**STATE OF MAINE**

**SELF-CONTAINED BREATH ALCOHOL**

**TESTING EQUIPMENT RULE**

**10-144 CODE OF MAINE RULES**

**Chapter 269**



**Department of Health and Human Services**

**Maine Center for Disease Control and Prevention**

**Last Amended:** August 27, 2024

**SECTION 1. PURPOSE**

This rule implements the procedures related to the testing of the testing apparatuses used in laboratories certified by Maine’s Department of Health and Human Services. (29-A MRS § 2524(6)). All self-contained breath alcohol testing equipment must be approved by the U.S. Department of Transportation as stated in the Federal Register (49 CFR Part 40) and the State of Maine, Department of Health and Human Services (Department). Each instrument must be tested and approved by the Department’s Health and Environmental Testing Laboratory (HETL), established in accordance with 22 MRS § 565, and retested and re-approved semi-annually. Certain procedures are specified for calibration checks and use of self-contained breath alcohol testing equipment.

**SECTION 2. 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 wet bath simulator or dry gas standard must be provided for use with each instrument.
2. The accuracy and sensitivity of the equipment must produce 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 instrument produces results accurate within the limits of the performance requirements of the Department as specified in Section 2(B) above and will be indicated by affixing to the instrument a label with the test date placed thereon, 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 label 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, (see Section 2(B) above), 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.

**SECTION 3. PROCEDURES**

* 1. A calibration check must be run for each subject tested.
	2. For each subject tested, a complete breath-alcohol test must consist of two separate breath samples which result in determinations of breath-alcohol concentration which agree within ± 0.02g/210L.
	3. If the first two breath sample results on the subject do not agree within ± 0.02g/210L, subsequent samples must be taken until two tests fall within the prescribed limits. If after four separate breath sample results are taken, no two 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 wet bath solution or dry gas standard required by each agency for calibration checks.

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

EFFECTIVE DATE:

 November 15, 1978

AMENDED:

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 October 17, 1988

EFFECTIVE DATE (ELECTRONIC CONVERSION):

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AMENDED:

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