



Meeting Minutes Nevada Interim Committee on Testing for Intoxication (COTI)

Attendance	DATE	October 3, 2022
	TIME	9:06 a.m.
	METHOD	Zoom Teleconference Meeting ID: 827 6694 3594 Dial in: +1 (301) 715-8592
	RECORDER	Meg Matta
Appointed Voting Members		
Shannon Bryant, Chair	Deputy District Attorney, Washoe County District Attorney's Office	X
Dr. William Anderson	Forensic Toxicologist, NMS Labs	X
Eric Bauman	Chief Deputy District Attorney, Clark County District Attorney's Office	X
Stephen Johnson	Supervising Criminalist, Washoe County Sheriff's Office Forensic Science Division	Abs.
Kim Murga	Executive Director, Las Vegas Metropolitan Police Department Forensic Laboratory	X
Others Invited		
David Astle		X
Marlissa Collins	Las Vegas Forensic Laboratory	X
David Johnson		X
Darby Lantz	Las Vegas Metropolitan Police Department Forensic Laboratory	X
Anastacia Melendy	Supervising Criminalist, Washoe County Laboratory	Abs
Rebecca Nelson	Washoe County Laboratory	X
Michael Stypa	Forensic Laboratory Supervisor, Las Vegas Metropolitan Police Department Forensic Laboratory	X
Terri Suffecool	Las Vegas Metropolitan Police Department Forensic Laboratory	X
Brad Taylor		X
Legal and Support		
Nathan L. Hastings	Senior Deputy Attorney General, State of Nevada / Office of the Attorney General – Transportation Division	X
Meg Matta	Impaired Driving Program Manager, Department of Public Safety, Office of Traffic Safety	X

1. **CALL TO ORDER** (Non-Action Item)
Mr. Bryant, Chair, opened the meeting at 9: 06 a.m.
2. **ROLL CALL, CONFIRM QUORUM, AND INTRODUCTIONS** (Non-Action Item)
Roll was taken, introductions were made, and a quorum was established.
3. **PUBLIC COMMENT** (Non-Action Item)
There was no public comment.
4. **INTOXILYZER 8000 OBSOLESCENCE** (Discussion / Non-Action Item)
Mr. Bryant opened the conversation by explaining that COTI has not actively met in three years and this Interim Committee has been appointed to focus on one problem: evidentiary breath testing in Nevada. He identified the problem with the CMI Intoxilyzer 8000 which is the approved evidentiary breath testing device in use across Nevada. The device has fallen into obsolescence due to the fact that CMI is no longer manufacturing them, and the replacement

parts are getting harder to find. At this point, Nevada is in danger of losing capacity to conduct evidential breath testing as units become broken and unrepairable.

Mr. Astle added that in a conversation with CMI in December of 2021, he was informed that they would not continue to sell the 8000 due to the unavailability of parts. While they are not out of instruments completely, at this point they have seven to eight instruments that are now unusable.

Ms. Lanz confirmed Mr. Astle's statement and said that in the Metro Lab, they are unable to find replacements for keyboards and are no longer able to find work-arounds or substitutions.

Mr. Baumann added that any case without an evidentiary test confirming impairment will not make it to the Clark County DA for prosecution.

Mr. Bryant established a consensus that this constituted a problem. None dissented.

5. **INTOXILYZER 9000 DISCUSSION** (Discussion / For Possible Action)

Mr. Bryant discussed the possibility of officially adopting the Intoxilyzer 9000. He stated that some of the disposable pieces, such as mouth pieces, are already in inventory and can be used with the 9000; and also that there are similarities between the two instruments and the learning curve will not be as steep. In accordance with NRS 484.388, the COTI approved list of evidential breath-testing devices for use in Nevada. In the list, last reviewed on April 4, 2012, the Intoxilyzer Model 8000 is listed as approved, but model 9000 is not included. However, the governing statute NRS 484C.610 2.(a) states that to "determine whether a device is designed and manufactured to be accurate and reliable for the purpose of testing a person's breath to determine the concentration of alcohol in the person's breath the Committee may: (a) Use the list of qualified products meeting the requirements for evidential breath-testing devices of the National Highway Traffic Safety Administration;" Intoxilyzer Model 9000 is included in the notices (Docket No. NHTSA-2017-0053) updating the Conforming Products List published in the Federal Register (77 FR 35747), and therefore meets the requirements to adopt use of the 9000 without taking time to test for reliability. Mr. Bryant concluded that the Intoxilyzer Model 9000 meets standards and proposed that for the sake of efficiency and expediency that model be approved by the Committee.

Mr. Astle commented that the Committee also should take into consideration the timing needs for acquisition, training and roll-out.

Mr. Johnson was absent for the vote, but provided the Chair with a statement of his approval for adopting the Model 9000 based on NHTSA's Conforming Products List as well as CMI's experience with the equipment.

Ms. Lanz stated her approval of adopting the Model 9000 but added that the big delay will be the interaction with CMI to get software written and validated. That response time will be the most important consideration; actual training of officers is secondary.

Mr. Bryant stated that purchase and training will be handled by a different governmental body. He then called for approval of adding the Model 9000 to the COTI list, and asked for any further comments.

Dr. Anderson asked if anyone had followed the use of the Model 9000 in the field.

Ms. Lanz replied that it has been in use in the field since 2013 or 2014 and there have been no negative reports that they are aware of.

Mr. Bryant commented that he has a close working relationship with Colorado's TSRP, who said that they have had no issues from the standpoint of prosecutions.

Ms. Murga added that she spoke with people in CMI and specifically asked them for a prediction on end of life for the Model 9000 or any announcements regarding termination. She was informed that they are not coming out with a new model.

ACTION:

Mr. Bryant moved to add the CMI Intoxilyzer Model 9000 to the Nevada Committee on Testing for Intoxication's list of approved evidentiary breath testing devices for use in this state.

Ms. Murga seconded the motion.

It was unanimously approved.

6. **PUBLIC COMMENT** (Non-Action Item)

There was no public comment.

7. **ADJOURNMENT** (Discussion / For Possible Action)

Mr. Bryant moved to adjourn the meeting.

Dr. Anderson seconded the motion.

The meeting was adjourned at 9:40 a.m.



Meeting Minutes Nevada Interim Committee on Testing for Intoxication (COTI)

Attendance	DATE	December 12, 2022
	TIME	9:34 a.m.
	METHOD	Zoom Teleconference Meeting ID: 211 396 194 328 Dial in: +1 (775) 325-0620
	RECORDER	Meg Matta
Appointed Voting Members		
Shannon Bryant, Chair	Deputy District Attorney, Washoe County District Attorney's Office	X
Dr. William Anderson	Forensic Toxicologist, NMS Labs	X
Eric Bauman	Chief Deputy District Attorney, Clark County District Attorney's Office	X
Stephen Johnson	Supervising Criminalist, Washoe County Sheriff's Office Forensic Science Division	X
Kim Murga	Executive Director, Las Vegas Metropolitan Police Department Forensic Laboratory	X
Others Invited		
David Astle		X
Marlissa Collins	Las Vegas Forensic Laboratory	
David Johnson		
Darby Lantz	Las Vegas Metropolitan Police Department Forensic Laboratory	X
Anastacia Melendy	Supervising Criminalist, Washoe County Laboratory	X
Rebecca Nelson	Washoe County Laboratory	
Michael Stypa	Forensic Laboratory Supervisor, Las Vegas Metropolitan Police Department Forensic Laboratory	X
Terri Suffecool	Las Vegas Metropolitan Police Department Forensic Laboratory	X
Brad Taylor		
Legal and Support		
Nathan L. Hastings	Senior Deputy Attorney General, State of Nevada / Office of the Attorney General – Transportation Division	X
Meg Matta	Impaired Driving Program Manager, Department of Public Safety, Office of Traffic Safety	X

1. **CALL TO ORDER** (Non-Action Item)
Mr. Bryant, Chair, opened the meeting at 9:34 a.m.
2. **ROLL CALL, CONFIRM QUORUM, AND INTRODUCTIONS** (Non-Action Item)
Roll was taken, introductions were made, and a quorum was established.
3. **PUBLIC COMMENT** (Non-Action Item)
There was no public comment.
4. **FAA RECERTIFICATION REQUIREMENT UNDER NAC 484C.030** (Discussion / Non-Action Item)
The COTI members and current Nevada Forensic Analysts of Alcohol (FAAs) from the forensic laboratories at Las Vegas Metropolitan Police Department and Washoe County Sheriff's Office discussed the status of FAA certification and recertification requirements. Mr. Bryant explained the problem with the language in NAC 484C.030 subsection 2(c) which states that as a condition of renewal of the FAA certificate, a candidate must show "*proof of acceptance as an expert in the field of breath alcohol testing in no less than four courts of law. The proof must include the*

names of the courts, date of acceptance and the names of the cases for which the person was accepted as an expert". This is problematic language, Mr. Bryant stated, because courts do not certify experts, they simply accept the choice of attorneys, who select experts based upon experience. Ms. Lantz commented that this issue was raised three years ago in the COTI meeting of August 2020 and tabled. Due to COVID, the courts closed their doors and FAAs were not being called to testify in court proceedings. Even now during a comeback from the pandemic, FAAs are not being called to court enough to meet the requirements. Mr. Astle confirmed that being called to court to testify is the exception not the rule; he sees similar issues in northern Nevada. He added that it is not reasonable to establish requirements for recertification as testifying in four courts of law and then put the opportunity to testify in third-party hands. The candidate does not have control over when and where they will be called to testify. He also commented that in northern Nevada, judges avoid using the designation of "expert".

With regard to other requirements on approved courses and seminars, as found in 484C.030 subsections 1 and 2(b), Ms. Murga stated that all lab workers are initially accredited in the calibration of the instruments and asked if that could be used again in the recertification to fulfill requirements. She also suggested the possibility of the COTI creating a standardized proficiency test that would be less ambiguous than the current language and ensure that all requirements were met. Mr. Johnson pointed out that subsection 1 indicates acceptance of competence in calibrating breath-testing devices. He agreed that the Committee should more specifically define what accreditation looks like. He went on to relay a message from Mr. Taylor, who was unable to attend the meeting, regarding his experience with initial certification in 2009 where he submitted evidence of training and subpoenas as proof of meeting requirements; and these were accepted.

Mr. Astles pointed out that subsections 1 and 2 are written as an either/or. With regard to ongoing training, he stated that the field is mature, and there is not that much new information on which to be trained. Ms. Lantz added that for subsection 1, the training on calibration has historically been taught by the manufacturer in the beginning and would not necessarily apply to recertification. Mr. Stypa noted that pertaining to subsection 1, the requirement to "successfully complete a course approved by the Committee" no guidance exists on what courses are approved or what would count. Ms. Melendy suggested 1) formation of a user's group, 2) reference to the International Association of Chemical Testing (IACT), 3) and manufacturer's training as a first goal. Ms. Suffacool concurred that participation in a User's Group and passing or meeting IACT standards should be sufficient to meet the requirements. She suggested that for subsection 2, they vote to remove both (b) and (c) and rely on training and verification of continued practice in the field.

Ms. Murga asked to move on to Agenda Item 5 to vote on the issue, then craft language to modify the regs. Mr. Bryant suggested that additionally, the FAAs should develop the recertification test. Ms. Murga said that in the interest of calendar time, the Committee should first eliminate subsection 2(c) so that the FAAs can proceed to recertification. She would like to eventually see a competency test or knowledge test to replace the expert testimony requirement.

Mr. Hastings interjected that Agenda Item 5 was not written explicitly enough to accommodate all the suggested revisions; they would need to be taken up in a subsequent meeting.

Ms. Murga asked if it was possible to procure a COVID waiver to accomplish recertification for a short amount of time. Mr. Stypa mentioned that the 2023 Legislative year begins in February, and the Committee has a little time to define and propose corrections. Mr. Bryant wanted to leave the details of what is the appropriate fix to the FAAs.

Dr. Anderson pointed out that nowhere in subsection 2 does it define a time period for the requirements – they are required by not explicitly stated. Shannon confirmed that in subsection 2: a) does not specify time, b) shows no period for completion, c) does not specify a time period and d) could be implied as the current two-year period since last certified. Mr. Baumann agreed with that interpretation. Ms. Murga concluded that the revelation removes the previous sense of urgency, and the language can be left as is for the time being without interfering with FAA recertification. Mr. Johnson agreed and commented that this gives the Committee time to revise the language. Mr. Bryant thanked Dr. Anderson for his keen observation and concluded that the only requirement for a recertification of an FAA is to remain active, and previous training can be used to fulfill that requirement.

5. NAC 484C.030 RETENTION OR REMOVAL (Discussion / For Possible Action)

Per guidance of Mr. Hastings, a new motion was made for future action that would be more specific to the results of this meeting's discussions. Ms. Murga moved to engage in rule-making process and amend or revise changes to regulations 484C.020 and 484C.030. Mr. Stypa seconded, and the motion passed unanimously. The question will be taken up in the next meeting.

6. PUBLIC COMMENT (Non-action item) Requested that the Committee on Testing for Intoxication webpage be updated with regard to membership and the list of approved evidentiary breath testing devices. It would be helpful if the minutes from the 2020 meeting could be posted as well. Also, the minutes of 2019 cannot be opened. Ms. Matta commented that the minutes of 2020 and 2019 are in the hands of the former Committee Chair who is no longer with the Office of Traffic Safety; she will ask for copies to post.

7. ADJOURNMENT (Discussion / For Possible Action)

Mr. Bryant moved, and Mr. Baumann seconded that the meeting be adjourned.

ACTION:

Mr. Bryant moved to add the CMI Intoxilyzer Model 9000 to the Nevada Committee on Testing for Intoxication's list of approved evidentiary breath testing devices for use in this state.

Ms. Murga seconded the motion.

It was unanimously approved.

8. PUBLIC COMMENT (Non-Action Item)

There was no public comment.

9. ADJOURNMENT (Discussion / For Possible Action)

Mr. Bryant moved to adjourn the meeting.

Dr. Anderson seconded the motion.

The meeting was adjourned at 9:40 a.m.



Meeting Minutes Nevada Interim Committee on Testing for Intoxication (COTI)

Attendance	DATE	September 26, 2023
	TIME	10:00 a.m.
	METHOD	Microsoft Teams Meeting Meeting ID: 219 038 831 425 Dial in: +1 (775) 325-0620
	RECORDER	Annalise Lockhart
Appointed Voting Members		
Shannon Bryant, Chair	NV TSRP and Deputy District Attorney, Washoe County District Attorney's Office	X
Dr. William Anderson	Forensic Toxicologist, NMS Labs	X
Eric Bauman	Chief Deputy District Attorney, Clark County District Attorney's Office	X
Stephen Johnson	Supervising Criminalist, WCSO Forensic Science Division	X
Terri Suffecool	Las Vegas Metro Forensic Laboratory	X
Others Invited		
David Astel	WCSO Forensic Science Division	X
Marlissa Collins	Las Vegas Metro Forensic Analyst	X
David Johnson		
Shari Baughman	WCSO Forensic Science Division	X
Anastacia Melendy		
Rebecca Nelson	WCSO Forensic Science Division	X
Michael Stypa	Forensic Laboratory Supervisor, Las Vegas Metro Forensic Laboratory	X
Brad Taylor	WCSO Forensic Science Division, FAA Supervisor Chemistry Section	X
Legal and Support		
Nathan L. Hastings	Senior Deputy Attorney General, State of Nevada	X
Laurie Ginn	Deputy Attorney General, State of Nevada	X
Meg Matta	Office of Traffic Safety, Impaired Driving Program Manager	X

1. CALL TO ORDER (Non-Action Item)

Shannon Bryant, Chair, opened the meeting at 10:01 a.m.

2. ROLL CALL, CONFIRM QUORUM, AND INTRODUCTIONS (Non-Action Item)

Roll was taken, introductions were made, and a quorum was established.

3. PUBLIC COMMENT (Non-Action Item)

There was no public comment.

4. PROPOSED REGULATION CHANGES

The Committee discussed several possible regulatory changes to NAC 484C.020 and 484C.030. The group decided Forensic Analysts of Alcohol (FAAs) must be employed with an accredited forensic calibration laboratory in the State of Nevada. The length of FAA certifications should be extended from 2 years to 4 years. The number of required seminars should remain at 2 and the number of continuing education hours should be increased from 8 to 16 hours within the 4-year certification period.

- Steven Johnson moved to make the following changes to NAC 484C.020 and 484C.030:
 - Accept the potential draft language in 484C.020 and 484C.030 as noted on the attachment.
 - Add language to 484C.020 to require the FAA work in an accredited forensic laboratory within the State of Nevada with a proper scope of accreditation for breath alcohol calibration.
 - Add language to 484C.020(2)(c) to increase the certification length from 2 to 4 years.
 - In 484C.030 add a requirement that the FAA continue to work for an accredited forensic laboratory in the State of NV with a proper scope of accreditation.
 - In 484C.030(1) increase the recertification hours needed from 8 to 16 hours.
 - In 484C.030(c) adjust the language so it reflects the language in 484C.020
 - In 484C.030 the recertification timeframe be extended from 2 years to 4 years.
- Dr. Anderson seconded the motion, and it was unanimously approved. The motion passes. Shannon Bryant stated the changes will be made offline for proposal to the legislative workshop.

The Committee discussed NAC 484C.060, 484C.100 and 484C.110.

- David Astle summarized the proposed changes for 484C.100 and 484C.110:
 - The Committee decided to not completely eliminate 484C.060(3) but rather re-word it to the effect that instruction in preliminary breath testing devices must include some reference to manufacturers instructions for the operation of the device.
 - Strike references to the Peace Officer's Standards and Training Commission to remove POST from involvement in approval of courses in 484C.100 and 484C.110
- Motion by Steven Johnson to move forward with the rule making process with the changes listed on the attachment and with the summary of changes David Astel described above.
- Terri Suffecool seconded the motion, and it was unanimously approved. The motion passes.

The Committee discussed NAC 484C.130(2) and agreed this subsection should be removed as it's not the duty of the operator. Discussion is tabled for further discussion as to where it needs to go.

- Shannon Bryant moved to table the discussion of the proposed changes to 484.130 for a later meeting in which the Committee can find a suitable place where subsection 2 language can be inserted as to the duties that are required of the instrument itself, not the duties of the operator.
- Steve Johnson seconded the motion, and it was unanimously approved. The motion passes.

The Committee discussed 484C.140 and agreed the logbook is unnecessary.

- Shannon Bryant summarized the proposed change to remove the regulations listed in 484C.140 in its entirety as the Committee moves forward with the rule making process.
- Steven Johnson seconded the motion, and it was unanimously approved. The motion passes.

5. ORAL FLUID TESTING PILOT PROGRAM (Discussion / Possible Action Item)

Shannon Bryant provided background information on this program. The Dept. of Public Safety received a grant to purchase oral roadside fluid testing devices. This handheld device tests six different drug categories and gives results in about 3 minutes. A swizzle stick is stuck in the suspect's mouth and then stuck into the device for results. Suspects would have to consent to this test. It's less invasive than a

blood test. There is a dramatic increase in impairment of alcohol with a combination of other drugs in our DUI fatality cases. 57% of roadway fatalities in Nevada involve impairment. This pilot program would be useful in obtaining stats and trends in substance abuse on the roadway. The symptoms of alcohol impairment can mask the symptoms of other drug use. The results of this device will not provide concentration levels of any substance, just the presence of the substance. This will simply help officers to make further testing decisions. This device does *not* test for Fentanyl. The Committee discussed the pros and cons of this pilot program and were in agreement to support the pilot program.

- Steven Johnson made a motion as summarized by Shannon Bryant for the Dept. of Public Safety to undertake this pilot program for roadside oral fluid testing to help collect data and make determinative testing decisions for the presence of drugs that are appropriate for drivers in Nevada.
- Terri Suffecool seconded the motion, and it was unanimously approved. The motion passes.

6. PUBLIC COMMENT (Non-Action Item)

There was no public comment.

7. ADJOURNMENT (Discussion / For Possible Action)

The next meeting date will be arranged offline. Dr. Anderson moved to adjourn the meeting, and Steve Johnson seconded the motion. The meeting was adjourned at 12:16 p.m.

NAC 484C.020 Forensic analyst of alcohol: Certification. ([NRS 484C.620](#), [484C.630](#))

1. A person must apply to the Director or his or her designee on a form furnished by the Department of Public Safety for certification as a forensic analyst of alcohol.
2. The Director or his or her designee shall certify as a forensic analyst of alcohol each applicant who:
 - (a) Possesses a baccalaureate degree in a natural, physical or forensic science;
 - (b) Has completed a minimum of:
 - (1) Twenty-four semester hours in the study of chemistry at an accredited college or university; or
 - (2) Eighteen semester hours in the study of chemistry at an accredited college or university and 1 year of full-time experience which has been approved by the Committee and is related to the forensic analysis of alcohol;
 - (c) Has successfully completed a ~~course which has been approved by the Committee and consisted~~ program of instruction of at least 24 hours of instruction on the physiology and effects of alcohol on humans, on the design, calibration and operation of the kind of breath-testing devices that the applicant will be calibrating or teaching others to operate; and
 - (d) Demonstrates ~~his or her~~ their competence in calibrating breath-testing devices and in evaluating others on their competence in operating those devices.
3. Certification as a forensic analyst of alcohol is valid for 2 years after the date of certification.

NAC 484C.030 Forensic analyst of alcohol: Renewal of certificate. ([NRS 484C.620](#), [484C.630](#)) The Director or his or her designee shall renew the certificate of any person certified by him or her as a forensic analyst of alcohol who applies in writing to the Director for a renewal before the certificate expires and:

1. Successfully completes ~~a course approved by the Committee, consisting of~~ at least 8 hours of instruction continuing education on the subjects taught in the basic course described in paragraph (c) of subsection 2 of [NAC 484C.020](#) and demonstrates the person's competence in calibrating breath-testing devices and in evaluating others on their competence in operating such devices; or
2. Submits to the Director or designee the following documents:
 - (a) A current resume of the person's education and other qualifications.
 - (b) Verification of attendance at no less than two seminars or training programs related to the influence of alcohol on drivers. The verification must include the dates of attendance, the names of the instructors and speakers, and a general description of the curriculum.

~~(c) Proof of acceptance as an expert in the field of breath alcohol testing in no less than four courts of law. The proof must include the names of the courts, date of acceptance and the names of the cases for which the person was accepted as an expert.~~

(dc) Verification of continued activity in the field of breath alcohol testing since the person's previous certification.

(d) Recertification as a forensic analyst of alcohol is valid for 2 years after the date of recertification.

PRELIMINARY BREATH-TESTING DEVICES

NAC 484C.060 Required training of operator. ([NRS 484C.630](#))

1. Before operating a preliminary breath-testing device, the operator of a preliminary breath-testing device must satisfactorily complete a course on the operation of the instrument.

2. The instructor of the course must be a forensic analyst of alcohol, a manufacturer's representative or a person approved by a forensic analyst of alcohol.

~~3.—The course must meet the manufacturer's requirements for instruction in the proper operation of the preliminary breath testing device and be approved by the Committee.~~

EVIDENTIAL BREATH-TESTING DEVICES

NAC 484C.100 Certification as operator. ([NRS 484C.630](#))

1. A person or his or her employer must apply to the Department of Public Safety on a form furnished by the Department for certification of the person as an operator of an evidential breath-testing device.

2. The Director or his or her designee shall certify as an operator of an evidential breath-testing device each applicant who has successfully completed a course of instruction on the subject of the operation of devices for testing a person's breath to determine the concentration of alcohol in the person's breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee. Such a course must be taught by a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the devices for which certification is granted.

3. The Director or his or her designee shall certify as an operator of an additional evidential breath-testing device each applicant who:

(a) Holds a current certification as an operator of an evidential breath-testing device; and

(b) Has successfully completed a course consisting of instruction on the subject of the operation of the device for testing a person's breath to determine the concentration of alcohol in the person's breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee. The course must be taught

by a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the device for which certification is granted.

4. The certificate issued by the Director or his or her designee must specify by manufacturer and model the evidential breath-testing devices which the applicant has been certified to operate.

5. Certification as an operator of an evidential breath-testing device:

(a) Authorizes the holder of the certificate to operate any evidential breath-testing device which he or she has been certified to operate and any other such device in a series of the model of that specific evidential breath-testing device if the Committee has certified the other device in the series pursuant to [NRS 484C.610](#) and the Committee has not made a finding that the person needs additional training to operate the other device in the series; and

(b) Is valid for 3 years after the date of the certification.

NAC 484C.110 Renewal of certificate as operator. ([NRS 484C.630](#)) The Director or his or her designee shall renew the certificate of any person certified by the Director or designee as an operator of an evidential breath-testing device who:

1. Individually or through the person's employer applies in writing to the Director for such renewal before the person's certificate expires or within 6 months after the person's certificate expires; and

2. Successfully completes a course consisting of instruction on the operation of devices for testing a person's breath to determine the concentration of alcohol in his or her breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee.

NAC 484C.130 Duties of operator. ([NRS 484C.620](#), [484C.640](#)) A certified operator of an evidential breath-testing device:

1. In the ordinary course of his or her business and at the time the operator is performing a test of a person's breath, shall use, and follow ~~the instructions in and enter the appropriate information on the Checklist for Operators of Breath-Testing Devices which is~~ approved by the Committee for use with the type of device that he or she is operating. ~~The operator shall provide a documentary affirmation that he or she followed the instructions.~~

~~2. Immediately before performing the evidentiary test of the person's breath, shall verify the calibration of the device by testing it using an aqueous solution or gas which is certified to contain a specific concentration of alcohol within the range that corresponds to a concentration of alcohol in the breath from .05 to .20 gram per 210 liters of breath, inclusive.~~

~~— NAC 484C.140 — Records of law enforcement agency using device; entries into record. (NRS 484C.620)~~

~~— 1. Each law enforcement agency which uses an evidential breath testing device shall keep in the ordinary course of its business a chronological record for each device.~~

~~— 2. The operator or forensic analyst of alcohol shall enter into the record, at or near the time of his or her activity, for the:~~

~~— (a) Test of a person's breath on the device:~~

~~— (1) The name of the person tested;~~

~~— (2) The date and time of the test;~~

~~— (3) The name of the operator of the device;~~

~~— (4) The result of the test to verify the calibration of the device; and~~

~~— (5) The result of the test of the person's breath.~~

~~— (b) Calibration of the device:~~

~~— (1) The date and time of the calibration;~~

~~— (2) The name of the forensic analyst of alcohol who performs the calibration;~~

~~and~~

~~— (3) The response and accuracy of the device for each test which is performed.~~

~~— (c) Maintenance or repair of the device:~~

~~— (1) The date and time of the maintenance or repair;~~

~~— (2) The name of the person performing the maintenance or repair; and~~

~~— (3) The nature and extent of the maintenance or repair.~~



Meeting Minutes Nevada Committee on Testing for Intoxication (COTI)

Attendance	DATE	Thursday, April 18, 2024	
	TIME	9:30-11:30 am	
	METHOD	Teams Teleconference Meeting ID: 222 625 090 123 Call in: 984-204-1608	
	RECORDER	Lindsay Saner, Kimley-Horn and Associates, Inc.	
Appointed Voting Members			
Shannon Bryant, Chair	Nevada Transportation Safety Resource Prosecutor		X
Steve Johnson	Washoe County Sheriff's Office Forensic Science Division		X
Terri Suffecool	Las Vegas Metropolitan Police Department Forensic Laboratory		X
Eric Bauman	Clark County District Attorney's Office		X
Lt. Andrew Granata (new)	Nevada State Police/Highway Patrol		Abs.
Others Invited			
David Astles	Washoe County Sheriff's Office Forensic Science Division		X
Marlissa Collins	Las Vegas Metropolitan Police Department Forensic Laboratory		X
Darby Lanz	Las Vegas Metropolitan Police Department Forensic Laboratory		X
Rebecca Nelson	Washoe County Sheriff's Office Forensic Science Division		X
Michael Stypa	Las Vegas Metropolitan Police Department Forensic Laboratory		X
Legal and Support			
Nathan L. Hastings	Senior Deputy Attorney General, State of Nevada		X
Meg Matta	Office of Traffic Safety, Impaired Driving Program Manager		X

1. CALL TO ORDER (Non-Action Item)

The meeting was called to order by Chair Shannon Bryant at 9:33 am.

2. ROLL CALL, CONFIRM QUORUM, AND INTRODUCTIONS (Non-Action Item)

Chair Bryant led introductions and confirmed a quorum (4 out of 5 members present).

3. PUBLIC COMMENT (Non-Action Item)

No public comments were received.

4. CONTINUED DISCUSSION OF PROPOSED REGULATION CHANGES (Discussion/Possible Action Item)

The Committee continued discussion of possible regulatory changes to NAC 484C.020 and 484C.030 (see attached) and discussed the proposed changes. Discussion included minimum required hours for Forensic Analysts of Alcohol (FAAs) or minimum years of experience. It was determined that additional research is needed to make a recommendation.

- Steven Johnson moved to table the discussion on amendments to 484C.020.2. until the next meeting.
- Terri Suffecool seconded the motion, it was unanimously approved. The motion passes.

The Committee discussed 484C.130.1. regarding affirmation language. There is a checklist with the instrument that verifies the user is following the instructions. There currently is an additional written checklist which is redundant. The instrument could print out the completed checklist as an affirmation for signature. The checklist for the Intoxilyzer 8000 has a signature box to confirm the procedures were followed. With the Intoxilyzer 9000, the instrument is the checklist. Each step needs to be confirmed before moving to the next step. Paper checklists may be needed as equipment is upgraded.

The "Checklist for Operators of Breath Testing Devices" was created for the Intoxilyzer 5000. The strikeout of the formal document and replace with a documentary affirmation allows for either a paper or electronic affirmation.

There is a spot for the officer's signature on the results print out. They are also provided the paper checklist to fill out and sign. Any reprint is signed by the person who reproduced the reprint.

The Committee recommended striking out NAC 484C.130.1 and changing the proposed language from "a documentary" to "an".

The Committee discussed removing or moving NAC 484C.130.2. This section is part of the testing sequence. Steve Johnson suggested developing an approved procedure for the sequence of the testing. Remove this section from Duties of operator, and further discuss creating a new section including "Approved instruments."

David Astles suggested that it would be helpful to have a Committee-approved statement of test procedure requirements and approved instruments. Darby Lanz recommended a COTI Requirements document of the minimum requirements. Steve Johnson agreed and suggested including calibrations.

Chair Shannon Bryant will go through previous meeting minutes and develop a new draft document with tracked changes.

- Steven Johnson moved to table the on-going process of brainstorming to the next meeting.
- Terri Suffecool seconded the motion, it was unanimously approved. The motion passes.

5. NEW COTI MEMBER RECRUITING (Non-action item)

Andrew Granata with Nevada Highway Patrol Northern Command was appointed by Office of Traffic Safety as a member of the Committee.

6. PUBLIC COMMENT (Non-Action Item)

No public comments were received.

7. ADJOURNMENT

The next meeting will be scheduled in a month to continue the discussion.

- Chair Shannon Bryant moved to adjourn the meeting.
- Steven Johnson seconded the motion, it was unanimously approved. The motion passes.
- Meeting adjourned at 11:08 am.
- Email Shannon Bryant if you have a proxy attending future meetings on your behalf.

NAC 484C.020 Forensic analyst of alcohol: Certification. ([NRS 484C.620](#), [484C.630](#))

1. A person must apply to the Director or his or her designee on a form furnished by the Department of Public Safety for certification as a forensic analyst of alcohol.

2. The Director or his or her designee shall certify as a forensic analyst of alcohol each applicant who:

(a) Possesses a baccalaureate degree in a natural, physical or forensic science;

(b) Has completed a minimum of:

(1) Twenty-four semester hours in the study of chemistry at an accredited college or university; or

(2) Eighteen semester hours in the study of chemistry at an accredited college or university and 1 year of full-time experience which has been approved by the Committee and is related to the forensic analysis of alcohol;

(c) Has successfully completed a ~~course which has been approved by the Committee and consisted~~ program of instruction of at least 24 hours of instruction on ~~the~~ physiology and effects of alcohol on humans, on the design, calibration and operation of the kind of breath-testing devices that the applicant will be calibrating or teaching others to operate; and

(d) Demonstrates ~~his or her~~ their competence in calibrating breath-testing devices and in evaluating others on their competence in operating those devices.

3. Certification as a forensic analyst of alcohol is valid for 2 years after the date of certification.

NAC 484C.030 Forensic analyst of alcohol: Renewal of certificate. ([NRS 484C.620](#), [484C.630](#))

The Director or his or her designee shall renew the certificate of any person certified by him or her as a forensic analyst of alcohol who applies in writing to the Director for a renewal before the certificate expires and:

1. Successfully completes ~~a course approved by the Committee, consisting of~~ at least 8 hours of ~~instruction~~ continuing education on the subjects taught in the basic course described in paragraph (c) of subsection 2 of [NAC 484C.020](#) and demonstrates the person's competence in calibrating breath-testing devices and in evaluating others on their competence in operating such devices; or

2. Submits to the Director or designee the following documents:

(a) A current resume of the person's education and other qualifications.

(b) Verification of attendance at no less than two seminars or training programs related to the influence of alcohol on drivers. The verification must include the dates of attendance, the names of the instructors and speakers, and a general description of the curriculum.

~~(c) Proof of acceptance as an expert in the field of breath alcohol testing in no less than four courts of law. The proof must include the names of the courts, date of acceptance and the names of the cases for which the person was accepted as an expert.~~

(d) Verification of continued activity in the field of breath alcohol testing since the person's previous certification.

(d) Recertification as a forensic analyst of alcohol is valid for 2 years after the date of recertification.

PRELIMINARY BREATH-TESTING DEVICES

NAC 484C.060 Required training of operator. ([NRS 484C.630](#))

1. Before operating a preliminary breath-testing device, the operator of a preliminary breath-testing device must satisfactorily complete a course on the operation of the instrument.

2. The instructor of the course must be a forensic analyst of alcohol, a manufacturer's representative or a person approved by a forensic analyst of alcohol.

~~3. The course must meet the manufacturer's requirements for instruction in the proper operation of the preliminary breath-testing device and be approved by the Committee.~~

EVIDENTIAL BREATH-TESTING DEVICES

NAC 484C.100 Certification as operator. ([NRS 484C.630](#))

1. A person or his or her employer must apply to the Department of Public Safety on a form furnished by the Department for certification of the person as an operator of an evidential breath-testing device.

2. The Director or his or her designee shall certify as an operator of an evidential breath-testing device each applicant who has successfully completed a course of instruction on the subject of the operation of devices for testing a person's breath to determine the concentration of alcohol in the person's breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee. Such a course must be taught by a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the devices for which certification is granted.

3. The Director or his or her designee shall certify as an operator of an additional evidential breath-testing device each applicant who:

(a) Holds a current certification as an operator of an evidential breath-testing device; and

(b) Has successfully completed a course consisting of instruction on the subject of the operation of the device for testing a person's breath to determine the concentration of alcohol in the person's breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee. The course must be taught by

a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the device for which certification is granted.

4. The certificate issued by the Director or his or her designee must specify by manufacturer and model the evidential breath-testing devices which the applicant has been certified to operate.

5. Certification as an operator of an evidential breath-testing device:

(a) Authorizes the holder of the certificate to operate any evidential breath-testing device which he or she has been certified to operate and any other such device in a series of the model of that specific evidential breath-testing device if the Committee has certified the other device in the series pursuant to [NRS 484C.610](#) and the Committee has not made a finding that the person needs additional training to operate the other device in the series; and

(b) Is valid for 3 years after the date of the certification.

NAC 484C.110 Renewal of certificate as operator. ([NRS 484C.630](#)) The Director or his or her designee shall renew the certificate of any person certified by the Director or designee as an operator of an evidential breath-testing device who:

1. Individually or through the person's employer applies in writing to the Director for such renewal before the person's certificate expires or within 6 months after the person's certificate expires; and

2. Successfully completes a course consisting of instruction on the operation of devices for testing a person's breath to determine the concentration of alcohol in his or her breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee.

NAC 484C.130 Duties of operator. ([NRS 484C.620](#), [484C.640](#)) A certified operator of an evidential breath-testing device:

1. In the ordinary course of his or her business and at the time the operator is performing a test of a person's breath, shall use, and follow ~~the~~ instructions ~~in and enter the appropriate information on the Checklist for Operators of Breath-Testing Devices which is~~ approved by the Committee for use with the type of device that he or she is operating. ~~The operator shall provide an affirmation that he or she followed the instructions.~~

~~2. Immediately before performing the evidentiary test of the person's breath, shall verify the calibration of the device by testing it using an aqueous solution or gas which is certified to contain a specific concentration of alcohol within the range that corresponds to a concentration of alcohol in the breath from .05 to .20 gram per 210 liters of breath, inclusive.~~

~~— NAC 484C.140 — Records of law enforcement agency using device; entries into record. (NRS 484C.620)~~

~~— 1. — Each law enforcement agency which uses an evidential breath testing device shall keep in the ordinary course of its business a chronological record for each device.~~

~~— 2. — The operator or forensic analyst of alcohol shall enter into the record, at or near the time of his or her activity, for the:~~

~~— (a) Test of a person's breath on the device:~~

~~— (1) The name of the person tested;~~

~~— (2) The date and time of the test;~~

~~— (3) The name of the operator of the device;~~

~~— (4) The result of the test to verify the calibration of the device; and~~

~~— (5) The result of the test of the person's breath.~~

~~— (b) Calibration of the device:~~

~~— (1) The date and time of the calibration;~~

~~— (2) The name of the forensic analyst of alcohol who performs the calibration;~~

~~and~~

~~— (3) The response and accuracy of the device for each test which is performed.~~

~~— (c) Maintenance or repair of the device:~~

~~— (1) The date and time of the maintenance or repair;~~

~~— (2) The name of the person performing the maintenance or repair; and~~

~~— (3) The nature and extent of the maintenance or repair.~~

To: Shannon Bryant, Committee on Testing for Intoxication Chair

From: Marlissa Collins, Forensic Analyst of Alcohol

Date: 5/22/2024

Re: Lifeloc LT7

The Las Vegas Metropolitan Police Department Forensic Laboratory received two units of the Lifeloc LT7 during the week of August 28th, 2023. The serial numbers of the tested devices are 23340051 (Unit A) and 23340052 (Unit B).

Features:

- Sensor: Electrochemical Platinum Fuel Cell
- Measuring Range: 0.000 - 0.600 BAC
- Operating Temperature: 14°F - 130°F
- Storage Temperature: 14°F - 130°F
- 3 AA Alkaline batteries

Calibration Stability:

To test the stability of the device's calibration, calibration checks were performed using two gas standards, 0.040 g/210L and 0.080 g/210L (a 0.090 g/210L was used on 1/25/2024) and one wet-bath solution, 0.099 g/210L. In addition, three alcohol free breaths were provided. This process was performed seven times over the course of four months.

Note: The standard checks were performed in the accuracy check setting and the alcohol-free breath samples in the Auto Test mode.

Conclusion: Both units demonstrated the ability to maintain calibration over the testing process.

Temperature Stability:

To test the accuracy of the device in temperatures that we might expect in Nevada, both units were subjected to the following tests:

- Each unit was placed in an oven that was set to 56°C for approximately one hour, removed and tested using the 0.080 g/210L gas standard three times each. The units were placed back into the oven, for approximately one hour and checked three times using the 0.099 g/210L wet-bath solution.

Conclusion: In heating conditions, the units took approximately 15 minutes for the units to reach a temperature within the operating temperature range. Unit A read the 0.080 g/210L at 0.078 g/210L (three times). Unit B read the 0.080 g/210L at 0.080 g/210L (three times). Unit A read the 0.099 g/210L

solution on average as 0.101 g/210L. Unit B read the 0.099 g/210L solution on average as a 0.103 g/210L.

- Each unit was placed in a freezer that was reading -23°C for approximately one hour, removed and tested using the 0.080 g/210L gas standard three times each. The units were placed back in the freezer, for approximately an hour and a half and checked three times using the 0.099 g/210L wet-bath solution.

Conclusion: In freezing conditions, the units took approximately 12-18 minutes for the units to reach a temperature within the temperature operating range. Once the devices were operational, each unit took approximately 40-45 minutes until the devices were reading the 0.080 g/210L in the acceptable range. Regarding the wet-bath simulator solution, after approximately 18 minutes each unit read the 0.099 g/210L solution with the acceptable range. After the devices were operational, Unit A read the 0.080 g/210L gas standard on average as a 0.081 g/210L and Unit B as 0.084 g/210L (three times). Unit A read the 0.099 g/210L solution as 0.097 g/210L (three times) and Unit B read as an average 0.097 g/210L.

Overall Conclusions:

The testing of the Lifeloc LT7 devices demonstrated accuracy, precision, and stability over the course of the testing process at various ethanol concentrations and temperature ranges that one could expect to see in Nevada.

Attached:

Data from the calibration checks, the temperature stability tests, and the performance tests.

LT7 VALIDATION

PERFORMED BY: Marlissa Collins – LVMPD Forensic Lab

DEVICE SERIAL NUMBERS: 23340051 (A); 23340052 (B)

RECEIVED ON: Week of 8/28

CALIBRATED ON: 8/24/23 by manufacturer

0.040 SERIAL #: 03723040A1

0.080 SERIAL #: 03723080A2; 27622003A3 (1/25/2024)

0.099 SERIAL #: BR062123-01

DEVICE:	LT7 A				LT7 B			
DATE:	0.040	0.080	0.099	AFA*	0.040	0.080	0.099	AFA*
9/21/2023	0.042	0.080	0.094	0.000	0.040	0.081	0.096	0.000
	0.041	0.079	0.094	0.000	0.040	0.081	0.097	0.000
	0.041	0.079	0.095	0.000	0.040	0.081	0.097	0.000
9/27/2023	0.041	0.080	0.094	0.000	0.042	0.084	0.096	0.000
	0.042	0.081	0.094	0.000	0.042	0.084	0.096	0.000
	0.041	0.081	0.094	0.000	0.041	0.083	0.096	0.000
10/5/2023	0.041	0.080	0.099	0.000	0.043	0.083	0.102	0.000
	0.041	0.081	0.099	0.000	0.043	0.083	0.101	0.000
	0.041	0.081	0.099	0.000	0.041	0.083	0.101	0.000
10/12/2023	0.041	0.081	0.098	0.000	0.043	0.083	0.100	0.000
	0.041	0.081	0.098	0.000	0.041	0.083	0.100	0.000
	0.041	0.081	0.098	0.000	0.040	0.083	0.100	0.000
11/6/2023	0.042	0.082	0.100	0.000	0.043	0.083	0.102	0.000
	0.042	0.081	0.100	0.000	0.042	0.083	0.102	0.000
	0.041	0.081	0.100	0.000	0.042	0.083	0.101	0.000
12/19/2023	0.042	0.080	0.097	0.000	0.043	0.082	0.100	0.000
	0.041	0.080	0.096	0.000	0.043	0.081	0.099	0.000
	0.041	0.079	0.096	0.000	0.042	0.083	0.099	0.000
1/25/2024	0.041	0.087	0.102	0.000	0.043	0.091	0.106	0.000
	0.041	0.086	0.101	0.000	0.043	0.090	0.104	0.000
	0.040	0.086	0.100	0.000	0.043	0.090	0.103	0.000

Notes: On 1/25/2024, a 0.090 gas standard (serial # 27622003A3) was used because of the depletion of 03723080A2 (0.080). M14973C 1/29/24

Oven Performance Check

Date of Testing: 11/27/2023

Oven Used: Tox Oven #1

Temperature of Oven: 56°C

LT7 A	LT7 B
<ul style="list-style-type: none">• Device into oven at 1039.• Device removed from oven at 1141.• At 1141, device was turned on and gave the temperature symbol.• At 1155, the device turned on without the temperature symbol.• At 1204, performance checks using the 0.080 gas. • Device into oven at 1355.• Device removed from oven at 1500.• At 1500, device was turned on and gave the temperature symbol.• At 1515, the device turned on without the temperature symbol.• At 1515, performance checks using the 0.099 wet solution.	<ul style="list-style-type: none">• Device into oven at 1039.• Device removed from oven at 1141.• At 1141, device was turned on and gave the temperature symbol.• At 1155, the device turned on without the temperature symbol.• At 1204, performance checks using the 0.080 gas. • Device into oven at 1355.• Device removed from oven at 1500.• At 1500, device was turned on and gave the temperature symbol.• At 1515, the device turned on without the temperature symbol.• At 1515, performance checks using the wet solution.

Performance check performed without heat:

LT7 A	LT7 B
<p>At 1204, 0.080 gas:</p> <ul style="list-style-type: none">• 0.078• 0.078• 0.078 <p>At 1515, 0.099 wet solution:</p> <ul style="list-style-type: none">• 0.102• 0.102• 0.101	<p>At 1204, 0.080 gas:</p> <ul style="list-style-type: none">• 0.080• 0.080• 0.080 <p>At 1515, 0.099 wet solution:</p> <ul style="list-style-type: none">• 0.104• 0.103• 0.103

Freezer Performance Check

Date of Testing: 11/20/2023

Freezer Used: #7

Temperature of Freezer: -23°C

LT7 A	LT7 B
<ul style="list-style-type: none">• Device into the freezer at 1205.• Device removed from freezer at 1307.• At 1307, device was turned on and gave the symbol that it was cold.• At 1319, a performance check using the 0.080 gas was performed and read at 0.109.• At 1333, the 0.080 gas read as a 0.089.• At 1357, the device was reading the 0.080 gas within the acceptable range. <ul style="list-style-type: none">• Device into freezer at 1416.• Device removed from freezer at 1542.• At 1542, device was turned on and gave the symbol that it was cold.• At 1600, a performance check using the 0.099 wet solution and read at 0.102.• At 1609, a performance check using the 0.080 gas was preformed and read at 0.088.• At 1611, alcohol free air test read as 0.000.• At 1617, the device was reading the 0.099 wet solution within the acceptable range.	<ul style="list-style-type: none">• Device into the freezer at 1205.• Device removed from freezer at 1307.• At 1307, device was turned on and gave the symbol that it was cold.• At 1319, a performance check using the 0.080 gas was performed and read at 0.107.• At 1333, the 0.080 gas read as a 0.090.• At 1358, the 0.080 gas read as a 0.086.• At 1405, the device was reading the 0.080 gas within the acceptable range. <ul style="list-style-type: none">• Device into freezer at 1416.• Device removed from freezer at 1542.• At 1542, device was turned on and gave the symbol that it was cold.• At 1600, a performance check using the 0.099 wet solution and read at 0.101.• At 1607, a performance check using the 0.080 gas was preformed and read at 0.089.• At 1614, alcohol free air read as 0.000.• At 1619, the device was reading the 0.099 wet solution within the acceptable range.

Performance check performed when devices were room temperature:

LT7 A	LT7 B
<p>At 1357, 0.080 gas:</p> <ul style="list-style-type: none">• 0.083• 0.081• 0.081 <p>At 1617, 0.099 wet solution:</p> <ul style="list-style-type: none">• 0.097• 0.097• 0.097	<p>At 1405, 0.080 gas:</p> <ul style="list-style-type: none">• 0.084• 0.084• 0.084 <p>At 1617, 0.099 wet solution:</p> <ul style="list-style-type: none">• 0.098• 0.097• 0.097

To: Shannon Bryant, Committee on Testing for Intoxication Chair

From: Marlissa Collins, Forensic Analyst of Alcohol

Date: 5/22/2024

Re: Lifeloc LX9

The Las Vegas Metropolitan Police Department Forensic Laboratory received two units of the Lifeloc LX9 during the week of August 28th, 2023. The serial numbers of the tested devices are 23340054 (Unit A) and 23340053 (Unit B).

Features:

- Sensor: Electrochemical Platinum Fuel Cell
- Measuring Range: 0.000 - 0.600 BAC
- Operating Temperature: 14°F - 130°F
- Storage Temperature: 14°F - 130°F
- 3 AA Alkaline batteries

Calibration Stability:

To test the stability of the device's calibration, calibration checks were performed using two gas standards, 0.040 g/210L and 0.080 g/210L (a 0.090 g/210L was used on 1/25/2024) and one wet-bath solution, 0.099 g/210L. In addition, three alcohol free breaths were provided. This process was performed multiple times over the course of four months.

Note: The standard checks were performed in the accuracy check setting and the alcohol-free breath samples in the Auto Test mode.

Conclusion: Unit A demonstrated the ability to maintain calibration over the testing process. On November 6, 2023, Unit B gave an internal error indicating that a calibration was needed. A calibration was then performed, and the stability tests started over on the new calibration. After Unit B was recalibrated, the device demonstrated the ability to maintain calibration.

Temperature Stability:

To test the accuracy of the device in temperatures that we might expect in Nevada, both units were subjected to the following tests:

- Each unit was placed in an oven that was set to 56°C for approximately one hour, removed and tested using the 0.080 g/210L gas standard three times each. The units were placed back into the oven, for approximately one hour and checked three times using the 0.099 g/210L wet-bath solution.

Conclusion: In heating conditions, the units took approximately 15 minutes for the units to reach a temperature within the operating temperature range. Unit A read the 0.080 g/210L at 0.076 g/210L (three times). Unit B read the 0.080 g/210L at 0.080 g/210L (four times). Unit A read the 0.099 g/210L solution on average as 0.099g/210L. Unit B read the 0.099 g/210L solution on average as a 0.101 g/210L.

- Each unit was placed in a freezer that was reading -23°C for approximately one hour, removed and tested using the 0.080 g/210L gas standard three times each. The units were placed back in the freezer, for approximately an hour and a half and checked three times using the 0.099 g/210L wet-bath solution.

Conclusion: In freezing conditions, the units took approximately 12-18 minutes for the units to reach a temperature within the temperature operating range. Once the devices were operational, each unit took approximately 40-45 minutes until the devices were reading the 0.080 g/210L in the acceptable range. Regarding the wet-bath simulator solution, after approximately 18 minutes each unit read the 0.099 g/210L solution with the acceptable range. After the devices were operational, Unit A read the 0.080 g/210L gas standard on average as a 0.080 g/210L and Unit B on average as 0.082 g/210L. Unit A read the 0.099 g/210L solution on average as 0.095 g/210L and Unit B read as an average 0.096 g/210L.

Overall Conclusions:

The testing of the Lifeloc LX9 devices demonstrated accuracy, precision, and stability over the course of the testing process at various ethanol concentrations and temperature ranges that one could expect to see in Nevada.

Attached:

Data from the calibration checks, the temperature stability tests, and the performance tests.

LX9 VALIDATION

PERFORMED BY: Marlissa Collins – LVMPD Forensic Lab

DEVICE SERIAL NUMBERS: 23340054 (A); 23340053 (B)

RECEIVED ON: Week of 8/28

CALIBRATED ON: 8/23/23 by manufacturer

0.040 SERIAL #: 03723040A1

0.080 SERIAL #: 03723080A2; 27622003A3 (1/25/2024)

0.099 SERIAL #: BR062123-01

DEVICE:	LX9 A				LX9 B			
DATE:	0.040	0.080	0.099	AFA*	0.040	0.080	0.099	AFA*
9/21/2023	0.041	0.078	0.093	0.003	0.040	0.080	0.096	0.000
	0.040	0.078	0.094	0.000	0.041	0.080	0.096	0.000
	0.040	0.078	0.094	0.000	0.040	0.080	0.097	0.000
				0.000				
9/27/2023	0.040	0.080	0.092	0.000	0.042	0.080	0.095	0.000
	0.041	0.080	0.092	0.000	0.042	0.080	0.096	0.000
	0.040	0.080	0.092	0.000	0.041	0.080	0.095	0.000
10/5/2023	0.040	0.080	0.099	0.000	0.042	0.083	0.101	0.000
	0.040	0.079	0.099	0.000	0.042	0.082	0.101	0.000
	0.041	0.080	0.098	0.000	0.042	0.082	0.101	0.000
10/12/2023	0.040	0.079	0.097	0.000	0.042	0.083	0.100	0.000
	0.041	0.079	0.097	0.000	0.042	0.082	0.100	0.000
	0.040	0.079	0.097	0.000	0.042	0.082	0.100	0.000
11/6/2023	0.041	0.080	0.099	0.000	0.043	0.082	0.102	0.000
	0.041	0.080	0.099	0.000	0.042	0.081	0.101	0.000
	0.040	0.078	0.099	0.000	0.042	0.081	0.101	0.000
						0.081*		
11/7/2023					0.043	0.082	0.099	0.000
					0.042	0.082	0.099	0.000
					0.042	0.081	0.099	0.000
11/16/2023					0.042	0.084	0.099	0.000
					0.042	0.083	0.099	0.000
					0.042	0.082	0.098	0.000
11/21/2023					0.042	0.081	0.099	0.000
					0.042	0.081	0.100	0.000
					0.041	0.080	0.100	0.000
11/30/2023					0.042	0.082	0.098	0.000

Notes:

- On 11/6/2023, serial # 23340053 gave an internal error 0x07CA9035 which means that a calibration is needed. The calibration checks were able to be completed; however, I was not able to perform a breath test. *I recalibrated the PBT using the 0.08 calibrator and received the result of 0.081. I then completed the three alcohol free breath test.
- On 1/25/2024, a 0.090 gas standard (serial # 27622003A3) was used because of the depletion of 03723080A2 (0.080). M14973C 1/29/24

Oven Performance Check

Dates of Testing: 11/27/2023; 11/30/2023

Oven Used: Tox Oven #1

Temperature of Oven: 56°C

LX9 A	LX9 B
<ul style="list-style-type: none">• Device into oven at 1039.• Device removed from oven at 1141.• At 1141, device was turned on and gave the temperature symbol.• At 1155, the device turned on without the temperature symbol.• At 1204, performance checks using the 0.080 gas. <ul style="list-style-type: none">• Device into oven at 1355.• Device removed from oven at 1500.• At 1500, device was turned on and gave the temperature symbol.• At 1515, the device turned on without the temperature symbol.• At 1515, performance checks using the 0.099 wet solution.	<ul style="list-style-type: none">• Device into oven at 1039.• Device removed from oven at 1141.• At 1141, device was turned on and gave the temperature symbol.• At 1155, the external batteries died, and the performance checks could not be performed. <ul style="list-style-type: none">• Device into oven at 1355.• Device removed from oven at 1500.• At 1500, device was turned on and gave the temperature symbol.• At 1515, the device turned on without the temperature symbol.• At 1515, performance checks using the 0.099 wet solution and a 0.080 gas check. <ul style="list-style-type: none">• Device into oven on 11/30/23 at 0941.• Device removed from oven at 1057.• At 1057, device was turned on and gave the temperature symbol.• At 1103, device was turned on without the temperature symbol.• At 1105, performance checks using the 0.080 gas standard and 0.099 wet solution.

Performance check performed without heat:

LX9 A	LX9 B
<p>At 1204, 0.080 gas:</p> <ul style="list-style-type: none">• 0.076• 0.076• 0.076 <p>At 1515, 0.099 wet solution:</p> <ul style="list-style-type: none">• 0.100• 0.100• 0.099	<p>At 1515, 0.099 wet solution & 0.080 gas standard:</p> <ul style="list-style-type: none">• 0.104• 0.080 (Gas Standard)• 0.101• 0.100 <p>On 11/30/23 at 1105, 0.080 gas standard & 0.099 wet solution:</p> <ul style="list-style-type: none">• 0.080• 0.080• 0.080• 0.101 (wet solution)

Freezer Performance Check

Date of Testing: 11/20/2023

Freezer Used: #7

Temperature of Freezer: -23°C

LX9 A	LX9 B
<ul style="list-style-type: none">• Device into the freezer at 1205.• Device removed from freezer at 1307.• At 1307, device was turned on and gave the symbol that it was cold.• At 1319, a performance check using the 0.080 gas was performed and read at 0.104.• At 1333, the 0.080 gas read as a 0.088.• At 1359, the device was reading the 0.080 gas within the acceptable range. <ul style="list-style-type: none">• Device into freezer at 1416.• Device removed from freezer at 1542.• At 1542, device was turned on and gave the symbol that it was cold.• At 1600, a performance check using the 0.099 wet solution and read at 0.101.• At 1609, a performance check using the 0.080 gas was performed and read at 0.087.• At 1614, alcohol free air test read as 0.000.• At 1620, the device was reading the 0.099 wet solution within the acceptable range.	<ul style="list-style-type: none">• Device into the freezer at 1205.• Device removed from freezer at 1307.• At 1307, device was turned on and gave the symbol that it was cold.• At 1319, a performance check using the 0.080 gas was performed and read at 0.103.• At 1336, the 0.080 gas read as a 0.090.• At 1400, the 0.080 gas read as a 0.085.• At 1405, the device was reading the 0.080 gas within the acceptable range. <ul style="list-style-type: none">• Device into freezer at 1416.• Device removed from freezer at 1542.• At 1542, device was turned on and gave the symbol that it was cold.• At 1600, a performance check using the 0.099 wet solution and read at 0.100.• At 1608, a performance check using the 0.080 gas was performed and read at 0.088.• At 1615, alcohol free air test read as 0.000.• At 1621, the device was reading the 0.099 wet solution within the acceptable range.

Performance check performed when devices were room temperature:

LX9 A	LX9 B
<p>At 1359, 0.080 gas:</p> <ul style="list-style-type: none">• 0.082• 0.080• 0.080 <p>At 1620, 0.099 wet solution:</p> <ul style="list-style-type: none">• 0.097• 0.095• 0.095	<p>At 1405, 0.080 gas:</p> <ul style="list-style-type: none">• 0.083• 0.083• 0.082 <p>At 1621, 0.099 wet solution:</p> <ul style="list-style-type: none">• 0.097• 0.096• 0.095

May 30, 2024

To: Committee on Testing for Intoxication

From: David Astles, FN018

Re: Evaluation of CMI Intoxilyzer 800 breath alcohol testing device for inclusion on the Nevada list of approved preliminary breath testing devices.

Two Intoxilyzer 800 handheld breath alcohol testing devices (S/N 222553 and 242932) were submitted by CMI Inc. to the Washoe County Sheriff's Office Forensic Science Division for evaluation for inclusion on the State of Nevada approved list of preliminary breath testing devices. The Intoxilyzer 800 is on the NHTSA Conforming Products List for Evidential Breath Testing devices (see attached letter to CMI from NHTSA).

The Intoxilyzer 800 is a pistol-grip style device (see attached promotional materials from CMI). The device has a color display which displays the instrument's internal temperature. It has two testing modes – BrAC (reports a number) and "Zero Tolerance" (reports "Pass," "Warn" or "Fail"). Note that this "Zero Tolerance" mode is somewhat different than other PBTs which have a "Passive" test mode. Passive testing can be used for "sniffing" the air, for example, above a drink suspected of containing alcohol or the air around a driver and reporting alcohol/no-alcohol. The Zero Tolerance mode can be used similarly but instead of a binary result (positive or negative), there is the Pass/Warn/Fail result. I could find no official documentation on the P/W/F levels but correspondence from CMI indicates that the Pass level is < 0.01, the Warn level is 0.01 – 0.02, and the Fail level is above 0.02. CMI advises that these levels can be reprogrammed at customer request.

Most modern PBTs have a manual sampling mode where the operator must press a button to have the instrument read the sample instead of reading automatically after a required volume of breath has been provided (1.1 L for the I800). The default test mode in these other PBTs can be set to Automatic or Manual sampling but manual sampling is usually possible by pressing a button during the automatic sample sequence. The Intoxilyzer 800 has no Manual setting, but manual sampling is possible using the "trigger" button on the device.

A positive feature of the Intoxilyzer 800 is that it has screen prompts to insert a new mouthpiece before a test and to remove the mouthpiece after a test. It has a sensor to detect when the mouthpiece is present.

The instrument was tested for accuracy, precision and calibration stability using both wet-bath and dry gas reference materials in the range 0.04 to 0.300. Accuracy (closeness to "true") and precision (variability from mean value) were within ranges expected from handheld devices. A dry gas and a wet bath accuracy check conducted today (after about 4 years since original testing) were both well within tolerance, indicating remarkable calibration stability.



There does not appear to be any calibration check validation (indicating “pass” or “fail” if measured results fall outside programmed tolerances). Dry gas calibration checks report the sample measured value without correction for atmospheric pressure/elevation. This does require the operator to determine appropriate corrections and calibration check validation manually.

The instrument’s response to heat (ca. 150 °C) and cold (ca. -10 °C) was also tested. The instrument will not operate outside of its rated operating temperature (23° to 122 °F (- 5° to 50°C)), which is a valuable safeguard. It’s accuracy seems to be less at the extremes of its operating temperature range (lower when cold and higher when hot) but this is characteristic of virtually all fuel cell detector devices and the I800’s performance in this regard was not unusual.

Summary

This is a relatively easy to use device with limited testing functions but with some unique additional features. While the pistol grip design has advantages, including a built-in HGN target light, the question arises whether this could be mistaken for a firearm or Taser in low light situations.

Its performance in testing was well within expectations for handheld fuel cell detection devices. It would appear to be suitable for use as a preliminary breath testing device.



U.S. Department of Transportation
**National Highway Traffic Safety
Administration**



CMI, Inc.
Toby Hall
316 E. 9th Street
Owensboro, KY 42303

AUG 16 2018

Dear Mr. Hall:

This letter confirms that the CMI, Inc. the **Intoxilyzer 800** evidentiary breath testing (EBT) device was submitted for testing. The **Intoxilyzer 800** had previously been found to meet the model specifications for EBT devices, and had been included on the conforming products list (CPL) for EBTs. On May 21, 2018, CMI, Inc. notified NHTSA of the following changes to its devices:

- The solenoid stroke length has been optimized and is now 1 millimeter (0.039 inches) shorter.
- The mouthpiece was modified to include a restriction to prevent excessively hard blowing.

The **Intoxilyzer 800**, with these changes, was evaluated by the Volpe Transportation Systems Center. Test data confirmed that these changes had no effect on precision or accuracy. Accordingly, the **Intoxilyzer 800** will remain on the CPL for EBTs.

Please be advised that this office is to be notified immediately of any revisions or modifications to the accessory, devices, or the QAP.

If you require further assistance or have any questions regarding NHTSA's quality assurance program in relation to 49 CFR Part 40, please do not hesitate to contact me at 202-366-1694.

Sincerely,

Randolph Atkins, Ph.D.
Social Science Researcher

Enclosures

CC: Patrice Kelly, OST
Edward Conde, Volpe

Intoxilyzer[®] 800

THE FUTURE OF
PORTABLE BREATH TESTING
IS HERE!

Incorporates the latest electrochemical fuel cell, microcontroller, and display technology to provide an easy to operate rugged screener.

Easy to operate. Intuitive menu with directional keys makes operating the instrument very simple.

- Evidential Grade Sampling System
- Safe & Sanitary Side Exhaust
- On-Screen Battery & Temp. status
- Rugged Ergonomic Construction
- Large Bright Multi-Color Display
- Mouthpiece Detection



EMI INC.
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Toll Free: 866-835-0690

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Intoxilyzer[®]

800



Evidential Grade Sampling System

- Advanced 19mm fuel cell holds calibration for months
- Quick to respond and recover
- Accurate, precise, dependable

Color Graphic Display

- Easy to read in all light conditions

Rugged Ergonomic Construction

The I800 has been manufactured to operate in the harsh environment that officers often find themselves faced with. From the structurally reinforced designed to the rugged polycarbonate/ABS (PC/ABS) material the I-800 is built to withstand severe treatment

Instrument Kit Includes

- Rugged Carry Case
- 10 Easy Fit Mouthpieces
- 1 Sampling Cup
- Quick Start Guide
- On Line Training
- Wrist Strap
- 2 AA batteries

Intoxilyzer[®] 800 Features & Specifications

Designation: Portable, handheld, breath alcohol measuring instrument.

Detector: Electrochemical fuel cell.

Specificity: The detector is unaffected by acetone, paint and glue fumes, foods, confectionery, methane, and practically all other non-alcoholic substances at levels found in human breath.

Sampling:

Automatic after the subject provides a sufficient volume of breath. A manual sampling feature is also provided.

Memory:

The result of the last five tests are stored and can be recalled until the next test is started.

Instrument Control:

By microcontroller

Accuracy: Meets DOT specifications of ± 0.005 BAC up to 0.100 BAC and $\pm 5\%$ above 0.100 BAC.

Response Time:

Within 5 seconds of sampling, depending on alcohol concentration.

Display:

Easily visible Color Graphic display.

HGN Light

Audible Indicator:

Tone activated by operation.

Operating Temperature: 23° to 122 °F (-5° to 50°C)

Storage Temperature: -4° to 149°F (-20° to 65°C)

Calibration: Automated procedure for either dry gas or wet bath simulator.

Dimensions: 6.5" h x 3.0" d x 2.0" w

Weight: 5 oz. with batteries installed.

Power Supply: 2AA batteries

To order supplies for your I-800
please call 1-800-835-0690

Mouthpiece (box of 100)	P/N 015116
Sampling Cup	P/N 441532
Rubber Grip	P/N 441533
Wrist Strap	P/N 460079
Regulator	P/N 012148
Carry Case	P/N 021884
Batteries	P/N 690029
Ethanol Gas Standard (0.100 BAC)	P/N 340233
Ethanol Gas Standard (0.080 BAC)	P/N 340234
Ethanol Gas Standard (0.040 BAC)	P/N 340247

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Part # 650950 rev.



Intoxilyzer® **800**



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**Startup
Guide**

Breath Test

Power Instrument on by pressing the \odot button (press and hold the \odot button at anytime to turn off the instrument)

- Serial Number, Date, & Instrument Temperature will momentarily be displayed
- Instrument will come ready in the last test mode used (BrAC Test or Zero Tolerance)
- Navigate through the menu using the arrow buttons
- Select the desired menu option by pressing \odot button

BrAC Mode

- INSERT NEW MOUTHPIECE will be displayed along with a red hollow square indicating there is not a mouthpiece in place.
- Once a mouthpiece has been inserted into the channel the red hollow square will turn into a green solid square indicating a mouthpiece has been properly placed on the instrument
- BLOW will be displayed to indicate the subject test can be taken.
- Instruct the subject to blow steadily until out of breath
- When the subject begins to blow the instrument will display FLOW indicating an acceptable flow rate
- Once the acceptable sample size has been met the instrument will display ANALYZING
- The results will be displayed
- The instrument will display Remove Mouthpiece
- The instrument will become ready for the next test and display Insert New Mouthpiece
- Pressing the left arrow button when the arrow is displayed will return to the menu

Zero Tolerance

- Slide the sample cup into the mouthpiece channel
- BLOW will be displayed to indicate the subject test can be taken.
- Instruct the subject to blow steadily into the cup until out of breath
- When the subject begins to blow the instrument will display FLOW indicating an acceptable flow rate
- Once the acceptable sample size has been met the instrument will automatically take a sample and display ANALYZING
- The results will be displayed as PASS/WARN/FAIL
- The instrument will return to BLOW and is ready for the next subject
- Pressing the left arrow button when the arrow is displayed will return to the menu

System Menu

- Press the \odot button to enter the System Menu
- Use the arrow buttons to scroll through the menu for the desired option
- Use the \odot button to access the menu item
 - Calibration Check
 - Calibration Adjust
 - Last 5 Tests
 - Setup Time/Date
 - HGN light function
 - Information
 - Exit

Calibration Check Prep

- Press \odot to enter the Calibration Check menu
- Select $\uparrow \downarrow$ to toggle from a WET/DRY standard
- Press \odot to select the desired standard
- INSERT NEW MOUTHPIECE will be displayed along with a red hollow square indicating there is not a mouthpiece in place.
- Once a mouthpiece has been inserted into the channel the red hollow square will turn into a green solid square indicating a mouthpiece has been properly placed on the instrument
- Instrument will display TRIGGER
- Provide standard sample for at least five seconds then pull the trigger to take sample
- The instrument will display ANALYZING then display the value recorded

Calibration Adjust

- Press \odot to enter the Calibration Adjust menu
- Select $\uparrow \downarrow$ to toggle from a WET/DRY standard
- Adjust the calibration value using the arrow and select button
- INSERT NEW MOUTHPIECE will be displayed along with a red hollow square indicating there is not a mouth piece in place.
- Once a mouthpiece has been inserted into the channel the red hollow square will turn into a green solid square indicating a mouth piece has been properly placed on the instrument
- Instrument will display TRIGGER
- Provide standard sample for at least five seconds then pull the trigger to take sample
- The instrument will display ANALYZING then display DONE