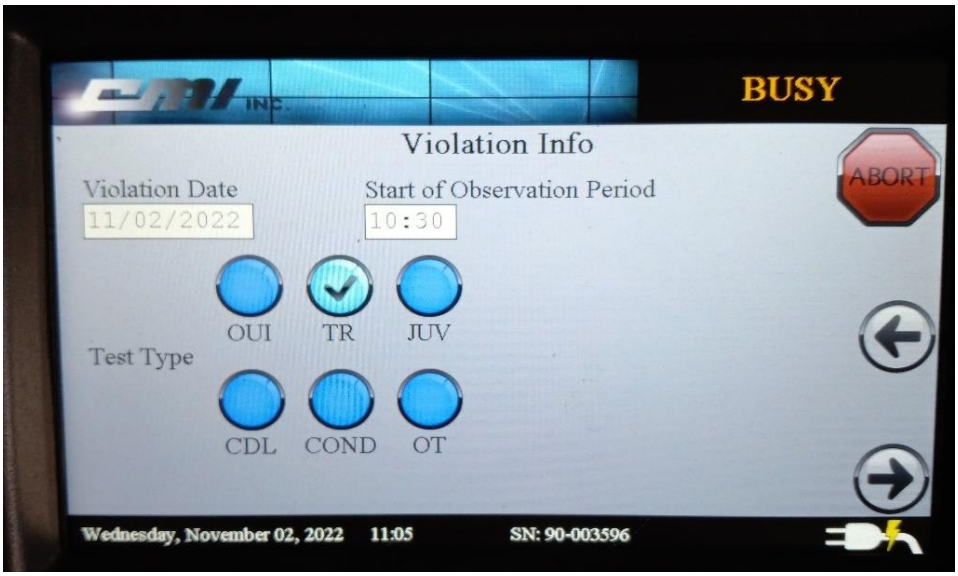
Location of Arrest: = City/Town, Street, County.



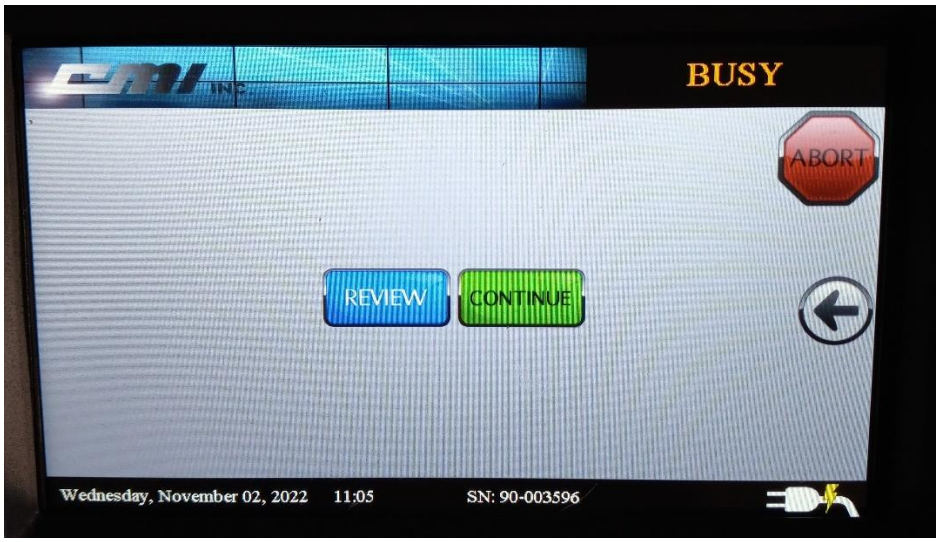
Violation Date: (MM/DD/YYYY format)

Start of Observation Period: Recommend use instrument clock for this field.

Test Type: Most common are OUI, and TR for training samples. See previous I-8000 section for more detailed information on test types.



Review or Continue: Take the opportunity to review your data.



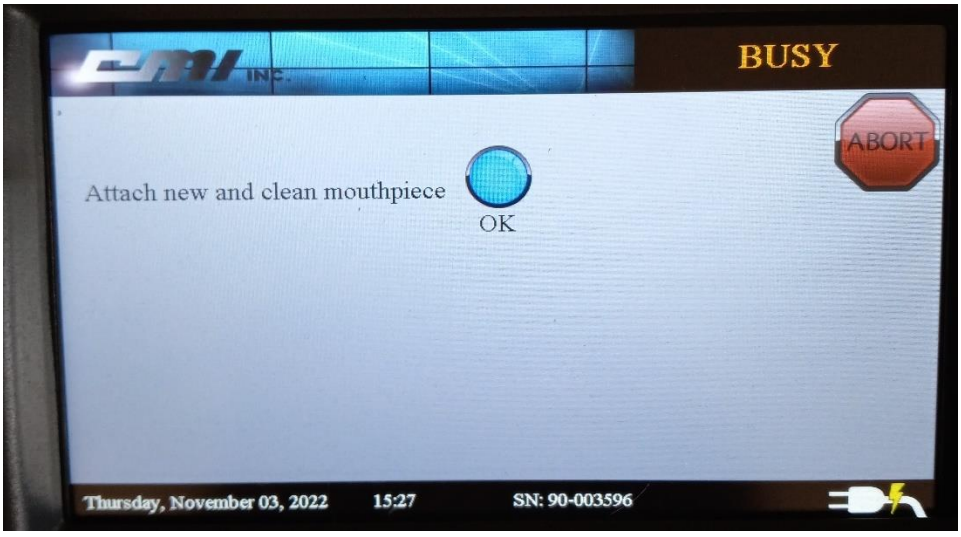
Continue tab to continue the test sequence.

I-9000 Testing Sequence

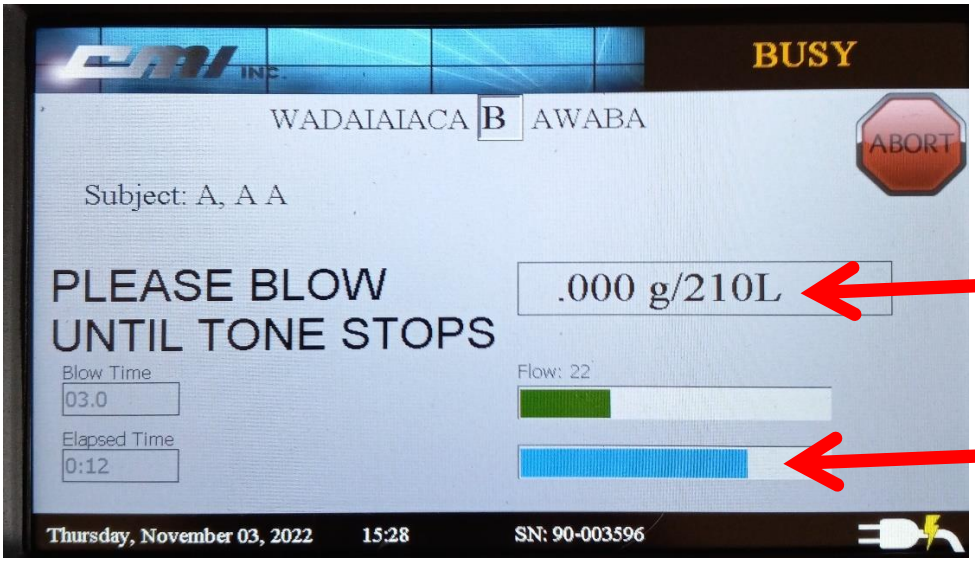
AIR BLANK , DIAGNOSTIC, AIR BLANK, ITP CHECK 1 (0.040 +/- 0.005), ITP CHECK 2 (0.080 +/- 0.005), AIR BLANK, EXTERNAL CALIBRATION CHECK 0.080 DRY GAS (+/- 0.010), SUBJECT TEST, ATTEMPTS, BREATH VOLUME, AIR BLANK, 2 MIN WAIT, AIR BLANK, SUBJECT TEST, ATTEMPTS, BREATH VOLUME, AIR BLANK.

If the 15 minute observation period has not yet finished, based on the operator data entry, the instrument will count down the remaining time before the test will continue.

The I-9000 will prompt the operator to **Attach new and clean mouthpiece**.



The letters displayed at the top of the screen (WADAIAIACABAWABA) track the current function of the I-9000 which will be highlighted. (in this screen B = BLOW)



The BrAC reading will show in this box as the sample is provided.

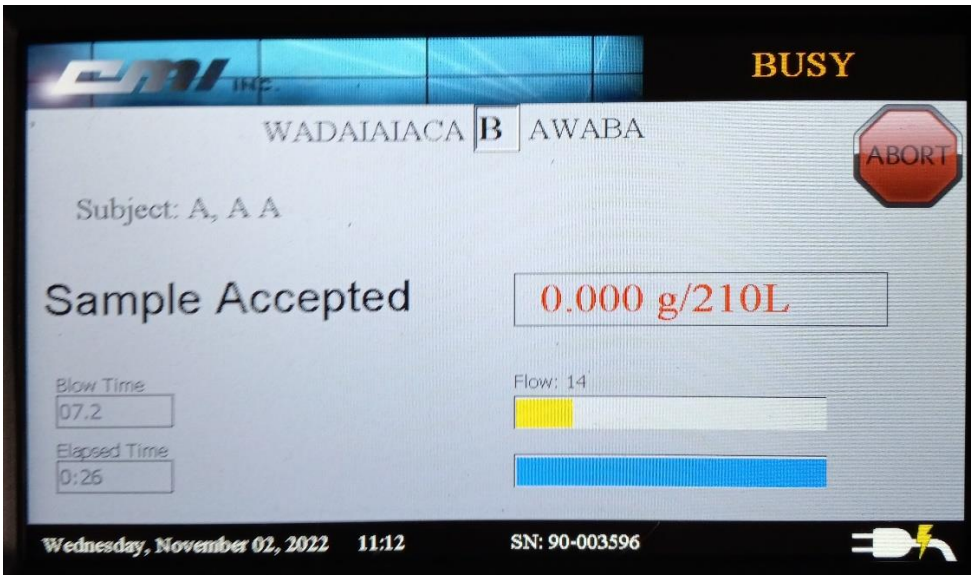
The volume box will fill in with blue color as the volume of the air increases. Continue coaching even if the box is full.

Blow Time, Elapsed Time and Flow are displayed on the screen.

Once the I-9000 prompts for the subject to blow into the mouthpiece, for safety reasons, it is recommended that the subject not touch the breath tube or mouthpiece with anything other than their mouth. **The instrument allows up to 3 minutes to receive an acceptable sample**, before it labels it as a "**Deficient Sample**". Replace the mouthpiece with a new one if they are having trouble blowing through it.

Advise the subject to blow until the tone stops or until they are told to stop blowing. Coach them through the test until the volume box is filled with blue color and the BrAC reading on the display has leveled off. **Continue coaching until the displayed BrAC result is unchanging**. If the subject stops blowing before the instrument has accepted the sample as complete, **they may take another breath and continue blowing**. The result on the display will drop with the reintroduction of upper respiratory air before the influx of alveolar air causes it to rise and level off. After each breath sample is complete, the I-9000 will prompt the operator to remove the mouthpiece and discard it prior to the beginning of a new air blank.

When the sample is complete it will display “Sample Accepted”



The operator will be prompted to remove and discard the mouthpiece. The Instrument then begins a two-minute count down and runs another air blank.

The instrument will prompt the operator to install a new mouthpiece when it is time for the subject to blow a second breath sample. Coach the subject to continue blowing as long as possible to obtain the most accurate aveolar sample.

When the second sample is complete the testing procedure may be complete at this point. However, the Instrument will continue to request **up to 4 samples until it obtains 2 acceptable results that are within 0.020 of each other** before ending the test sequence. The **final reported BrAC is the average of the 2 lowest acceptable results, with the third decimal place dropped.**

When the testing procedure is complete, the instrument will **automatically print 5 copies** of the subject test report on the external printer. These are labeled at the bottom of each sheet for Prosecutor, Secretary of State, Arresting Officer, Intoxilyzer Site, and Subject**. Notarize the copies for the District Attorney and Secretary of State** (others may be done if you wish).

Printing copies from I-8000 and I-9000

If the external printer runs out of paper while printing the subject test report, just place more paper in the paper tray and printing will automatically continue.

I-8000

To reprint the last test of any type done on the I-8000, **press the F1 key** and choose S = subject, C = calibration, or D = diagnostic to be reprinted.

Recall – Use this option **ONLY** if you need to reprint a subject test PREVIOUS to the very last one done on the instrument. To use this feature, **press the Esc key twice** in rapid succession to get to a menu of letters. **Press "R" and Enter** to get to the Recall function. **Use the PgDn/Up key** to get to the appropriate date for the test you want to reprint, and **press Enter**. Then, at the "Number of Records" display, **press Enter again**. Use the PgDn/Pg Up keys to find the appropriate test by subject last name, and **press Enter** to print it out.

I-9000

Choose the OPTION tab (accessible only to Site Coordinators at this time) to scroll through the reprint and recall options

Tests can not be recalled after DHHS conducts their weekly download of data. Once downloaded, the Intoxilyzer's limited memory is emptied and no recalls are possible. If this is the case, contact DHHS for a copy of the test result.

Section 6 – Instrument Specifications and Messages

INTOXILYZER SPECIFICATIONS

FUNCTIONAL –

1. Audible tones signal the completion of an operation, the presence of a malfunction, an incorrect operational procedure, or an unfulfilled test requirement.
2. An external printer provides a multi-copy printed record of test results, including time, date, subject data, and instrument model and serial number.
3. A 16-character display that relates which operations the instrument is performing, alerts the operator to required actions, and gives the alcohol test concentration in grams of alcohol per 210 liters of breath.
4. The instrument is originally factory-calibrated by the manufacturer.
5. Breath Sampling: The instrument automatically senses alveolar air using slope detection in conjunction with a minimum volume, minimum flow rate, and minimum time requirement. The flow sensor allows for breath volume to be measured and printed for each breath sample.
6. Instruments equipped with Guth Simulators recirculate the simulator vapor during the calibration check mode to extend the life of the simulator solution. This is not necessary on instruments using dry gas.
7. Standby mode reduces dust accumulation in the instrument and increases component life by shutting down non-vital functions during inactive periods.
8. An internal modem allows the instrument to communicate with a remote computer.
9. I-8000 uses two IR detectors and the I-9000 uses four IR detectors to measure infrared absorption at specific wavelengths yielding reference, alcohol, and interferent detection.

PERFORMANCE –

1. Instrument **range** = **0.000 – 0.650**g/210L (BrAC)
2. Instrument **accuracy** = **±** **0.010**gms/210L (BrAC) or ± 5% (whichever is higher)
3. Instrument **precision** = **±** **0.010**gms/210L (BrAC) or 5% (whichever is higher)

TONES –

1. A beep sounds after the completion of each operation (mode).
2. A continuous tone sounds while a subject blows into the mouthpiece.
3. A high-low tone sounds intermittently for 5 seconds in the event of a malfunction, incorrect operational procedure, or unfulfilled test requirement.

DISPLAYED MESSAGES AND COMMANDS

DIAGNOSTICS

The Intoxilyzer automatically performs a DIAGNOSTIC TEST when the power switch is turned on, the START TEST button is pressed on the I-8000 and the screen is doubled tapped in any area on the I-9000 to initiate the instrument from NOT READY or STANDBY modes, or when a SUBJECT TEST is initiated. The instrument will cycle through each Diagnostic function and display PASS if the instrument is functioning properly. If any of the diagnostics FAIL, the DIAGNOSTIC TEST may be restarted by restarting the test sequence (START TEST button or double tap screen).
If the DIAGNOSTIC test fails repeatedly, contact the HETL for service.

- **"PROM CHECK ####"** – The instrument checks to make sure that the program (breath test sequence, calibration check procedures, etc.) located in the instrument EPROM is valid.

- "**VOLTAGE/CURRENT**" – The instrument verifies that current and voltage values are within limits.

- "**RAM TEST**" – The instrument verifies the RAM (Random Access Memory) for possible failure. This is the data area where calculations and test data are stored.
- "**EEPROM TEST**" – The instrument verifies breath test sequence, calibration data, location and serial number settings.
- "**RT Clock TEST**" – The instrument verifies current time and date settings for the Real Time Clock.
- "**DSP TEST**" – The instrument verifies the IR source is functioning and within limits, and that the digital signal processor communications are operational and the installed software version.
- "**ANALYTICAL TEST**" – The instrument verifies the analytical bench stability is within limits on the 3um and 9um channels.
- "**MODEM TEST**" – The instrument verifies the modem is present and responding.
- "**TEMP REG TEST**" – The instrument verifies both cell and breath tube temperatures are within limits and stable.
- "**READY MODE**" When the diagnostics of the instrument are successfully completed the instrument will enter "READY MODE" with the time, date and "PUSH BUTTON TO START" displayed.
- Subject test. The acceptable range of + 0.010 of the target value of the simulator solution or dry gas is set in the instrument software. The subject test procedure will halt if this check fails.
- **"PLEASE BLOW UNTIL TONE STOPS /R**" – Beginning when this command appears on the display, the subject has 3 minutes to deliver an adequate breath sample. At this point, carefully place a new mouthpiece onto the instrument breath tube. Instruct the subject to take a deep breath and exhale into the mouthpiece of the instrument. The subject will hear a tone when they are blowing into the instrument properly and should continue blowing until the tone stops. The instrument checks for minimum flow rate, for sample volume, and for level slope of the sample. To meet these criteria the subject must continue to blow for a minimum of 4 seconds.

  If the subject refuses the test, press the "R" key on the I-8000 or the ABORT tab on the I-9000. The display will show SUBJECT TEST REFUSED and it will also be printed on the report. – If a subject begins to give a breath sample and stops before the sample criteria are completed, the instrument will display this

prompt, with a continued short beep, indicating that the subject should begin blowing again.

- **"SUBJECT TEST RSLT. ###" –** The value of the subject's sample will be displayed as the subject blows into the instrument. The result will rise, fall, or stay constant as the instrument continuously analyzes the sample. When a zero "0" appears to the left of the decimal point on the I-8000, the test has met the volume and slope criteria for an acceptable test. On the I-9000 the volume box will fill with blue color and the BrAC reading will slow or stop. Allow the subject to continue to give a sample. When the subject has exhaled completely and the test criteria are met, the tone will stop, and the display will go momentarily blank. The tone will then sound shortly, and the final breath sample result will be displayed and printed on the report.
- **"DEFICIENT SAMPLE"** In the event that the subject fails to provide an adequate breath sample within 3 minutes, this message will appear accompanied by the high-low tone, DEF * will be printed on the report accompanied by an * alongside the subject test. *Deficient Sample will appear on the bottom of the report.
- When the testing sequence is complete, the instrument will return to "READY MODE".

CALIBRATION CHECK for wet bath simulators on the I-8000

- **"SOLUTION VALUE?" –** The correct value (currently 0.090) is the default value already programmed into the Intoxilyzer and will be accepted by pressing Enter. If the default value is for some reason no longer the correct one, then the operator must enter the value of the simulator solution to be used for the calibration check. It must be entered in the following format to be accepted by the instrument: **0. ### (0.090)**
- **"LOW REF VALUE" – (I-8000)** This sets the low end of the acceptable range for the simulator test. Just press the ENTER key to accept the pre-programmed setting. It is set by default to 0.010.
- **"HIGH REF VALUE" (I-8000) –** This sets the high end of the acceptable range for the simulator test. Just press the ENTER key to accept the pre-programmed setting. It is set by default to 0.010.
- **"PRINT HOW MANY" –** The operator must enter the number of copies of the calibration check to be printed.

TEST EXCEPTIONS –

- "**VOLTAGE/CURRENT TEST FAIL**" – Voltages and currents were not sufficient to operate the instrument. Press the START TEST button to restart.
- "**EEPROM TEST FAIL**" – The processor failed to verify the check sum for calibration, settings, serial number and location in the EPROM of the instrument. Press the START TEST button to restart.
- "**RAM TEST FAIL**" – The instrument's random-access memory has insufficient memory. Press the START TEST button to restart.
- "**TEMP REG TEST FAIL**" – The sample chamber and breath tube are not warm enough to perform a test. Press the START TEST button to restart.
- "**DSP TEST FAIL**" – The Digital Signal Processing determined the IR source in not functioning or not within limits. Press the START TEST button to restart.
- "**ANALYTICAL TEST FAIL**" – The 3.4 and 9.4 wavelengths are unstable. Press the START TEST button to restart.
- "**MODEM TEST FAIL**" – The internal modem is not operational (phone line connection not required). Press the START TEST button to restart.
- "**RTCLOCK TEST FAIL**" – An invalid date or time has been detected in the real time clock. Press the START TEST button to restart.
- "**UNSTABLE SIGNAL**" - The signals from the detector are outside predefined limits. The limits are embedded to ensure readings are within a valid range. **Press the START TEST button to restart.**
- "**DATA ENTRY ABORTED**" - The START TEST button or F-5 key was pushed on the I-8000 (ABORT Tab on I-9000) during a SUBJECT TEST or CALIBRATION CHECK prior to the AIR BLANK following REVIEW DATA Y/N. The instrument will display DATA ENTRY ABORTED and a report is not printed.
- **INVALID SAMPLE**" – The instrument detected an abnormal breath pattern or residual mouth alcohol. If residual mouth alcohol is suspected, observe the suspect for another 15-minute observation period before beginning a new breath test.

  Note: It is the policy of the Maine Criminal Justice Academy that a breath sample that indicates an "Invalid Sample XXX" does not absolutely void the entire test result if the Intoxilyzer continues the testing sequence and prints a final BrAC result with 2 acceptable samples.

There are situations where one of the breath samples in a testing sequence indicates an "Invalid Sample XXX" and the Intoxilyzer finds 2 samples within that sequence that meet the standard and print a final test result. This flagged sample may be caused by puffing into the instrument or by moving or manipulating the mouthpiece during a test. The Intoxilyzer is designed to flag breath samples that detect an abnormal breath pattern caused by such actions.

If the certified BTD operator suspects residual mouth alcohol, the test must be terminated, and a new observation period, beginning with a visual inspection of the mouth, must be conducted.

If the certified BTD operator suspects the suspect of puffing into the instrument or manipulating the mouthpiece during a test, the certified BTD operator should articulate these observations in their report and consider the following:

1. **The certified BTD operator may warn the suspect that these actions are acts of non-cooperation and will result in a refusal if continued. The officer may then continue testing the suspect if the Intoxilyzer allows them to continue.**
2. **The certified BTD operator may warn the suspect about acts of non-cooperation listed above, start a new observation period beginning with a visual inspection of the mouth and administer a new test.**
3. **The certified BTD operator may end the test and mark the test as a refusal due to non-cooperation.**

Officers should be aware that their agencies and the prosecutorial districts throughout the State have various policies on the "Invalid Sample XXX" exception message relating to breath testing. Some District Attorneys require a new observation period and test be started with all "Invalid Sample XXX" warnings regardless of the cause.

- "**RFI DETECT**" - Radio frequency interference is present. The instrument aborts the test, sound a high-low tone and prints RFI DETECT on the report.[6]

6 The Intoxilyzer is programmed to detect RFI and stop the test if detected. Radios and/or cell phones will not impact test results, but due to the sensitivity of the instrument, could cause it to cancel the test and print "RFI DETECT" on the report. A common misconception or defense tactic which is not true is that the use of a cell phone or radio near the Intoxilyzer during the test will somehow increase or alter the test result.

- "**DEFICIENT SAMPLE**" - The subject did not provide an adequate breath sample within 3 minutes. The instrument displays DEFICIENT SAMPLE, sounds a high-ow tone, completes the test sequence, and prints DEFICIENT SAMPLE on the report.
- "**INTERFERENT DETECT**" – The subject's breath sample or a simulator vapor contains a substance (such as acetone) that absorbs infrared light in the same wavelength range as ethanol. These substances are categorized as interferents for the purposes of breath alcohol analysis. The Intoxilyzer can detect interferents by analyzing the response of each detector. When an interferent is detected, the instrument will display INTERFERENT DETECT, sound a high-low tone, and print INTERFERENT DETECT on the report.
  - **"AMBIENT FAIL" –** The instrument detected a substance in the room air. Strong odors from painting or cleaning products can cause this. The instrument displays AMBIENT FAIL, aborts the test, sounds a high-low tone, and prints AMBIENT FAIL on the report.
  - **"RANGE EXCEEDED" –** The test results exceed the instrument's range of >0.650. The instrument aborts the test, sounds a high-low tone, and prints RANGE EXCEEDED.
  - **"CAL CHECK OUT OF TOLERANCE" –** The result for one of the internal standards is outside of the allowable ± 0.005 range around its target value. The Intoxilyzer aborts the test, sounds a high-low tone, and prints INVALID TEST, CAL CHECK OUT OF TOLERANCE on the report. This may also occur if a simulator test is out of its allowable range of ± **0.010.** or the simulator vapor in a wet bath simulator has not heated to the proper temperature.
  - **"IMPROPER SAMPLE" –** The suspect blows into the mouthpiece before the instrument asks for a breath. The instrument aborts the test, sounds a high-low tone, and prints IMPROPER SAMPLE.
  - **"PURGE FAIL" –** The instrument cannot completely clear the alcohol reading from the sample cell. This may occur with a suspect too close to the instrument or other odors in the room.

- **"OUTSIDE ARREST WINDOW" –** The instrument detects a time or date discrepancy between the entered data and its internal clock. Repeat the subject test with an appropriate date and time. The most common cause is an operator typing in a start wait time that is slightly ahead of the instruments internal time. Military time and standard time in the same test sequence can also be a cause.

- **If the ITP test fails repeatedly, contact the HETL for service.**

If the operator receives an exception message printout during the testing procedure, the instrument will print a copy of that exception message. A copy of the exception message must be left at the site for the **Site Log** and a copy should be included in the officer's report.

SUBJECT TEST –

- **"AIR BLANK" –** The instrument is purging the sample cell, breath pathway, and taking a reference value of the ambient air. An air blank should always have a final result of 0.000, showing no alcohol in the sample chamber.
- **"ITP #" –** The instrument checks and displays the internal standards. Internal 1 and 2 correspond target to values of 0.040 and 0.080 respectively. The acceptable range of ± 0.005 around each target value is programmed into the Intoxilyzer by the manufacturer. This is a type of calibration check done at the time of each subject test.
- **"CAL CHECK" –** A single test done with the simulator solution at the time of the subject test. This is another type of calibration check.

Duty to Submit.

Maine law permits the driver licensing authority, the Secretary of State, to take certain administrative actions against a driver's license. These actions are not part of the criminal actions taken pursuant to any arrest for OUI. They may occur for a .00 violation or a .04 commercial vehicle violation. Your local District Attorney and Court may have their own special process or requests related to some of these issues. We offer guidance as to the most common and acceptable procedures.

Duty to Submit/Implied Consent Form (Form DI-140)

It is not required for the arresting officer to read the Duty to Submit form to a subject prior to any breath test. We recommend not reading the form as it may encourage the subject not to take the test. If the subject refuses the test the form must be read. The reading of the form after the subject refuses makes it clear that the subject was advised of the administrative and legal consequences of any refusal.

A refusal could occur if the subject refuses to give a chemical test to the officer's satisfaction. This may be a flat-out refusal or may occur when the subject pretends to blow, intentionally vomits or burps, or otherwise seeks to delay or cause an adverse test. If any of these actions occur prior to the reading of the Duty to Submit form, the officer must read the form aloud and ask subjects to sign the form. If they refuse to sign, write "refused to sign" in the signature area.

For refusals, sign the form in the presence of a Notary and have them Notarize it. Since DA's will want proof of the refusal, they will also want a copy with the report.

NOTE: If subjects decide to submit to a test within a reasonable time frame, it should be allowed. A reasonable time frame would be prior to their leaving your immediate observation during the arrest processing.

If a subject initially refuses the Intoxilyzer test, we recommend going through the data entry process and waiting the 15 minutes until the test is called for. Offer the test again. The subjects comply about 50% of the time. If they still refuse, you can print a hardcopy of the refusal for evidentiary purposes.

Copy of DI-140 in the appendices

Law Enforcement Officer's Report to the Secretary of State (Form DI-27)

The second form is the Law Enforcement Officer's Report to the Secretary of State. This form is used by that office to initiate administrative actions against the drivers' license. The officer must write a brief statement of probable cause on the form and staple a copy of the arrest report to the form. If the subject refuses the breath test, send the Refusal form along with your report.

NOTE:

As with the duty to submit, this form must be signed in the presence of and be signed by a Notary Public. This form is only sent to the Secretary of State, Bureau of Motor Vehicles.

If the subject requests a hearing, you will be subpoenaed as a witness to testify about your probable cause to arrest.

Statement of Probable Cause

"My basis for probable cause is contained in the attached copy of the OUI report, the contents of which are based on knowledge and information that I believe to be true and are incorporated herein by reference and are subject to my undersigned oath".

Copy of DI-27 in the appendices

WHAT OFFICERS CAN EXPECT AT BMV HEARINGS

Dress and Demeanor

1. A tie or uniform is not required, although recommended.
2. Be prompt and prepared for the hearing.
3. Be sure to use titles and surnames when testifying.

Report Writing

1. Outline vs. long report
2. Incorporation by reference

> "My basis for probable cause is contained in the attached copy of the OUI report, the contents of which upon knowledge and information that I believe to be true, are incorporated herein by reference and are subject to my undersigned oath."

Testifying

1. General:

    1) Review your report and all pertinent Intoxilyzer reports before the hearing starts. Be able to define any exception messages that appear on the Intoxilyzer printout .
    2) The use of notes during the hearing is permitted.
    3) Your preparation will bear on your credibility.
    4) If an objection is raised, stop talking and wait for instructions from the Hearings Examiner.
    5) Some participants to the hearing may be sequestered.
    6) Hearsay evidence may be admissible if it is reliable but cannot be the sole decision-making point.

2. Direct:
    1) Be prepared to provide a narrative statement.
    2) The reason to stop the vehicle may not be applicable unless it is specific to the OUI.
    3) Make and testify to observations beyond Field Sobriety Tests.
    4) Use common sense when testifying to FST's.
    5) In order to utilize SFST training you must have completed the training. You must be able to explain, demonstrate and interpret the SFST process.
    6) When does your probable cause end?
    7) When is implied consent required ?
    8) When are other witnesses necessary ?
        - Witness to operation (when there's no admission).
        - Intoxication of operator (if fail to complete test).
    9) Oral exam questions may or may not be admitted depending on issues contested.

3. Cross Exam:

    1) Answer only the questions asked.
    2) Show confidence in your responses.
    3) Don't embellish, stretch or exaggerate during testimony.
    4) Don't rush your testimony, think about your answer before replying.
    5) Don't argue with counsel during testimony.
    6) Be patient when testifying.
    7) Let the attorney finish asking the question before you answer.
    8) If your answers are not clear, correct or explain them properly during redirect.

Close

1. You don't get a turn to close.
2. Don't be alarmed.

Do's and Don'ts

Do prepare for your hearing.
Do use notes when needed.
Do limit testimony to relevant areas.
Do testify to observations beyond FST.
Do use common sense when administering FST.
Do know basis for HGN decision.
Do be patient, calm.
Do answer only what asked on cross exam.
Do offer follow up on redirect (if needed).
Do speak up for clarity of the record.
Do use proper names and titles on record.
Do call if you will be late or can't attend.

Don't lose composure.
Don't argue with counsel.
Don't embellish, exaggerate or stretch to make a point.
Don't rush answers.
Don't talk while others are talking.
Don't offer information beyond what is asked unless it is important to your case.
Don't talk to the Hearings Examiner about the case before the hearing or if a decision is pending.

You may take notes during the hearing.
You may refer to your report.
You may leave after your testimony with the permission of Hearings Examiner.

Request a transcript of the hearing. The District Attorney will want it. The Defense Attorney will use it to attempt to impeach your testimony at trial.

The following are suggestions to improve your chance of a successful BMV Hearing and eventually a trial

Roadside Investigation

1) Don't forget to explicitly ask "were you driving?/ who was driving?" If you didn't make the stop, or driver is already by side or road or in a parking lot, or you locate them at home after an incident, don't forget to ask suspected driver "when did you drive? How long have you been here?" Ask any passengers or other witnesses as well to establish operation. What might seem obvious at the scene is not obvious in a hearing.

2) Don't forget to ask about drink history. Get a complete drink history, especially last drink. "What did you drink? When was your last drink? Have you had anything to drink since driving?"

3) Before doing HGN, don't forget to ask if the person has taken any medications, has any injuries or medical conditions.

Observation period/ testing

1) MOUTH CHECK AT BEGINNING. Do not forget to do mouth check at the beginning of the observation period.

2) FULL 15 MINUTES. If the observation period is 14 minutes and 59 seconds, BMV will dump the case.

3) Use the Intoxilyzer clock for the start and timing of the observation period – your watch may not be the same.

4) Do not start the 15-minute observation period until you arrive at the Intoxilyzer site and have completed the mouth check.

5) Do not leave the room during the observation period. During the observation period, the officer must be positioned to observe the subject to ensure there are no actions that could compromise the validity of the test.

6) If you are in doubt that the observation was done properly, start a new observation period beginning with a mouth check.

7) Do not switch mid-observation to another officer.

8) Be familiar with Intoxilyzer exception messages. When in doubt about an exception message during a test, it's safer to re-start, with a mouth check and do the full 15 minutes over again. This will end up being less time than trying to explain it later.

Refusal cases

1) When someone declines to take a test, or asks what the consequences are, read the Implied Consent form verbatim. Do not give any advice outside of that.

2) Make simple notes on the sheet (checkmark, initials, what the person says) after reading each paragraph. After reading it, make sure to ask them one more time if they will take a test.

3) Ask them to sign the form. If they refuse to sign, write "refused to sign."

4) If they were asked to do a breath test, and they refuse, do not then offer them a blood test. Only ask them to take a blood test if that is the type of test you need anyway.

Report writing

1) Check your report against any audio/video.

2) If you do a mouth check, write it in your report.

3) Avoid cut & paste from prior reports. If references to other incidents or other people show up in your report, the report will lose credibility.

Testimony

1) Be prepared. Review your report before the hearing. Do not simply read the report out loud during testimony. (In a BMV hearing, you should have it with you, and if you need to refresh your memory, simply ask "May I review my report?" and then testify.)

2) Review relevant video. It is strongly recommended in preparing for a hearing to re-watch at least the observation period if it's recorded, to confirm that the mouth check was done and there were no unusual events or interruptions.

3) Remember your role as a witness for the state, you are not a party who can make objections to questions or make a legal argument.

4) Answer the question that is asked. If it is unclear, ask for a clarification.

5) Do not speculate. If you don't know the answer, just say "I don't know."

6) During cross-examination, it is a mistake to argue with a defense lawyer, or to say, “that’s not relevant.” If in doubt, calmly ask the hearings examiner if you need to answer the question, or ask the hearings examiner, “may I have a chance to respond to this more fully?” Keep in mind that hearings examiners know how to filter out irrelevant information, they are not like jurors. If a hearings examiner wants clarification, she or he will recall you for direct testimony after the cross-examination or may interrupt the defense lawyer with their own questions.

7) It’s a mistake to agree with a defense lawyer that “if it’s not in the report, it didn’t happen.” If you honestly can’t remember anything outside the report, say so. But don’t agree categorically that only things in the report can be considered. You may have left something out, but you remember it happening that testimony is evidence for a hearings examiner to consider.

8) Be ready to explain your training on how to conduct SFSTs.

WHAT OFFICERS CAN EXPECT AT OUI TRIALS

Testimony and Discovery

Be aware of changing discovery rules and what you must provide the District Attorney for trial. The MCJA processes over 900 Freedom of Access Act requests annually from defense attorneys looking at your training records for Breath Testing Device certification and SFSTs.

Video and audio recordings that you make of the defendant are discoverable. Trials are still being lost because the officer did not perform SFST's correctly or did not perform a proper observation period before or throughout the entire breath testing procedure.

- Do not start the 15-minute observation period until you arrive at the Intoxilyzer site and have completed the mouth check.
- Do not leave the room during the observation period. During the observation period, the officer must be positioned to observe the subject to ensure there are no actions that could compromise the validity of the test.
- If you are in doubt that the observation was done properly, start a new observation period beginning with a mouth check.

Jury Waived Trials

Routine case – All you need is the arresting officer:

1. Where was the instrument located?
2. How far was the instrument from the point of arrest?
3. How long did it take to reach the instrument?
4. What is the common name for the instrument?
5. Did this instrument bear a stamp of approval from the Department of Human Services?
6. What was the date of the stamp?
7. Who operated the instrument?
8. Explain the process to obtain and renew your Breath Testing Device Operator certification.
9. Was an observation period conducted before the test, and if so, describe what you were looking for during the observation period. For this test, were any prohibitions observed that could compromise the validity of the test.
10. Did you observe the test being taken?

11. Did the defendant blow a breath sample into the instrument?
12. Did the BTD instrument print any exceptions messages and if so, please explain what they indicate.
13. Did the instrument produce a hard copy numerical result after the defendant blew a breath sample?
14. Introduce: The Operator BTD Certification card from the Maine Criminal Justice Academy
15. Introduce: The test result signed and sworn to by the certified operator

Jury Trials
All Cases

Arresting Officer

State Chemist

Local Breath Testing Device (BTD) Site Coordinator – (extremely rare)

Actual BTD Operator

Arresting Officer

1. Where was the instrument located?
2. How far was the instrument from the point of arrest?
3. How long did it take to reach instrument?
4. What is the common name for the instrument? (I-8000)
5. Who operated the BTD ?

State Chemist

Local BTD Site Coordinator

1. How are you employed?
2. How long have you worked for the _____ police department?
3. What prior law enforcement officer experience do you have?

   NOTE: Determine if he or she has any before asking the question.)
4. Did you receive training in the operation of the BTD instrument?

   Where? When?
5. Any other training in the use of the BTD?

   (Check with officer beforehand. The officer may be qualified to teach LEO

about operating the BTD.)

6. As part of your job with the _____ police department, are you the site coordinator for the BTD instrument?

7. Did you receive any additional training that qualifies you as the site coordinator for the BTD instrument?

8. What are your responsibilities as the site coordinator?

   - Periodic checks to be sure instrument is functioning properly?
   - Do you change the .09 simulator solution or dry gas container as necessary?
   - Where do you get the .09 solution or dry gas from?
   - Are the bottles sealed when you receive them from the State Lab (HETL)?
   - Is the solution bottle labeled as "Approved by the HETL?"?
   - Do you maintain an in-house Site Log?
   - Do you have authority to take the instrument out of service if it is not operating properly?
   - What is the procedure if an issue with the BTD is detected?

9. Which model BTD instrument does the department use?

10. Does the department's BTD instrument have a current and valid DHHS seal affixed to it?

Note: **Intoxilyzer DHHS Stamp of Approval**

29-A M.R.S.A. § 2524(5) provides that "approved breath-alcohol testing apparatus must have a stamp of approval affixed by DHHS after periodic testing. That stamp is valid for no more than one year."

§ 2524(6) provides that "DHHS shall establish, by rule, the procedures for the operation and testing of testing apparatus."

"Rules Governing Self-Contained Breath Alcohol Testing Equipment." § 1(D) provides that "Each instrument will be retested by a chemist of the HETL at least once semi-annually. A new stamp of approval will be affixed to the instrument with the test date placed thereon."

Note: Site coordinator testimony is controlled by State v. Tozier (2015 ME 57);

11. Discuss the operating history of this Instrument.

12. Describe how a test is conducted.

13. Refer to your records to see how the instrument was functioning during the week of the defendant's test. M.R.Evid 803(b). Records of regularly conducted business.

14. Did you form an opinion as to the operating condition of the instrument during the week in question?

15. What was that opinion?

BTD Operator

1. Do you qualify as an operator?
2. List your formal BTD training – Maine Criminal Justice Academy, successful completion of certification and explain the process for re-certification of the certificate.
3. Give a history of your practical use with the BTD.
4. Discuss the operating procedures of the BTD.
5. How were you trained to set up the instrument for a breath test?
6. Direct the operator's attention back to the date of the arrest.
7. Preparation of the instrument for the test:

    a. Was an observation period conducted before the test, and if so, describe what you were looking for during the observation period. For this test, were any prohibitions observed that could compromise the validity of the test.

    b. Did you set up the instrument for a test and How? As you had been trained to do so?

    c. Did you reach an opinion as to the operating condition of the instrument?

    d. What was that opinion?

8. Did you operate the instrument while the defendant blew a breath sample?
9. Did the defendant blow properly?
10. How long after the arrest was this breath sample taken?
11. Did the BTD produce a reading after the defendant completed blowing their breath sample?
12. Were there any exception messages and, if so, what do they mean and what did you do about them?
13. What was that reading?

Section 8 – Appendices

SUBJECT TEST SAMPLES

John A. Doe male DOB: 01-01-1980
(TST) = TR

Jane Doe female DOB: 01-01-1995
(TST) = TR

Jane has no middle initial and is a REFUSAL on the second breath sample *

CALIBRATION TEST

Wet bath calibration check is no longer required for Certification and Re-certification practicals.

The calibration check on the I-8000 can be accessed by tapping the escape key twice , choose "C" for calibration and accept the preset values by pressing "enter" each time at the preset values until the instrument begins the first air blank. When the calibration check is complete the operator will have to choose the number of copies they want printed. Choose one (1) in most situations.

Insert DI 27

Insert DI 140

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