



Ohio Administrative Code

Rule 3701-53-05 Breath instrument checks, controls and certifications.

Effective: January 23, 2023

(A) For instruments listed under paragraphs (A)(1) and (A)(2) of rule 3701-53-03 of the Administrative Code:

(1) A senior operator shall perform an instrument check no less frequently than once every seven days in accordance with the appropriate instrument checklist for the instrument being used. The instrument check may be performed anytime up to one hundred ninety-two hours after the last instrument check.

(2) The instrument shall be checked to detect radio frequency interference (RFI) using a hand-held radio normally used by the law enforcement agency performing the instrument check. The RFI detector check is valid when the evidential breath testing instrument detects RFI or aborts a subject test. If the RFI detector check is not valid, the instrument shall not be used until the instrument is serviced.

(3) An instrument shall be checked using a solution containing ethyl alcohol approved by the director. An instrument check result is valid when the result of the instrument check is at or within five one-thousandths (0.005) grams per two hundred ten liters of the target value for that approved solution. Instruments with check results outside the range specified in this paragraph will require the issue to be identified, remediated and a successful check completed. If a second instrument check result is also out of range, the instrument shall not be used until the instrument is serviced or repaired.

(B) For the instrument listed under paragraph (A)(3) of rule 3701-53-03 of the Administrative Code:

(1) The instrument shall perform a dry gas control using a dry gas standard traceable to the national institute of standards and technology (NIST) before and after every subject test.

(2) A subject test shall include the collection of two breath samples. A dry gas control is not required



between the two breath samples.

(3) Dry gas control results are valid when the results are at or within five one-thousandths (0.005) grams per two hundred ten liters of the alcohol concentration on the manufacturer's certificate of analysis for that dry gas standard.

(4) A dry gas control result which is outside the range specified in paragraph (B)(3) of this rule will abort the subject test or instrument certification in progress.

(5) A representative of the director will perform an instrument certification according to the instrument display using a solution containing ethyl alcohol approved by the director. A dry gas control using a dry gas standard traceable to the national institute of standards and technology (NIST) shall also be used when a certification is performed. An instrument in service shall be certified no less frequently than once every calendar year or when the dry gas standard on the instrument is replaced, whichever comes first. A calendar year means the period of twelve consecutive months, as indicated in section 1.44 of the Revised Code, beginning on the first day of January, and ending on the thirty-first day of December. Instrument certifications are valid when the certification results are at or within five one-thousandths (0.005) grams per two hundred ten liters of the target value for that approved solution. Instruments with certification results outside the range specified in this paragraph will require the issue to be remediated and a successful certification completed, or the instrument be removed from service until the instrument is serviced or repaired.

(C) For the instrument listed under paragraph (A)(4) of rule 3701-53-03 of the Administrative Code:

(1) The instrument shall perform a dry gas control using a dry gas standard traceable to the national institute of standards and technology (NIST) before and after every subject test.

(2) A subject test includes the collection of two breath samples. A dry gas control is not required between the two breath samples.

(3) Dry gas control results are valid when the results are at or within five one-thousandths (0.005) grams per two hundred ten liters of the target alcohol concentration on the manufacturer's certificate of analysis for that dry gas standard, adjusted for atmospheric pressure at the time of the test, as



indicated on the subject test report.

(4) A dry gas control result which is outside the range specified on the test report will abort the subject test or instrument certification in progress.

(5) Senior operators shall perform an instrument certification according to the instrument display using a solution containing ethyl alcohol approved by the director. A dry gas control using a dry gas standard traceable to the national institute of standards and technology (NIST) shall also be used when a certification is performed. An instrument in service shall be certified no less frequently than once every three hundred sixty-five days or when the dry gas standard on the instrument is replaced, whichever comes first. Instrument certifications are valid when the certification results are at or within five one-thousandths (0.005) grams per two hundred ten liters of the target value for that approved solution. Instruments with certification results outside the range specified in this paragraph will require the issue to be remediated and a successful certification completed, or the instrument to be removed from service until the instrument is serviced or repaired.

(6) Instruments may be networked by law enforcement agencies if the software is purchased from the instrument manufacturer.

(D) For the instrument listed under paragraph (A)(5) of rule 3701-53-03 of the Administrative Code:

(1) The instrument shall perform a dry gas control using a dry gas standard traceable to the national institute of standards and technology (NIST) before and after every subject test

(2) A subject test includes the collection of two breath samples. A dry gas control is not required between the two breath samples.

(3) Dry gas control results are valid when the results are at or within five one-thousandths (0.005) grams per two hundred ten liters of the alcohol concentration on the manufacturer's certificate of analysis for that dry gas standard.

(4) A dry gas control result which is outside the range specified in paragraph (D)(3) of this rule will abort the subject test or instrument certification in progress.



(5) Senior operators shall perform an instrument certification according to the instrument display using a solution containing ethyl alcohol approved by the director. A dry gas control using a dry gas standard traceable to the national institute of standards and technology (NIST) shall also be used when a certification is performed. An instrument in service shall be certified no less frequently than once every three hundred sixty-five days or when the dry gas standard on the instrument is replaced, whichever comes first. Instrument certifications are valid when the certification results are at or within five one-thousandths (0.005) grams per two hundred ten liters of the target value for that approved solution. Instruments with certification results outside the range specified in this paragraph will require the issue to be remediated and a successful certification completed, or the instrument be removed from service until the instrument is serviced or repaired.

(6) Instruments may be networked by law enforcement agencies if the software is purchased from the instrument manufacturer.

(E) An instrument check or certification shall be made in accordance with this rule before a new evidential breath testing instrument is placed in service or before an instrument is placed into service following repairs.

(F) A bottle of solution containing ethyl alcohol approved by the director shall not be used more than three months after its date of first use, or after the manufacturer's expiration date on the approved solution certificate, whichever comes first. After first use, a bottle of approved solution shall be kept under refrigeration when not being used. The approved solution bottle shall be retained for reference until that bottle of approved solution is discarded.

(G) Representatives of the director, senior operators, or persons employed by law enforcement agencies who have successfully completed an instrument operation, calibration, maintenance, and repair course conducted by the manufacturer of an approved breath alcohol test instrument may perform such repairs, maintenance, and calibration as covered by the relevant training for that instrument. Records of calibration will be retained for not less than three years from the date performed. Other retention periods will be in accordance with paragraph (B) of rule 3701-53-01 of the Administrative Code.