



6.0 Idaho Standard Operating Procedure

Breath Alcohol Testing

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**Idaho State Police
Forensic Services**

Glossary

Approved Vendor: A source/provider/manufacture of an approved standard shall be explicitly approved as a vendor of premixed alcohol simulator solutions or dry gas alcohol cylinders for distribution within Idaho.

Breath Alcohol Test: A series of separate breath samples provided during a breath testing sequence.

Breath Alcohol Testing Sequence: A sequence of events as determined by the Idaho State Police Forensic Services, which may be directed by either the instrument or the Operator, but not both, and may consist of air blanks, performance verification, internal standard checks, and breath samples.

Breath Testing Specialist (BTS): An individual who has completed an advanced training class approved by the Idaho State Police Forensic Services. BTS certification is valid for 2 years.

Certificate of Analysis: A certificate stating the standards used for performance verification have been tested and approved for use by the ISPFS.

Certificate of Approval: A certificate stating that an individual breath alcohol testing instrument has been evaluated by the ISPFS and found to be suitable for forensic alcohol testing. The certificate bears the signature of an Idaho State Police Forensic Services Lab Manager, and the effective date of the instrument approval.

Changeover Class: A training class for currently certified personnel during which they are taught theory, operation, and proper testing procedure for a new make or model of instrument being adopted by their agency. Breath Testing Specialists attend BTS training that qualifies them to perform BTS duties related to the instrument.

Evidentiary Test: A breath test performed on a subject/individual for potential evidentiary or legal purposes. A distinction is made between evidentiary testing and community service or training tests performed with the instrument.

Idaho State Police Forensic Services (ISPFS): Formerly known as the Bureau of Forensic Services, the ISPFS is dedicated to providing forensic science services to the criminal justice system of Idaho. ISPFS is the administrative body for the breath alcohol testing program per IDAPA 11 03 01.

MIP/MIC: An abbreviation used to designate minor in possession or minor in consumption of alcohol.

Operator Certification: The condition of having satisfied the training requirements for administering breath alcohol tests as established by the ISPFS. Operator certification is valid for 2 years.

Operator: An individual certified by the ISPFS as qualified by training to administer breath alcohol tests.

BTS/Operator Class: An ISPFS-approved training class for prospective or uncertified breath alcohol Operators/Breath Testing Specialists.

Performance Verification: A verification of the accuracy of the breath testing instrument utilizing a performance verification standard. Performance verification should be reported to three decimal places. While ISPFS uses the term performance verification, manufacturers and others may use a term such as "calibration check" or "simulator check."

Performance Verification standard: An ethyl alcohol standard used for field performance verifications. The standard is provided by and/or approved by ISPFS.

Recertification Class: A training class for currently certified personnel, completion of which results in uninterrupted continuation of their Operator or BTS status for an additional 2 years.

Waiting Period/Monitoring Period/Deprivation Period/Observation Period: time period prior to administering a breath alcohol test, in which an officer monitors the test subject/individual.

Breath Alcohol Standard Operating Procedure List of Revisions

<u>SOP Section</u>	<u>Topic</u>	<u>Date of Revision</u>
2	Delete reference to ALS	June 1, 1995
2	0.02/0.20 solutions	June 1, 1995
3.2.1	Valid breath tests	October 23, 1995
2.1	Alco-Sensor calibration checks	May 1, 1996
2.2	Intoxilyzer 5000 Calibration Checks Effective June, 1996	May 1, 1996
2.1.2	0.003 agreement	June 1, 1996
2.1.2	Operators may run calibration checks	July 1, 1996
2.1.2	Re-run a solution within 24 hours	September 6, 1996
2.1	All 3 solutions run within a 24-hour period	September 6, 1996
2	All 3 solutions run within a 24-hour period	September 6, 1996
2.1.2	Re-running of a solution	September 26, 1996
2.1	All solutions run within a 48-hour period Reference to "three" removed	September 26, 1996 Oct. 8, 1996
2	All 3 solutions run within a 48-hour period	September 26, 1996
2	More than three calibration solutions	October 8, 1996
2	Solution values no longer called in to BFS	April 1, 1997
2.1	Alco-Sensor and Intoxilyzer 5000 calibration check	August 1, 1998
2.2	Calibration checks for the Intoxilyzer 5000	February 11, 1999
	Name change, all references made to the Bureau of Forensic Services were changed to Idaho State Police Forensic Services.	August 1999
1.6	Record Management	August 1, 1999
2	Deleted sections on relocating, repairing, recalibrating, and loaning of instruments from previous revision.	August 1, 1999

1.2, 2.1, 2.2 3	Alco-Sensor and Intoxilyzer 5000 calibration checks Deleted sections on blood and urine samples for alcohol determination	August 1, 1999 August 1, 1999
1.6	Operator certification record management	January 29, 2001
1.2, and 3 2.1, 2.2	Reformat numbering Requirement for running 0.20 simulator solution	August 18, 2006
2.2.1.1.2.2	Changed 3-sample to “two print cards”.	November 27, 2006
2.2.1.1.2.2 2.1.2.1 and 2.2.4	Deleted “simulator port” and “two print cards”. Simulator temperature changed from “should” to “must”.	May 14, 2007 May 14, 2007
2.2.1.1.2.2	Clarification of 0.20 calibration checks.	September 18, 2007
1.2	Added the Lifeloc FC20	February 13, 2008
1.5	Deleted requirement that the new instrument utilize the same technology if the BTS is currently certified	February 13, 2008
2	Modified the accepted range for simulator solutions to +/- 10%, eliminating the +/- 0.01 provision. Added “Established target values may be different from those shown on the bottle label”	February 13, 2008
2.2	Added Lifeloc FC20 calibration checks Intoxilyzer 5000 calibration is now section 2.3	February 13, 2008
2.	Modified to specifically allow use of the 0.20 during subject testing	February 13, 2008
Sections 1, 2, 3	General reformat for clarification. Combined Alcosensor and Lifeloc sections. Specifically, changed calibration requirement using the 0.20 reference solution from four (4) checks to two (2).	December 1, 2008
2.1.4, 2.2.3, 2.2.4, 2.2.5 And 2.2.10	Clarification: a “calibration check” consists of a pair of samples in sequence and both samples must be within the acceptable range before proceeding with subject testing. A 0.20 solution should be replaced every 20-25 samples. Clarified the correct procedure for performing a calibration check.	January 14, 2009
2.1.3, 2.1.4.1, 2.1.9	Clarification: Added “ <i>before and after</i> ” to the 0.08 and 0.20 calibration checks, within 24 hours of a subject test. The official time and date of the calibration check is the time and date recorded on the printout, <i>or the time and date recorded in the log, whichever corresponds to the calibration check referenced in section 2.1.3 or 2.1.4.1.</i>	July 7, 2009

History Page

Revision #	Effective date	History
0	8/20/2010	The entire SOP was rewritten to incorporate language changes regarding performance verifications, and to clear-up ambiguities associated with the 0.20 verification and the relevance to cases not involving an 18-8004C charge. Scope and safety sections were added. Troubleshooting, MIP/MIC sections added.
1	8/27/2010	Deletions and/or additions to sections 2, 4.3.3, 4.4.1, 4.4.3, 4.4.5, 4.6.1.1, 5.1.2, 5.1.4, 5.1.4.1, 5.1.5, 5.2.4, 5.2.5, 6, 6.2.1, 6.2.3, 6.2.4, 7, 7.1, 7.1.1, 7.1.2, 7.1.2.2, 7.1.3, 7.1.4, 7.1.5, 8.
2	11/01/2010	Section 6.2 clarified for instrument specificity, added sections 6.2.2.3, 6.2.2.3.1 and 6.2.2.4, added section 8.0 for the MIP/MIC procedure, clarified section 5.1.3 for the use of 0.20 solutions, renamed document to 6.0
3	4/23/2012	Section 5.0 modified to better reflect current practices and be in agreement with AM 1.0 for certification of premixed solutions. Updated 5.2.5 to clarify performance verifications.
4	1/16/2013	Changes were made to sections: Glossary, Scope, Safety, 4.3, 4.3.3, 4.4, 4.4.1, 4.4.4, 5, 5.1.2, 5.1.4, 5.1.4.1, 5.1.5, 5.2.4, 5.2.5, 5.2.10, 6.1.2, 6.1.4, 6.1.4.1, 6.1.4.2, 6.2.1, 6.2.2.3, 6.2.2.3.1, 6.2.2.4, 7.1.1. Sections 4.4.3.1, 5.1.4.2, 5.2.4.1, 6.2.4.1 and 5.1.2.1 were added.
5	8-20-13	Changes were made to sections: Glossary, 2, 3, 4, 4.3, 4.3.1, 4.3.4, 4.4, 4.4.1, 4.4.2, 4.4.3, 4.4.3.1, 4.4.5, 4.5.1, 4.5.2, 5, 5.1.2.1, 5.1.3.1, 5.1.3.2, 5.1.4.1, 5.1.4.2, 5.1.4.3, 5.1.9, 6.1, 6.1.3, 6.1.4.1, 6.1.4.2, 6.1.4.3, 6.2, 6.2.1, 6.2.2.1, 6.2.2.2, 6.2.4, 8.1, 8.3, 8.3.1, and 8.3.2.1

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1 ***Quantitative Analysis for Alcohol in Breath by Approved Breath Testing Instruments.***

2 **Scope**

This method describes the Idaho State Police Forensic Services (ISPFS) procedure, for use by agencies external to ISPFS, for the analysis of breath for the presence of volatile compounds using an approved breath testing instrument. This method provides for the quantitative analysis of ethanol.

Following all the recommendations of this external procedure will establish the scientific validity of the breath alcohol test. Failure to meet all of the recommendations within this procedure does not disqualify the breath alcohol test, but does allow for the questioning of the breath alcohol tests as it pertains to its foundation of admissibility in court. The foundation can be set, through testimony, by a Breath Testing Specialist expert or ISPFS expert in breath testing as to the potential ramifications of the deviation from the procedure as written.

3 **Safety**

Within the discipline of breath alcohol testing, the general biohazard safety precautions should be followed. This is due to the potential infectious materials that may be ejected from the mouth during the sampling of the breath. Caution should be taken that the expired breath is not directed towards the officer or other unrelated bystander. Other hazards that may be present include, but are not limited to, the use of compressed gas cylinders, flammable alcohol solutions, or other volatile materials.

4 **Instrument and Operator Certification**

To ensure minimum standards are met, individual breath testing instruments, Operators, and Breath Testing Specialists (BTS) must be approved and certified by the Idaho State Police Forensic Services (ISPFS). The ISPFS will establish and maintain a list of approved instruments by manufacturer brand or model designation for use in the state.

4.1 **Approval of Breath Testing Instruments.** In order to be approved and certified each instrument must meet the following criteria:

4.1.1 The instrument shall analyze a reference sample or analytical test standard, the results of which must agree within +/- 10% of the target value or such limits set by ISPFS.

- 4.1.2 The certification procedures shall be adequate and appropriate for the analysis of breath specimens for the determination of alcohol concentration for law enforcement.
- 4.1.3 Any other tests deemed necessary to correctly and adequately evaluate the instrument to give accurate results in routine breath alcohol testing.
- 4.2 The ISPFS may, for cause, remove a specific instrument by serial number from evidential testing and suspend or withdraw certification thereof.
- 4.3 **Operators** become certified by completing a training class approved by ISPFS. Certification is for 2 calendar years. Certification will allow the Operator to perform all functions required to obtain a valid breath alcohol test. It is the responsibility of the individual Operator to maintain their current certification; the ISPFS may not notify Operators that their certification is about to expire.
- 4.3.1 Recertification for another 2 year period is achieved by completing an ISPFS approved Operator class prior to the end of the 2 years
- 4.3.2 If the individual fails to satisfactorily complete the class (including the written and practical tests), or allows their certification status to expire, he/she must retake the Operator class in order to become certified.
- 4.3.3 If current Operator certification is expired, the individual is not approved to run evidentiary breath alcohol tests on the instrument in question until the Operator class is completed.
- 4.3.3.1 There are no grace periods or provisions for extension of Operator certification
- 4.3.4 The Idaho State Police Forensic Services may revoke Operator certification for cause. Examples of what may constitute grounds for revocation may include falsification of records, failure to perform required performance verification, failure to successfully pass an Operator recertification class and failure to meet standards in performance of proficiency tests.
- NOTE:** Individuals certified under previous revisions of this SOP (before August 16, 2013) remain under the expiration dates specified in those SOPs. Specifically, issued cards with expiration dates of "the last day of the 26th month following their certification" will be valid until the expiration of that issued card. After July 1, 2013 all certificates are issued online by ISPFS with a two year expiration date.*
- 4.4 **Breath Testing Specialists (BTS)** are **Operators** who have completed an advanced training class and are ISPFS-certified to perform routine instrument maintenance, teach instrument operation skills and proctor proficiency tests for instrument Operators.

4.4.1 BTS certification is obtained by completing an approved BTS training class.

NOTE: The prior Operator status on a particular instrument requirement is waived for new instrumentation.

4.4.2 BTS Certification is valid for 2 years.

4.4.3 If BTS certification is allowed to expire, he/she may no longer perform any BTS specific or Operator duties relating to that particular instrument.

4.4.3.1 BTS specific duties entail the teaching of Operator skills, proctoring of proficiency tests for Operators, and testifying as experts on alcohol physiology and instrument function in court.

4.4.4 BTS certification is renewable by completing an approved BTS training class.

4.4.5 The Idaho State Police Forensic Services may revoke BTS certification for cause. Examples of what may constitute grounds for revocation may include falsification of records, failure to perform required performance verification, failure to successfully pass a BTS recertification class and failure to meet standards in conducting Operator training and proctoring proficiency tests.

NOTE: Individuals certified under previous revisions of this SOP (before August 16, 2013) remain under the expiration dates specified in those SOPs. Specifically, issued cards with expiration dates of "the last day of the 26th month following their certification" will be valid until the expiration of that issued card. After July 1, 2013 all certificates are issued online by ISPFS with a two year expiration date.

4.5 **Adoption of a new instrument** by an agency will require updating any BTS and Operators in that agency in the use of the new instrument.

4.5.1 A currently certified **BTS** may become a certified BTS for a new instrument by completing an ISPFS approved BTS Instrumentation class and proficiency test using the new instrument.

4.5.2 A currently certified **Operator** may certify on a new instrument by completing an ISPFS approved Operator Instrumentation Class and proficiency test using the new instrument.

4.5.3 Individuals not currently certified as **Operators** must complete an Operator Class for each approved instrument.

4.6 **Record maintenance and management.** It is the responsibility of each individual agency to store performance verification records, subject records, maintenance records, instrument logs, or any other records as pertaining to the

evidentiary use of breath testing instruments and to maintain a current record of Operator certification.

4.6.1 It is the responsibility of the agency to see that the said records are stored and maintained a minimum of (3) years in accordance with IDAPA 11.03.01.

4.6.1.1 Records may be subject to periodic audit by the Idaho State Police Forensic Services.

4.6.2 The Idaho State Police Forensic Services will not be responsible for the storage of such records not generated by ISPFS.

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5. Performance Verification of Breath Testing Instruments

Performance verifications aid Operators, the Breath Testing Specialist (BTS) and the Idaho State Police Forensic Services (ISPFS) in determining if a breath testing instrument is functioning correctly. Performance verifications are performed using a performance verification standard. The standard is provided by and/or approved by ISPFS. The certificate of analysis confirms the target value and acceptable range of the standards used for the verification and includes the acceptable values for each standard. Note: The ISPFS confirmed target values should be taken directly from the Certificate of Analysis for each standard lot and not from the bottles/cylinders.

5.1 Alco-Sensor and Lifeloc FC20–Portable Breath Testing Instrument Performance Verification

5.1.1 The Alco-Sensor and Lifeloc FC20 portable breath testing instrument performance verification is run using approximately **0.08** and/or **0.20** performance verification standards provided by and/or approved by ISPFS.

5.1.2 The performance verification using the 0.08 and 0.20 performance verification standards consist of two samples.

5.1.2.1 For the Lifeloc FC20, the performance verifications can be obtained using either the appropriate screen located in the calibration menu, or they can be performed as a regular test using the test sequence or non-sequence data acquisition modes.

5.1.3 A performance verification of the Alco-Sensor and Lifeloc FC20 instruments using a 0.08 or 0.20 performance verification standard must be performed within 24 hours, before or after, an evidentiary test to be approved for evidentiary use. Multiple breath alcohol tests may be covered by a single performance verification. Reference 5.1.4.1 for clarification on the use of the 0.20 standard in this capacity.

5.1.3.1 A wet bath 0.08 performance verification standard should be replaced with fresh standard approximately every 25 verifications or every calendar month, whichever comes first.

5.1.3.2 A 0.08 dry gas performance verification standard should not be used beyond its expiration date and does not need to meet the requirements set forth in 5.1.3.1.

5.1.4 A 0.20 performance verification should be run and results logged once per calendar month and replaced with fresh standard approximately every 25 verifications or until it reaches its expiration date, whichever comes first

NOTE: The 0.20 performance verification was implemented for the sole purpose of supporting the instruments' results for an 18-8004C charge. Failure to perform a monthly 0.20 performance verification will not invalidate tests performed that yield results at other levels or in charges other than 18-8004C.

5.1.4.1 A 0.20 dry gas performance verification standard should not be used beyond its expiration date and does not need to be replaced in accordance with the schedule set forth in 5.1.4.

5.1.4.2 The 0.20 performance verification satisfies the requirement for performance verification within 24 hours, before or after, an evidentiary test at any level.

5.1.4.3 When a suspect provides a breath sample over a 0.20, the officer is **not required** to conduct a performance verification using a 0.20 solution, as long as a performance verification was conducted within 24 hours of the breath sample pursuant to 5.1.3 and a 0.20 performance verification has been performed pursuant to section 5.1.4.

5.1.5 Acceptable results for a 0.08 or 0.20 performance verification is a pair of samples in sequence that are both within +/- 10% of the performance verification standard target value. Target values and ranges of acceptable results are included in a certificate of analysis for each standard lot series, available from the ISPFS.

NOTE: Due to external factors associated with changing a performance verification standard the results of the initial performance verification may not be within the acceptable range, therefore the performance verification may be repeated until a pair of satisfactory results is obtained. However, if results after a total of three test series for any standard (equivalent to six tests) are still unsatisfactory, contact the appropriate ISPFS Laboratory. The instrument should not be used for evidentiary testing until the problem is corrected and performance verification results are within the acceptable range. The suggested troubleshooting procedure should be followed if the initial performance verification does not meet the acceptance criteria.

5.1.6 Temperature of the simulator must be between **33.5°C** and **34.5°C** in order for the performance verification results to be valid.

NOTE: The simulator may need to warm for approximately 15 minutes to ensure that the metal lid is also warm. If the lid is cold, condensation of alcohol vapor may occur, producing low results.

5.1.7 Performance verification standards should only be used prior to the expiration date.

- 5.1.8 An agency may run additional performance verification standard levels at their discretion.
- 5.1.9 The official time and date of the performance verification is the time and date recorded on the printout, or the time and date recorded in the log, whichever corresponds to the performance verification referenced in section 5.1.3 or 5.1.4.2.

5.2 Intoxilyzer 5000/EN Performance Verification

Intoxilyzer 5000/EN instruments must have a performance verification with each evidentiary test. If the performance verification is within the acceptable range for the lot of standard being used, then the instrument will be approved and the resulting breath samples will be deemed valid for evidentiary use.

- 5.2.1 Intoxilyzer 5000/EN performance verification is run using 0.08 and/or 0.20 performance verification standards provided by and/or approved by ISPFS.
- 5.2.2 During each evidentiary breath alcohol test using the Intoxilyzer 5000/EN, a performance verification will be performed as directed by the instrument testing sequence and recorded as SIM CHK on the printout. If the SIM CHK is not within the acceptable range for the standard lot being used, the testing sequence will abort and no breath samples will be obtained.
- 5.2.3 A two sample performance verification using a **0.08 performance verification standard** should be run and results logged each time a standard is replaced with fresh standard (this is not a requirement but only a check that the instrument is connected correctly prior to an evidentiary test being performed). A 0.08 performance verification standard should be replaced with fresh standard approximately every 100 samples or every calendar month, whichever comes first.
- 5.2.4 A 0.20 performance verification should be run and results logged once per calendar month and replaced with fresh standard approximately every 25 verifications or until it reaches its expiration date, whichever comes first.

NOTE: The 0.20 performance verification was implemented for the sole purpose of supporting the instruments' results for an 18-8004C charge. Failure to perform a monthly 0.20 performance verification will not invalidate tests performed that yield results at other levels or in charges other than 18-8004C.

- 5.2.4.1 When a suspect provides a breath sample over a 0.20, the officer is **not required** to conduct a performance verification using a 0.20 solution, as long as a performance verification was conducted pursuant to 5.2.2.
- 5.2.5 Acceptable results for an independent 0.08 or 0.20 performance verification, which is not performed during a breath testing sequence, are a

pair of back-to-back samples that are both within +/- 10% of the performance verification standard target value. Performance verifications that are performed during a breath testing sequence are acceptable with a single test result within +/- 10% of the standard target value. Target values and ranges of acceptable results for each standard lot series are included in a certificate of analysis available from, the ISPFS.

NOTE: Due to external factors associated with changing a performance verification standard the results of the initial performance verification may not be within the acceptable range, therefore the performance verification may be repeated until a pair of satisfactory results is obtained. However, if results after a total of three test series for any standard (equivalent to six tests) are still unsatisfactory, contact the appropriate ISPFS Laboratory. The instrument should not be used for evidentiary testing until the problem is corrected and performance verification results are within the acceptable range. Follow the suggested troubleshooting procedure if the initial performance verification does not meet the acceptance criteria.

- 5.2.6 The official time and date of the performance verification is the time and date recorded on the printout, or the time and date recorded in the log.
- 5.2.7 Performance verification standards should only be used prior to the expiration date.
- 5.2.8 Temperature of the simulator must be between **33.5°C** and **34.5°C** in order for the performance verification results to be valid.
- 5.2.9 An agency may run additional performance verification standard levels at their discretion.
- 5.2.10 The correct acceptable range limits and performance verification standard lot number should be set in the instrument before proceeding with evidentiary testing.

6. Evidentiary Testing Procedure

Proper testing procedure by certified Operators is necessary in order to provide accurate results. Instruments used in Idaho measure alcohol in the breath, not the blood, and report results as grams of alcohol in 210 liters of breath.

- 6.1 Prior to evidentiary breath alcohol testing, the subject/individual should be monitored for fifteen (15) minutes. Any foreign objects/materials which have the potential to enter the instrument/breath tube or may present a choking hazard should be removed prior to the start of the 15 minute monitoring period. During the monitoring period the subject/individual should not be allowed to smoke, drink, eat, or belch/burp/vomit/regurgitate.

NOTE: If a foreign object/material is left in the mouth during the entirety of the 15 minute monitoring period, any potential external alcohol contamination will come into equilibrium with the subject/individual's body water and/or dissipate so as not to interfere with the results of the subsequent breath alcohol test.

- 6.1.1 The breath alcohol test must be administered by an Operator currently certified in the use of the instrument.

- 6.1.2 False teeth, partial plates, bridges or comparable dental work installed or prescribed by a dentist or physician do not need to be removed to obtain a valid test (see above **NOTE** for clarification on foreign objects being left in the mouth).

- 6.1.3 The Operator may elect a blood test in place of the breath alcohol test if there is a failure to complete the 15 minute monitoring period successfully.

- 6.1.4 During the monitoring period, the Operator should be alert for any event that might influence the accuracy of the breath alcohol test.

- 6.1.4.1 The Operator should be aware of the possible presence of mouth alcohol as indicated by the testing instrument. If mouth alcohol is suspected or indicated, the Operator should begin another 15-minute monitoring period before repeating the testing sequence.

- 6.1.4.2 If, during the 15-minute monitoring period, the subject/individual vomits or regurgitates material from the stomach into the subject/individual's breath pathway, the 15-minute monitoring period should begin again.

- 6.1.4.3 If there is doubt as to the events occurring during the 15 minute monitoring period, the officer should look at results of the subsequent breath samples for evidence of potential alcohol contamination. For clarification see section 6.2.2.2.

- 6.2 **A complete breath alcohol test includes two (2)** valid breath samples taken during the testing sequence and preceded by air blanks. The subsequent breath samples performed with a portable breath testing instrument should be approximately 2 minutes apart or more (for the ASIII's and the FC20's). Refer to section 6.2.2.2.

NOTE: A deficient or insufficient sample does not automatically invalidate a test sample.

- 6.2.1 If the subject/individual fails or refuses to provide a subsequent, adequate sample as requested by the Operator, the single test result shall be considered **valid**. Refer to 6.2.2.4 for further guidance.

6.2.1.1 The Operator may repeat the testing sequence as required by circumstances.

6.2.1.2 The Operator should use a **new mouthpiece** for each series of tests.

- 6.2.2 A third breath sample is required if the first two results differ by more than 0.02.

6.2.2.1 Unless mouth alcohol is indicated or suspected, it is **not** necessary to repeat the 15-minute monitoring period to obtain a third breath sample.

6.2.2.2 The results for subsequent breath samples should correlate within 0.02 to indicate the absence of alcohol contamination in the subject/individual's breath pathway, show consistent sample delivery, and indicates the absence of RFI as a contributing factor to the breath results.

6.2.2.3 In the event that all three samples fall outside the 0.02 correlation, and the officer suspects that mouth alcohol could have been a contributing factor, then they should restart the 15 minute observation period and retest the subject, or have blood samples drawn.

6.2.2.3.1 If the officer does not suspect that mouth alcohol was present, and that the sample variability was due to a lack of subject cooperation in providing consistent samples as requested, then the samples can be considered valid if all three samples are above the per se limit of prosecution.

6.2.2.4 If the breath sample(s) provided cannot establish a 0.02 correlation the officer may at their discretion elect to have a blood sample drawn for analysis in lieu of retesting the subject's breath alcohol concentration.

- 6.2.3 The Operator should log test results and retain printouts, if any, for possible use in court.
- 6.2.4 If a subject/individual fails or refuses to provide a subsequent, adequate sample as requested by the Operator, the results obtained are still considered valid by the ISPFS, **provided** the failure to supply the requested samples was the fault of the subject/individual and not the Operator.
- 6.2.4.1 Failure to provide a complete breath test due to the lack of 0.020 correlation in the samples provided needs to be clearly articulated that the lack of sample correlation was the fault of the subject and not of the instrument or of the samples themselves. The officer's observations of the subject need to be clear enough to explain any discrepancies. Refer to 6.2.2.2 for some examples of 0.020 correlation deficiencies.
- 6.2.5 If the second or third samples are lacking due to instrument failure, the Operator should attempt to utilize another instrument or have blood drawn.

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7. Troubleshooting Procedure

Proper testing procedure by certified Operators is necessary in order to provide accurate results.

- 7.1 Performance verification: If, when performing the periodic performance verification, the instrument falls outside the limits of the verification, the troubleshooting guide should be used.

NOTE: This is a guide for troubleshooting performance verifications outside the verification limits and the procedure is recommended to streamline and isolate the potential cause of the problem. Strict adherence to the guidelines is not required.

7.1.1 The three sources of uncertainty when performing the periodic performance verifications using a wet bath simulator are in the simulator setup and Operator technique, the simulator performance verification standard, and the instrument calibration itself.

7.1.2 If the first performance verification is outside the verification limits, the simulator setup and technique of the Operator performing the verification should be evaluated. The simulator should be evaluated to ensure that it is hooked up properly, uses short hoses, is properly warmed, is within temperature, the Operator blow technique is not too hard or soft, and that the Operator does not stop blowing until after the sample is taken.

7.1.2.1 The performance verification should be run a second time

7.1.2.2 If the performance verification is within the verification limits on the second try, the instrument passes the performance verification.

7.1.3 If the second performance verification is outside the verification limits, then the performance verification standard should be evaluated next.

7.1.3.1 The performance verification standard should be changed to a fresh standard.

7.1.3.2 The standard should be warmed for approximately 15 minutes, or until the temperature is within range, and the simulator lid is as warm as the simulator jar.

7.1.3.3 The performance verification may then be repeated.

7.1.4 If the third performance verification is outside the verification limits, the instrument must be taken out of service and sent to the ISPFS or an approved service provider.

7.1.5 Upon return from service, the instrument should be recertified by ISPFS before being put back into service.

7.2 Thermometers:

- 7.2.1 If a bubble forms in the thermometer, the Operator or BTS can place the thermometer in a freezer to draw the mercury (or equivalent) into the bulb of the thermometer. This should disperse the bubble.

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8. Minors in Possession/Minors in Consumption Procedure

Breath testing instruments certified by ISPFS are often used in investigating violations of Idaho Code § 23-949 (punishment set forth by I.C. § 18-1502) or Idaho Code § 23-604 (punishment set forth by I.C.18-1502), wherein a person under twenty-one (21) years of age is deemed to have possessed and consumed alcohol. Unlike the Driving Under the Influence statutes and their associations with per se limits of 0.08 and 0.20, a specific level of alcohol is not required to prove a violation of I.C. § 23-949 or § 23-604. There is no requirement that the State prove the person is impaired by alcohol. Rather, the presence or absence of alcohol is a determining factor for proving the offense. Therefore, there is a different standard operating procedure associated with this type of charge. The main purpose of the procedure outlined below is to rule out “mouth alcohol” as a potential contributing factor to the results given during the breath testing done for MIP/MIC cases.

- 8.1 15 minute observation period: The monitoring/observation period is not required for the MIP/MIC procedure. The subsequent samples, separated by approximately 2 minutes or more and within the 0.02 correlation, provide the evidence of consistent sample delivery, the absence of “mouth alcohol” as well as the absence of RFI (radio frequency interference) as a contributing factor to the results of the breath test.
- 8.2 MIP/MIC requirements:
 - 8.2.1 The breath alcohol test must be administered by an operator currently certified in the use of that instrument.
 - 8.2.2 The instrument used must be certified by ISPFS.
 - 8.2.2.1 The instrument only needs to be initially certified by ISPFS. Initial certification shows that the instrument responds to alcohols and not to acetone.
 - 8.2.2.2 The instrument used does not need to meet other requirements set forth in previous sections of this SOP. It does not need to be checked regularly or periodically with any of the 0.08 or 0.20 standards.
 - 8.2.3 False teeth, partial plates, or bridges installed or prescribed by a dentist or physician do not need to be removed to obtain a valid test.
 - 8.2.4 The officer should have the individual being tested remove all loose foreign material from their mouth before testing. The officer may allow the individual to briefly rinse their mouth out with water prior to the breath testing.

8.2.5 Any material containing alcohol left in the mouth during the entirety of the breath testing sampling could contribute to the results in the breath testing sequence. (For clarification refer to section 8.1)

8.3 Procedure:

A complete breath alcohol test includes two (2) valid breath samples taken from the subject and preceded by an air blank. The subsequent breath samples do not need to be consecutive samples. The individual breath samples should be 2 minutes or more apart, to allow for the dissipation of potential mouth alcohol contamination.

NOTE: A deficient or insufficient sample does not automatically invalidate a test sample.

8.3.1 If the subject/individual fails or refuses to provide a subsequent adequate sample as requested by the operator, the single test result will be considered **valid**.

8.3.1.1 The operator may repeat the testing sequence as required by circumstances.

8.3.1.2 The operator should use a **new mouthpiece** for each individual and for each series of tests (i.e. complete set of breath testing samples).

8.3.2 A third breath sample is required if the first two results differ by more than 0.02.

8.3.2.1 The results for subsequent breath samples should correlate within 0.02 to indicate the absence of alcohol contamination in the subject's breath pathway (mouth alcohol), show consistent sample delivery, and indicates the absence of RFI as a contributing factor to the breath results.

8.3.2.2 In the event that all three samples fall outside the 0.02 correlation, and the officer suspects that mouth alcohol could have been a contributing factor, then they should administer a 15 minute observation period and then retest the subject. If mouth alcohol is not suspected, then the officer may reinstruct the individual in the proper breath sample technique and retest the subject without administering a 15 minute observation.

8.3.3 The operator should manually log test results and/or retain printouts for possible use in court.

8.3.4 The instrument **should not** be in passive mode for the testing of subjects for the purposes of the previous sections.

8.4 Passive mode:

- 8.4.1 The passive mode of testing using the Lifeloc FC20 or ASIHI should be used for testing liquids or containers of liquid for the presence or absence of alcohol.
- 8.4.2 The passive mode can be used for screening purposes on individuals who are required to provide breath samples whenever requested by a law enforcement agency. Example may include but are not limited to: probationers, work release, parolees, prison inmates, etc.

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