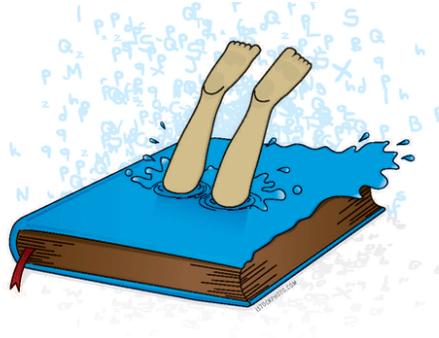


Garden State CLE Presents:

Deep Dive
DWI Core Foundational Documents



Instructors:



Robert Ramsey



**Joseph P. Rem, Jr.,
Certified Criminal Trial Attorney**

Lesson Plan

The Core foundational documents as defined by the Supreme Court in State vs. Chun, 194 N.J. 54(2008) are as follows:

The alcohol influence report (AIR) (Chun 134)

Operator's qualification card (Chun at 134 – required witness)

Most recent standard solution change report (30 days or 25 tests) (Chun 145)

Certificate of analysis for solution used in Defendant's tests (Chun 145)

Worksheet A (Chun 150-51)

Most recent calibration report from New Jersey State Police (performed every 6 months) (Chun 145) including:

Calibration record cover sheet (Chun 145)

Part I Control test (Chun at 145)

Part II Linearity test (Chun at 145)

New standard solution report (if relevant) (Chun at 145)

Breath-test coordinator's qualification card (Chun 145)

1) Evidential Requirements For Core Foundational Documents

The admissibility in evidence at trial of Alcotest results is dependent upon the admission in evidence of every core foundational document by the prosecution. Each document must factually relate to every other document. Without each of these documents in evidence, the test results are inadmissible. State vs. Kuropchak, 221 N.J. 368(2015).

2) Document Dumps

Prosecutors who are unfamiliar or untrained in the necessary core foundational documents may attempt to perform a document dump by seeking to introduce in evidence all of the DWI Alcotest discovery items, few of which are necessary or required. An objection to such an attempt should be interposed based upon the documents being both irrelevant (N.J.R.E. 403 (waste of time), N.J.R.E. 401 not relevant and N.J.R.E. 101(a)(3) requiring relevancy during an N.J.R.E. 104(a) hearing).

3) Burden of Proof During Trial

The process for consideration of these documents is N.J.R.E. 104(a) hearing during which the Rules of Evidence are relaxed in favor of evidence that the Court finds to be relevant and trustworthy in the interest of justice (NJRE 101(a)(3)). Rule 403 and a valid claim of privilege apply during the 104(a) hearing. Admissibility in evidence is based upon proof by clear and convincing evidence (Romano vs. Kimmelman, 96 N.J. 66 , 89-90 (1984)).

4) Burden of Proof After Trial

A court's decision to admit proof into evidence against a party, even if it is over objection, does not preclude the party from disputing the strength of that evidence at the end of trial. Before a final judgment of a defendant's guilt can be entered, the evidence must have shown beyond a reasonable doubt that he or she is guilty.

Thus, although Alcotest BAC results are admissible into evidence upon a proffer by the State satisfying the Chun conditions to a clear-and-convincing degree, the State's ultimate burden of proof at the end of trial is more rigorous. After hearing all of the testimony and considering all of the admitted exhibits, the judge ultimately must be persuaded that the elements of the offense, including the defendant's offending BAC level, have been proven beyond a reasonable doubt. State vs. Campbell, 436 N.J.Super 264, 271-72(App.Div.2014).

5) Core Foundational Documents Defined

The foundational documents that we conclude need to be entered into evidence therefore are few. They are: (1) the most recent calibration report prior to a defendant's test, with part I—control tests, part II—linearity tests, and the credentials of the coordinator who performed the calibration; (2) the most recent new standard solution report prior to a defendant's test; and (3) the certificate of analysis of the 0.10 simulator solution used in a defendant's control tests. Absent a pre-trial challenge to the admissibility of the AIR based on one of the other foundational documents produced in discovery, we perceive of no reason to require that they be made a part of the record routinely. State vs. Chun, 194 N.J. 54, 145, 943 A.2d 114(2008), subsequent determination, 215 N.J. 489, 73 A.3d 1241(2013).

i. Operator's Qualification Card (additionally, operator must testify at the trial. *Chun* at 134)

[Good for the year granted + 2 calendar years]; (see N.J.A.C. 13:51-1.8(d));

- ii. Most recent calibration report from NJSP—(Chun at 145);
- iii. Most recent standard solution change report prior to defendant's test (Chun at 145) (Note—this document may sometimes be included as part of #2 above);
- iv. Certificate of analysis used in defendant's control tests—(Chun 145);
- v. The Alcohol Influence Report; (Chun at 134);
- vi. Worksheet A Tolerance Calculations (Chun 150-151).

**ALCOHOL INFLUENCE REPORT FORM, ALCOTEST 7110 MKIII-C
NJSP HAMILTON**

Department Case No.: [REDACTED]
Summons No(s): [REDACTED]
Sequential File No.: [REDACTED]

Subject

Last Name: [REDACTED] First Name: [REDACTED] MI: E
D.O.B.: [REDACTED] Age: [REDACTED] Gender: MALE Ht: 5 ft. 04 in. Wt: 155 lbs.
Driver License Number: [REDACTED] Issuing State: NJ

Arresting Officer

Last Name: GRAM First Name: TPR MI: -
Badge No.: 8168 Arrest Date: 11/19/2021 Arrest Time: 23:16S Arrest Location: 1351

Instrument

Alcotest 7110 MKIII-C Serial No.: ARWE-0037
Location: NJSP HAMILTON
Calibration File No.: 03800 Calib. Date: 07/01/2021 Calib. No.: 00044
Certification File No.: 03801 Cert. Date: 07/01/2021 Cert. No.: 00033
Linearity File No.: 03802 Lin. Date: 07/01/2021 Lin. No.: 00032
Solution File No.: 03931 Soln. Date: 11/12/2021 Soln. No.: 00393
Sequential File No.: 03936 File Date: 11/20/2021

Calibrating Unit: WET Model No.: CU-34 Serial No.: DDWF S3-0236
Control Solution %: 0.100% Expires: 12/16/2021
Solution Control Lot: 19380 Bottle No.: 0173

Breath Test Information

Date of Test: 11/20/2021

Function	Result %BAC	Time HH:MM	Volume (L)	Duration Sec (s)	Temp. Sim.(°C)	Error Message
Ambient Air Blank	0.000%	00:35S				
Control Test 1					34.0°C	
EC Result	0.100%	00:36S				
IR Result	0.099%	00:36S				
Ambient Air Blank	0.000%	00:37S				
Breath Test 1			3.0L	8.8s		
EC Result	0.153%	00:38S				
IR Result	0.153%	00:38S				
Ambient Air Blank	0.000%	00:38S				
Breath Test 2			3.1L	9.1s		
EC Result	0.154%	00:40S				
IR Result	0.153%	00:40S				
Ambient Air Blank	0.000%	00:41S				
Control Test 2					34.0°C	
EC Result	0.096%	00:41S				
IR Result	0.098%	00:41S				
Ambient Air Blank	0.000%	00:42S				

REPORTED BREATH TEST RESULT: 0.15% BAC

Breath Test Operator

Last Name: WILLIAMS First Name: TPR MI: A
Signature: Tpr. II Williams #7560 Badge No.: 7560
Date: 11/20/2021

Copy Given to Subject

DEPARTMENT OF
Traffic and Public Safety
Offices for the benefit of the State

Justin A. Williams
 New Jersey State Police

IS QUALIFIED AND COMPETENT TO CONDUCT PHYSICAL & MENTAL ANALYSES PURSUANT TO CHAPTER 143 OF

THE LAWS OF NEW JERSEY IN THE OPERATION OF THE Alcotest 7110 MKIII-C

GIVEN UNDER MY HAND AT TRENTON, NEW JERSEY THIS 11th DAY OF May

IN THE YEAR OF OUR LORD AND OF THE INDEPENDENCE OF THE STATE OF NEW JERSEY Seventeen

[Signature]
 SUPERINTENDENT
 NEW JERSEY STATE POLICE

[Signature]
 ATTORNEY GENERAL
 STATE OF NEW JERSEY

ORIGINAL COURSE DATES 03/16/2015 - 03/19/2015

DATE	Refresher Course PLACE	INSTRUCTOR
1. 04/24/2017	Lakehurst	Cross
2. 9.8.20	ACCC	WMLoss
3.		
4.		
5.		
6.		
7.		
8.		
9.		

S.P. 231B (Rev. 07/16)

Calibrating Unit

New Standard Solution Report

Equipment	Alcotest 7110 MKIII-C	Serial No.: ARWE-0037
Location:	NJSP HAMILTON	
Calibration File No.:	03800	Calib. Date: 07/01/2021
Certification File No.:	03801	Calib. No.: 00044
Linearity File No.:	03802	Cert. Date: 07/01/2021
Solution File No.:	03931	Cert. No.: 00033
Sequential File No.:	03931	Lin. Date: 07/01/2021
		Lin. No.: 00032
		Soln. Date: 11/12/2021
		Soln. No.: 00393
		File Date: 11/12/2021

Calibrating Unit:	WET	Model No.: CU-34
Control Solution %:	0.100%	Serial No.: DDWF S3-0236
Solution Control Lot:	19380	Expires: 12/16/2021
		Bottle No.: 0173

Function	Result	Time	Temperature	Comment(s)
	%BAC	HH:MM	Simulator (°C)	or Error(s)
Ambient Air Blank	0.000%	12:18S		
Control 1 EC	0.100%	12:19S	34.0°C	*** TEST PASSED ***
Control 1 IR	0.100%	12:19S	34.0°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	12:20S		
Control 2 EC	0.098%	12:20S	34.0°C	*** TEST PASSED ***
Control 2 IR	0.100%	12:20S	34.0°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	12:21S		
Control 3 EC	0.099%	12:22S	34.0°C	*** TEST PASSED ***
Control 3 IR	0.100%	12:22S	34.0°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	12:22S		

All tests within acceptable tolerance.

On this date, I installed the above indicated "NEW SOLUTION" in accordance with Alcotest 7110 operator training and procedures established by the (NJSP) Chief Forensic Scientist.

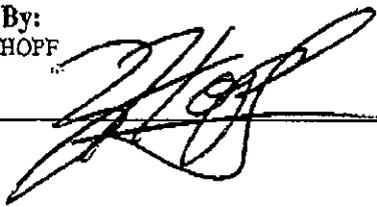
Changed By:

Last Name: HOPF

First Name: ZACHARY

MI: R

Signature: _____



Badge No.: 7874

Date: 11/12/2021



State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF STATE POLICE
POST OFFICE BOX 7068
WEST TRENTON, NJ 08628-0068
(609) 882-2000

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

GURBIR S. GREWAL
Attorney General

PATRICK J. CALLAHAN
Colonel

CERTIFICATION OF ANALYSIS
0.100 PERCENT BREATH ALCOHOL SIMULATOR SOLUTION

ACCEPTANCE SPECIFICATIONS FOR BREATH ALCOHOL SIMULATOR SOLUTION: Ethyl alcohol concentration within, but not exceeding, the range of 0.1174 to 0.1246 grams per 100 milliliters of solution.

MANUFACTURER: Draeger, Inc.

ANALYSIS DATE: 12/26/2019

BREATH ALCOHOL SIMULATOR SOLUTION LOT NUMBER: 19380

Representative samples of the above-referenced Lot Number were tested by Gas Chromatography and found to have a mean ethyl alcohol concentration range of 0.1221 to 0.1237 grams per 100 milliliters of solution.

This lot of breath alcohol simulator solution may be utilized as a known traceable standard for the purpose of conducting periodic tests, pursuant to N.J.A.C. 13:51-4.3, of approved breath test instruments (N.J.A.C. 13:51-3.5) utilized by law enforcement agencies in this State. The manufacturer's expiration date for this lot of breath alcohol simulator solution is December 16, 2021.

As Assistant Chief Forensic Scientist for the Division of State Police, I hereby certify and attest that the tests and results documented in this Certificate of Analysis were performed at the Office of Forensic Sciences of the Division of State Police on properly functioning and calibrated instruments and equipment. All procedures utilized are accurate, objective, and performed on a routine basis by personnel within the Office of Forensic Sciences, in accordance with their professional duties and responsibilities.

Michael Kennedy
Assistant Chief Forensic Scientist
NJSP Office of Forensic Sciences

Sworn to and subscribed before me this 31 day of December, 2019.

Notary

KAREN E. STAHL
NOTARY PUBLIC OF NEW JERSEY
Commission # 60110522
My Commission Expires 8/13/2024



An Internationally Accredited Agency

New Jersey Is An Equal Opportunity Employer
Printed on Recycled Paper and Recyclable





State of New Jersey Alcotest Calculator

Score 1:

EC: . 153 IR: . 153

Score 2:

EC: . 154 IR: . 153

Reported Breath Test Result: . 15

Total: . 613

Mean: . 15325

Upper Limit Relative Tolerance: . 1609

Upper Limit Absolute Tolerance: . 1582

Lower Limit Relative Tolerance: . 1455

Lower Limit Absolute Tolerance: . 1482

Upper Tolerance Limit: . 1609

Lower Tolerance Limit: . 1455

Breath Samples Are Within Acceptable Tolerance

Printed:

Date: 11/20/21 Time: 00:41:48

Alcotest 7110 Calibration Record

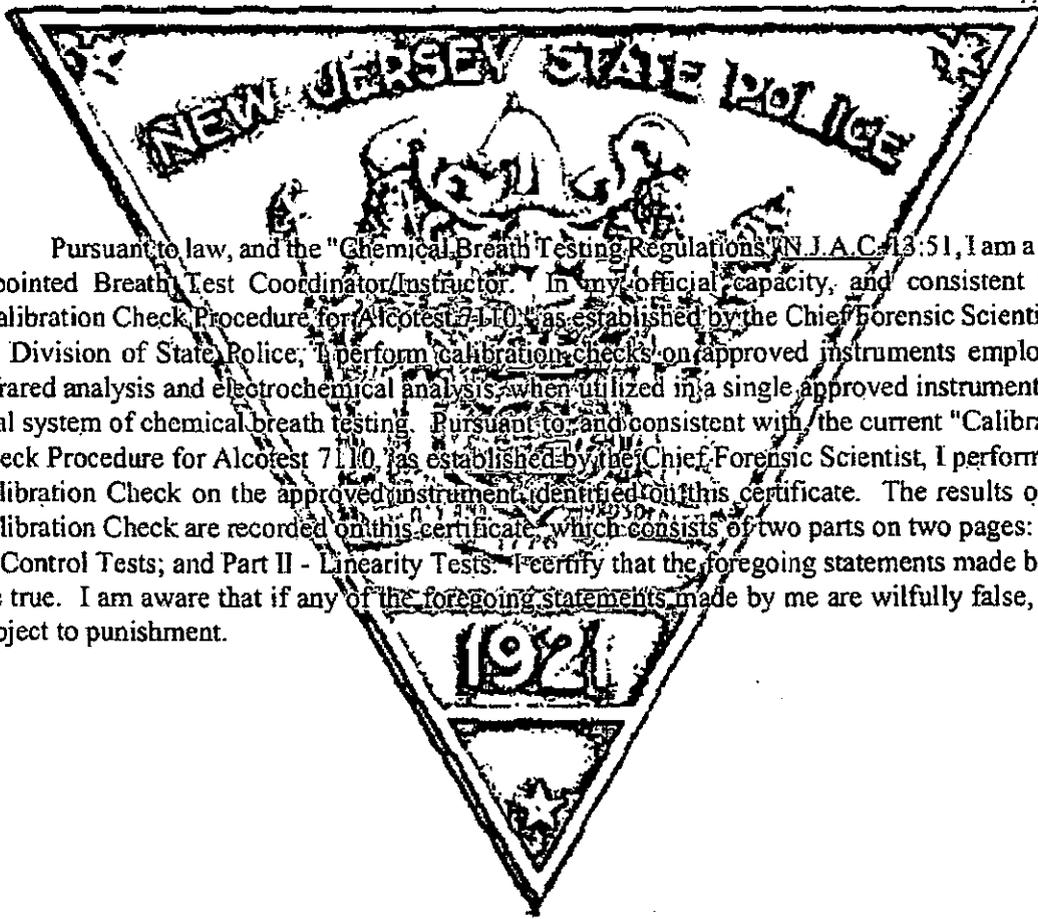
Equipment Alcotest 7110 MKIII-C Serial No.: ARWE-0037
Location: NJSP HAMILTON
Calibration File No.: 03800 Calib. Date: 07/01/2021 Calib. No.: 00044
Certification File No.: 03631 Cert. Date: 01/05/2021 Cert. No.: 00032
Linearity File No.: 03632 Lin. Date: 01/05/2021 Lin. No.: 00031
Solution File No.: 03798 Soln. Date: 06/21/2021 Soln. No.: 00381
Sequential File No.: 03800 File Date: 07/01/2021

Calibrating Unit: WET Model No.: CU-34 Serial No.: DDSC S3-0015
Control Solution %: 0.100% Expires: 10/16/2021
Solution Control Lot: 19280 Bottle No.: 0630

Coordinator

Last Name: WATSON First Name: MATTHEW MI: R
Signature: *[Handwritten Signature]* #2078 Badge No.: 7078
Date: 07/01/2021

*Black Key Temperature Probe Serial.....# DDLBP3-0075 MRW
*Digital NIST Temperature Measuring System Serial.....# 200247685 MRW



Alcotest 7110 Calibration Certificate

Part I - Control Tests

Equipment Alcotest 7110 MKIII-C Serial No.: ARWE-0037
Location: NJSP HAMILTON
Calibration File No.: 03800 **Calib. Date:** 07/01/2021 **Calib. No.:** 00044
Certification File No.: 03801 **Cert. Date:** 07/01/2021 **Cert. No.:** 00033
Linearity File No.: 03632 **Lin. Date:** 01/05/2021 **Lin. No.:** 00031
Solution File No.: 03798 **Soln. Date:** 06/21/2021 **Soln. No.:** 00381
Sequential File No.: 03801 **File Date:** 07/01/2021

Calibrating Unit: WET **Model No.:** CU-34 **Serial No.:** DDSC S3-0015
Control Solution %: 0.100% **Expires:** 10/16/2021
Solution Control Lot: 19280 **Bottle No.:** 0630

Function	Result	Time	Temperature	Comment(s)
	%BAC	HH:MM	Simulator (°C)	or Error(s)
Ambient Air Blank	0.000%	11:37D		
Control 1 EC	0.099%	11:37D	33.9°C	*** TEST PASSED ***
Control 1 IR	0.099%	11:37D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	11:38D		
Control 2 EC	0.099%	11:39D	33.9°C	*** TEST PASSED ***
Control 2 IR	0.099%	11:39D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	11:39D		
Control 3 EC	0.099%	11:40D	33.9°C	*** TEST PASSED ***
Control 3 IR	0.099%	11:40D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	11:41D		

All tests within acceptable tolerance.

Coordinator

Last Name: WATSON

Signature: *T.P.C. Watson*

First Name: MATTHEW

Badge No.: 7078

Date: 07/01/2021

MI: R

Pursuant to law, and the "Chemical Breath Testing Regulations" N.J.A.C. 13-51, I am a duly appointed Breath Test Coordinator/Instructor. In my official capacity, and consistent with "Calibration Check Procedure for Alcotest 7110," as established by the Chief Forensic Scientist of the Division of State Police, I perform calibration checks on approved instruments employing infrared analysis and electrochemical analysis when utilized in a single approved instrument as a dual system of chemical breath testing. Pursuant to, and consistent with, the current "Calibration Check Procedure for Alcotest 7110" as established by the Chief Forensic Scientist, I performed a Calibration Check on the approved instrument identified on this certificate. The results of my Calibration Check are recorded on this certificate, which consists of two parts on two pages: Part I - Control Tests; and Part II - Linearity Tests. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

Alcotest 7110 Calibration Certificate

Part II - Linearity Tests

Equipment Alcotest 7110 MKIII-C Serial No.: ARWE-0037
Location: NJSP HAMILTON
Calibration File No.: 03800 **Calib. Date:** 07/01/2021 **Calib. No.:** 00044
Certification File No.: 03801 **Cert. Date:** 07/01/2021 **Cert. No.:** 00033
Linearity File No.: 03802 **Lin. Date:** 07/01/2021 **Lin. No.:** 00032
Solution File No.: 03798 **Soln. Date:** 06/21/2021 **Soln. No.:** 00381
Sequential File No.: 03802 **File Date:** 07/01/2021

Calibrating Unit: WET **Model No.:** CU-34 **Serial No.:** DDRF S3-0009
Control Solution %: 0.040% **Expires:** 06/08/2022
Solution Control Lot: 20260 **Bottle No.:** 1086

Calibrating Unit: WET **Model No.:** CU-34 **Serial No.:** DDWF S3-0225
Control Solution %: 0.080% **Expires:** 06/11/2022
Solution Control Lot: 20270 **Bottle No.:** 0896

Calibrating Unit: WET **Model No.:** CU-34 **Serial No.:** DDXN S3-0153
Control Solution %: 0.160% **Expires:** 06/17/2022
Solution Control Lot: 20280 **Bottle No.:** 1202

Function	Result	Time	Temperature	Comment(s)
	%BAC	HH:MM	Simulator (°C)	or Error(s)
Ambient Air Blank	0.000%	11:48D		
Control 1 EC	0.041%	11:49D	34.0°C	*** TEST PASSED ***
Control 1 IR	0.041%	11:49D	34.0°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	11:50D		
Control 2 EC	0.041%	11:51D	34.0°C	*** TEST PASSED ***
Control 2 IR	0.040%	11:51D	34.0°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	11:52D		
Control 3 EC	0.080%	11:53D	34.0°C	*** TEST PASSED ***
Control 3 IR	0.080%	11:53D	34.0°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	11:54D		
Control 4 EC	0.079%	11:55D	34.0°C	*** TEST PASSED ***
Control 4 IR	0.080%	11:55D	34.0°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	11:56D		
Control 5 EC	0.159%	11:57D	33.9°C	*** TEST PASSED ***
Control 5 IR	0.159%	11:57D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	11:58D		
Control 6 EC	0.158%	11:59D	33.9°C	*** TEST PASSED ***
Control 6 IR	0.159%	11:59D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	12:00D		

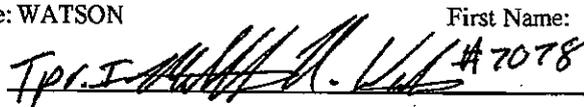
All tests within acceptable tolerance.

Coordinator

Last Name: WATSON

First Name: MATTHEW

MI:R

Signature:  #7078

Badge No.: 7078

Date: 07/01/2021

Calibrating Unit

New Standard Solution Report

Equipment	Alcotest 7110 MKIII-C	Serial No.:	ARWE-0037
Location:	NJSP HAMILTON		
Calibration File No.:	03800	Calib. Date:	07/01/2021
Certification File No.:	03801	Cert. Date:	07/01/2021
Linearity File No.:	03802	Lin. Date:	07/01/2021
Solution File No.:	03803	Soln. Date:	07/01/2021
Sequential File No.:	03803	File Date:	07/01/2021
		Calib. No.:	00044
		Cert. No.:	00033
		Lin. No.:	00032
		Soln. No.:	00382
Calibrating Unit:	WET	Model No.:	CU-34
Control Solution %:	0.100%	Serial No.:	DDSC S3-0015
Solution Control Lot:	19380	Expires:	12/16/2021
		Bottle No.:	1210

Function	Result	Time	Temperature	Comment(s)
	%BAC	HH:MM	Simulator (°C)	or Error(s)
Ambient Air Blank	0.000%	13:37D		
Control 1 EC	0.100%	13:37D	33.9°C	*** TEST PASSED ***
Control 1 IR	0.100%	13:37D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	13:38D		
Control 2 EC	0.099%	13:39D	33.9°C	*** TEST PASSED ***
Control 2 IR	0.100%	13:39D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	13:40D		
Control 3 EC	0.099%	13:40D	33.9°C	*** TEST PASSED ***
Control 3 IR	0.100%	13:40D	33.9°C	*** TEST PASSED ***
Ambient Air Blank	0.000%	13:41D		

All tests within acceptable tolerance.

On this date, I installed the above indicated "NEW SOLUTION" in accordance with Alcotest 7110 operator training and procedures established by the (NJSP) Chief Forensic Scientist.

Temperature Probe Serial Number: DDXAP2-034 MRW

Changed By:

Last Name: WATSON

First Name: MATTHEW

MI: R

Signature: 

Badge No.: 7078

Date: 07/01/2021

DEPARTMENT OF
Traffic and Public Safety
This is to certify that

Matthew R. Watson
New Jersey State Police



IS QUALIFIED AND COMPETENT TO COMPLETE THE COURSE AND TESTS PURSUANT TO CHAPTER 142 OF
THE LAWS OF 1986 IN THE OPERATION OF THE **Model 7110 MKIII-C**

A METHOD TO DETERMINE INTOXICATION
GIVEN UNDER MY HAND AT TRENTON, NEW JERSEY, THIS 12th DAY OF August

TWO THOUSAND AND 12th

SUPERINTENDENT
NEW JERSEY STATE POLICE

ATTORNEY GENERAL
STATE OF NEW JERSEY

ORIGINAL COURSE DATES

DATE	Refresher Course PLACE	INSTRUCTOR
1. 11-8-12	GCPA	Wm Long
2. 7/14/15	CMPA	Adrian Gonda
3. 3/23/17	Lakehurst	Michelle Jordan
4. 7-20-19	GCPA	Wm Long
5.		
6.		
7.		
8.		
9.		

S.P. 2008 (Rev. 03/10)

DEPARTMENT OF
Traffic and Public Safety
This is to certify that

Matthew R. Watson
Breath Test Courtroom Instructor



IS QUALIFIED AND COMPETENT TO COMPLETE THE COURSE AND TESTS PURSUANT TO CHAPTER 142 OF
THE LAWS OF 1986 IN THE OPERATION OF THE **Model 7110 MKIII-C**

A METHOD TO DETERMINE INTOXICATION
GIVEN UNDER MY HAND AT TRENTON, NEW JERSEY, THIS 16th DAY OF June

TWO THOUSAND AND Sixteen

SUPERINTENDENT
NEW JERSEY STATE POLICE

ACTING ATTORNEY GENERAL
STATE OF NEW JERSEY

ORIGINAL COURSE DATES

DATE	Refresher Course PLACE	INSTRUCTOR
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		

S.P. 2008 (Rev. 03/10)