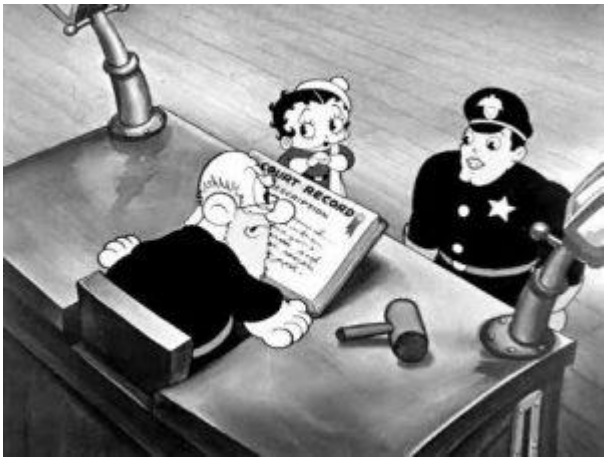
Garden State CLE

Your First 9510 Trial



Instructors

John Menzel, Esquire
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Robert Ramsey, Ed.D.

Lesson Plan

PART I
BEYOND THE DAUBERT HEARING

New Jersey defense counsel and prosecutors may get dragged into an early 9510 trial in a number of ways prior to an official determination as to scientific reliability by a court of appellate authority.

For example: A municipal Court judge may rule that the instrument has already been approved as per both statute and the N.J.A.C.:

> N.J.S.A. 39:4-50.3 provides in part: Chemical analyses of the arrested person's breath, to be considered valid under the provisions of this act, shall have been performed according to methods approved by the Attorney General, and by a person certified for this purpose by the Attorney General. The Attorney General is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analyses, and to make certifications of such individuals, which certifications shall be subject to termination or revocation at the discretion of the Attorney General.

13:51–3.5 Approved instruments for the testing of a person's breath by chemical analysis.

> (a) The Attorney General, pursuant [N.J.S.A. 39:4-50.3] approves the following instruments for use in the testing of a person's breath by chemical analysis:
>
> > 1) The Alcotest 7110 MKIII, is a chemical breath test instrument that employs both infrared analysis and electrochemical analysis as a dual system of chemical breath testing and is an approved instrument for use in the testing of a person's breath by chemical analysis.
> >
> > 2) The Alcotest 9510 is a chemical breath test instrument that employs both infrared analysis and

> electrochemical analysis as a dual system of chemical breath testing and is an approved instrument for use in the testing of a person's breath by chemical analysis. [effective 2/8/18]

The trial court may borrow from an unrelated, previously decided case and bootstrap scientific reliability. E.g., using State vs. Chun, 194 N.J. 54(2008) or State vs. Foley, 370 N.J.Super 341(LawDiv.2003).

> State vs. Abeskaron, 326 N.J.Super 110(App.Div.1999) (finding laser speed-measuring device scientifically reliable based upon an unrelated, unreported, moot case in the Law Division.) See also State vs. Boyington, 159 N.J.Super 426(LawDiv.1978) (Decatur RA-Gun scientifically reliable due to the fact it is Doppler-based.)

PART II
TRIAL VENUE

The A.G. Guidance from December 30th mandates that when the defense files a motion for a Daubert Hearing as to scientific reliability, the municipal prosecutor must immediately inform his county prosecutor liaison who will then notify DCJ. Prosecutors should also inform their courts that the challenge will be forwarded to DCJ for review and consideration for a motion for direct certification. Such defendants may be named in a consolidated reliability hearing before the Supreme Court or a special adjudicator.

Prosecutors should advise defendants who pursue such motions that the Court has held that the defense is responsible for its own litigation expenses, including expert witnesses.

There is no exception or consideration in the Guidance for defendants who are represented by the municipal public defender.

(See N.J.S.A. 2B:24-6(a) - All necessary services and facilities of representation, including both expert and lay investigation and testimony as well as other preparations, shall be provided in every case. The municipality shall be responsible for payment for services pursuant to this section. The factors of need and real value to a defendant may be weighed against the financial constraints of the municipality in determining the necessary services and facilities of representation. The final determination as to necessity for services required pursuant to this section shall be made by the Court.")

See also In re Cannady, 126 N.J. 486(1991) Payment of ancillary services for an indigent defendant not represented by OPD.

Given the Attorney General's posture, it is impossible to predict where the case will be tried.

For example:

> It may be tried in Superior Court with that judge doing both the Daubert Hearing and the trial on the merits; or

It may be tried entirely in municipal court as to all issues; or

It may be tried in municipal court following a remand from the findings of a Special Adjudicator and a review by a court of appellate authority; or

None of the above!

Instructors' comments: Consider that the backlog of cases since May 2023 may trigger an enormous flood of 9510 cases from each of our twenty-one counties. It is possible the Attorney General will be flooded with these Daubert notices by the hundreds!

Notice that the Guidance puts the burden of challenging the scientific reliability on the defense rather than on the party who has the burden of going forward with going forward with the evidence and the burden proof on the evidence tendered to the trial court.

See generally N.J.R.E. 101(b):

(1) "Burden of persuasion" means the obligation of a party to meet the requirements of a rule of law that the fact be proved by a preponderance of the evidence, by clear and convincing evidence, beyond a reasonable doubt, or such other standard as required by law.

(2) "Burden of producing evidence" means the obligation of a party to introduce evidence when necessary to avoid the risk of a judgment or peremptory finding against that party on an issue of fact.

The Guidance also violates the notions of separation of powers and judicial independence in that it assumes that municipal court judgers will simply adjourn their 9510 cases indefinitely in order to allow the Attorney General to pursue a 104 hearing in another court. This position shows no deference to the defendant's right to a speedy trial**.**

PART III
PRETRIAL MOTIONS

The filing of a motion related to scientific reliability is a matter of tactical significance. The controlling Rule of Court is 7:7-2:

> a) How Made. Except as otherwise provided by Rule. 7:5-2 (motion to suppress), motions in the municipal court and answers to motions, if any, shall be made orally, unless the court directs that the motion and answer be in writing. Oral testimony or affidavits in support of or in opposition to the motion may be required by the court in its discretion.
>
> b) Hearings. A motion made before trial shall be determined before trial unless the court, in the interest of justice, directs that it be heard during or after trial.

There is really no motion to be filed by the defense as to scientific reliability since the defense has no affirmative burden of going forward with that evidence. Defense counsel may wish to write to the prosecutor and court indicating that there will be an objection to the admissibility of the 9510 evidence unless (or until) there has been a finding of scientific reliability in conformity with Daubert.

Another option is to do nothing! Wait until jeopardy attaches at trial (first witness sworn). When the State seeks to introduce the 9510 evidence in the absence of a Daubert hearing, defense should interpose an objection based upon the lack of proof of scientific reliability. An application for an adjournment at that point by the State raises significant double jeopardy issues. State vs. O'Keefe, 135 N.J.Super 430(LawDiv.1975). Of course, the argument from the State will be that by failing to put the State on notice, the defendant waived his right to a Daubert Hearing. Of course, even if this argument were legally significant, there is still no basis for admitting 9510 readings in the absence of a judicial determination by either the trial court or a court of appellate authority as to scientific reliability.

PART IV
FOUNDATIONAL DOCUMENTS AT TRIAL

Instructions from the Attorney General – December 30, 2025

1) Proceed in the normal manner establishing (by clear and convincing evidence) that:

a) The device was in proper working order at the time of the test;

b) The operator was certified; and

c) The test was administered according to official procedures.

[Note: Nothing new here. These elements were originally established in Romano vs. Kimmerlman, 96 N.J. 66, 81(1984).]

2) Core foundational documents.

For 7110 cases, the Core Foundational Documents are as follows:

h. - Alcotest Trial Check List

Client: _____

Part I - Core Foundational Documents

[Each of these must be in evidence to support admissibility of test results - State v. Kuropchak, 221 NJ 368 (2015)]

___ 1. Operator's Qualification Card

___ 2. Most recent calibration report from NJSP -
- **___ Calibration Record - Cover sheet**
- **___ Part I Control**
- **___ Part II Linearity**
- **___ New Standard Solution (if relevant)**
- **___ Trooper's Alcotest Cards**

___ 3. Most recent standard solution change report

___ 4. Cert. of analysis used in Def's control tests

___ 5. The Alcohol Influence Report

___ 6. Worksheet A Tolerance Calculations

Alcotest 9510 cases:

The A.G. Guidance from December 30th sets forth the core foundational documents the State should introduce in a 9510 case. Although several of these documents were initially required by Chun, several are entirely new.

Given the nature of the Guidance, defense counsel should treat these as a stipulation by the State and move to exclude the readings when the prosecutor fails to offer one(or more likely, several) of them in evidence.

The named documents are as follows:

a) Most recent certification report prior to a defendant's test (Control, Linearity);

b) Parameter report;

c) Wet and dry adjust;

d) Cylinder installation reports;

e) All certificates of analysis for the simulator solution, including simulator, dry gas and barometer;

f) The instrument certificate of accuracy; and

g) The credentials of the coordinator who performed the certification.

PART V
ATTORNEY GENERAL GUIDANCE
OF DECEMBER 30, 2025

ALCOTEST 9510 PARAMETER REPORT

Equipment

Serial No.:	ARMK-0006
Firmware:	8326739 1.5
WinCE application:	8326738 2.9
Configuration:	8326737 3.10
Date:	12/10/2024
Time:	11:05:06

Parameter

min. blow time	5.0	s
min. breath volume for females of age 60+	1.2	L
min. breath volume for all other	1.5	L
min. blow flow	4.5	L/min
plateau detection limit	4	%
plateau detection start conc.	70	microgram/L
neg. flow detection (part. vacuum)	10.0	hPa
neg. flow detection sensitivy	10	
cal. gas abort volume	0.4	L
result-to-zero limit	0.0050	%BAC
ambient air check limit	0.0049	%BAC
interference det. d-criterion limit abs.	38	microgram/L
interference det. d-criterion limit rel.	10.0	%
interference det. t-criterion limit abs.	8	microgram/L
interference det. t-criterion limit rel.	2.1	%
IR CO2 offset	10	microgram/L
IR H2O offset	4	microgram/L
EC H2O offset	0	microgram/L
Value-based EC aging comp. on/off (1/0)	0	
Time-based EC aging comp. on/off (1/0)	1	
Time-based EC aging comp. per month	0.2	%
Time-based EC aging comp. maximum	3.0	%
EC fatigue comp. max. sum	15000	
EC fatigue comp. factor	50	
EC fatigue comp. minutes	180	
mouth alc. mark limit	500	
mouth alc. lower limit	30	
mouth alc. slope	6	
mouth alc. zero limit	50	
mouth alc. max. neg. sum	6	
mouth alc. max. 2nd derivative	35	

ALCOTEST 9510 CERTIFICATION REPORT - WET ADJUST (PART I)
Matawan Borough

Equipment

Inst. Model No.:	ALCOTEST 9510	Serial No.:	ARMK-0006		
Firmware:	8326739 1.5	Config.:	8326737 3.10	WinCE:	8326738 2.9

Wet Adjust Record

Wet Adjust File No.:	88	Wet Adjust Date:	12/10/2024	Wet Adjust No.:	5
		Wet Adjust Time:	11:53:01		
Concentration:	0.100 %				
Adjusting Unit:	X-Cal 2000	Adj. Unit Ser. No.:	ARRD-0003	Adj. Unit Exp.:	10/03/2025
Solution Lot No.:	23240	Soln. Bottle No.:	385	Adjust Soln. Exp.:	06/28/2025

Preadjust Simulator Temp.:	34.01 degree C
Postadjust Simulator Temp.:	34.00 degree C

Result

Procedure completed successfully.

Coordinator

Last Name: Waldrop - First Name: Robert MI: W Badge No.: 8256

On this date, I certified the above instrument in accordance with the Alcotest 9510 operator training and procedures established by the NJSP Office of Forensic Sciences.

Signed: Date: 12/10/2024 ID: 52

ALCOTEST 9510 CERTIFICATION REPORT - DRY ADJUST (PART II)
Matawan Borough

Equipment

Inst. Model No.:	ALCOTEST 9510	Serial No.:	ARMK-0006		
Firmware:	8326739 1.5	Config.:	8326737 3.10	WinCE:	8326738 2.9

Dry Adjust Record

Dry Adjust File No.:	89	Dry Adjust Date:	12/10/2024	Dry Adjust No.:	5
		Dry Adjust Time:	12:15:41		
Concentration:	0.100 %				
Dry Gas Lot No.:	302-402448282	Adjust Gas Exp.:	05/20/2025		
Barom. Model No.:	Mensor CPG2300	Barom. Serial No.:	410013F5	Barom. Cert. Exp.:	01/10/2025
Pre-adjust Amb. Pressure:		1016 hPa	Post-adjust Amb. Pressure:		1016 hPa

Result

Procedure completed successfully.

Coordinator

Last Name: Waldrop - First Name: Robert MI: W Badge No.: 8256

On this date, I certified the above instrument in accordance with the Alcotest 9510 operator training and procedures established by the NJSP Office of Forensic Sciences.

Signed: Date: 12/10/2024 ID: 52

ALCOTEST 9510 CERTIFICATION REPORT - LINEARITY (PART III)
Matawan Borough

Equipment

Inst. Model No.:	ALCOTEST 9510	Serial No.:	ARMK-0006		
Firmware:	8326739 1.5	Config.:	8326737 3.10	WinCE:	8326738 2.9

Linearity Record

Linearity File No.:	90	Lin. Date:	12/10/2024	Lin. No.:	5

0.040% Dry Gas Lot No.:	302-402488140	Adjust. Gas Exp.:	07/15/2025
0.080% Dry Gas Lot No.:	302-402477282	Adjust. Gas Exp.:	06/24/2025
0.160% Dry Gas Lot No.:	302-402486005	Adjust. Gas Exp.:	07/13/2025
0.300% Dry Gas Lot No.:	302-402488144	Adjust. Gas Exp.:	07/15/2025

Data Summary

Function	Result %BAC	Time hh:mm:ss	Barometric Pres. [hPa]	Comment(s) or Status Code
Ambient Air Blank	0.000	12:32:14		*TEST PASSED*
Control .04 Test 1 EC	0.038	12:32:53	1016	*TEST PASSED*
Control .04 Test 1 IR	0.039	12:32:53	1016	*TEST PASSED*
Ambient Air Blank	0.000	12:34:00		*TEST PASSED*
Control .04 Test 2 EC	0.039	12:34:15	1016	*TEST PASSED*
Control .04 Test 2 IR	0.039	12:34:15	1016	*TEST PASSED*
Ambient Air Blank	0.000	12:35:47		*TEST PASSED*
Control .08 Test 3 EC	0.078	12:36:24	1016	*TEST PASSED*
Control .08 Test 3 IR	0.079	12:36:24	1016	*TEST PASSED*
Ambient Air Blank	0.000	12:37:36		*TEST PASSED*
Control .08 Test 4 EC	0.080	12:37:51	1016	*TEST PASSED*
Control .08 Test 4 IR	0.079	12:37:51	1016	*TEST PASSED*
Ambient Air Blank	0.000	12:39:28		*TEST PASSED*
Control .16 Test 5 EC	0.155	12:40:02	1016	*TEST PASSED*
Control .16 Test 5 IR	0.157	12:40:02	1016	*TEST PASSED*
Ambient Air Blank	0.000	12:41:20		*TEST PASSED*
Control .16 Test 6 EC	0.156	12:41:33	1016	*TEST PASSED*
Control .16 Test 6 IR	0.158	12:41:33	1016	*TEST PASSED*
Ambient Air Blank	0.000	12:49:38		*TEST PASSED*
Control .30 Test 7 EC	0.291	12:50:15	1016	*TEST PASSED*
Control .30 Test 7 IR	0.297	12:50:15	1016	*TEST PASSED*
Ambient Air Blank	0.000	12:51:40		*TEST PASSED*
Control .30 Test 8 EC	0.295	12:51:53	1016	*TEST PASSED*
Control .30 Test 8 IR	0.299	12:51:53	1016	*TEST PASSED*
Ambient Air Blank	0.000	12:52:30		*TEST PASSED*

Result

All tests within acceptable tolerance.

Coordinator

Last Name: Waldrop - First Name: Robert MI: W Badge No.: 8256

On this date, I certified the above instrument in accordance with the Alcotest 9510 operator training and procedures established by the NJSP Office of Forensic Sciences.

Signed: Date: 12/10/2024 ID: 52

ALCOTEST 9510 CYLINDER INSTALLATION REPORT - INLET 1
Matawan Borough
SERIAL NUMBER: ARMK-0006

Equipment

Inst. Model No.:	ALCOTEST 9510	Serial No.:	ARMK-0006		
Firmware:	8326739 1.5	Config.:	8326737 3.10	WinCE:	8326738 2.9
Cyl1 Install File No.:	91	Cyl1 Install Date:	12/10/2024	Cyl1 Install No.:	4

Control Tests (0.100%)

Installation Inlet:	#1 (Upper)	Post test active Cyl.:	#2 (Lower)
Dry Gas Lot No.:	302-402906807	Dry Gas Lot Exp.:	11/27/2026

Data Summary

Function	Result %BAC	Time hh:mm:ss	Barometric Pres. [hPa]	Comment(s) or Status Code
Ambient Air Blank	0.000	13:09:15		*TEST PASSED*
Control Test 1			1016	*TEST PASSED*
EC Result	0.097	13:10:02		*TEST PASSED*
IR Result	0.099	13:10:02		*TEST PASSED*
Ambient Air Blank	0.000	13:11:18		*TEST PASSED*
Control Test 2			1016	*TEST PASSED*
EC Result	0.098	13:11:44		*TEST PASSED*
IR Result	0.099	13:11:44		*TEST PASSED*
Ambient Air Blank	0.000	13:13:01		*TEST PASSED*
Control Test 3			1015	*TEST PASSED*
EC Result	0.098	13:13:26		*TEST PASSED*
IR Result	0.099	13:13:26		*TEST PASSED*
Ambient Air Blank	0.000	13:14:02		*TEST PASSED*

Result

All tests within acceptable tolerance.

Coordinator

Last Name: Waldrop - First Name: Robert MI: W Badge No.: 8256

On this date, I certified the above instrument in accordance with the Alcotest 9510 operator training and procedures established by the NJSP Office of Forensic Sciences.

Signed: Date: 12/10/2024 ID: 52

ALCOTEST 9510 CYLINDER INSTALLATION REPORT - INLET 2
Matawan Borough
SERIAL NUMBER: ARMK-0006

Equipment

Inst. Model No.:	ALCOTEST 9510	Serial No.:	ARMK-0006		
Firmware:	8326739 1.5	Config.:	8326737 3.10	WinCE:	8326738 2.9
Cyl2 Install File No.:	82	Cyl2 Install Date:	09/25/2024	Cyl2 Install No.:	2

Control Tests (0.100%)

Installation Inlet:	#2 (Lower)	Post test active Cyl.:	#1 (Upper)
Dry Gas Lot No.:	302-402843436	Dry Gas Lot Exp.:	09/08/2026

Data Summary

Function	Result %BAC	Time hh:mm:ss	Barometric Pres. [hPa]	Comment(s) or Status Code
Ambient Air Blank	0.000	14:13:58		*TEST PASSED*
Control Test 1			1019	*TEST PASSED*
EC Result	0.097	14:14:46		*TEST PASSED*
IR Result	0.100	14:14:46		*TEST PASSED*
Ambient Air Blank	0.000	14:15:58		*TEST PASSED*
Control Test 2			1019	*TEST PASSED*
EC Result	0.099	14:16:24		*TEST PASSED*
IR Result	0.100	14:16:24		*TEST PASSED*
Ambient Air Blank	0.000	14:17:36		*TEST PASSED*
Control Test 3			1019	*TEST PASSED*
EC Result	0.099	14:18:02		*TEST PASSED*
IR Result	0.100	14:18:02		*TEST PASSED*
Ambient Air Blank	0.000	14:18:34		*TEST PASSED*

Result

All tests within acceptable tolerance.

Coordinator

Last Name: Mimikos - First Name: Nicholas MI: E Badge No.: 7413

On this date, I certified the above instrument in accordance with the Alcotest 9510 operator training and procedures established by the NJSP Office of Forensic Sciences.

Sgt N.M #7413

Signed: Date: 09/25/2024 ID: 3

CERTIFICATE OF ANALYSIS

EBS - ETHANOL BREATH STANDARD

Part Number: 4401036
DRAEGER MEDICAL SYSTEMS INC

Sales order: 1126218824
Date: December 18, 2023

METHOD OF ANALYSIS: IR Breath Alcohol Analyzer
ANALYTICAL ACCURACY: +/-0.002 BrAC or +/-2% whichever is greater.
CALGAZ LOT#: 302-402906807
ETHANOL IN NITROGEN

Product Expiration: November 27, 2026

COMPONENT	PPM	(BrAC)
ETHANOL	260.5PPM	(0.100)
NITROGEN	BAL	

AVERAGE ANALYTICAL VALUE	PPM	(BrAC)
ETHANOL	261.3	(0.100)

REFERENCE STANDARD	CYLINDER	CONCENTRATION PPM
N.M.I. TRACEABLE STANDARDS*	ND38424	260.7

* CERTIFICATION TRACEABLE TO NATIONAL METROLOGY INSTITUTE TRACEABLE STANDARDS

TRACEABILITY
Preparation:
Gas mixtures manufactured with balances calibrated by an ISO 17025 accredited company using NIST traceable weights and meets or exceeds the requirements of NIST Handbook 44.
Traceable certificate numbers 3445312 and 3398673.

Analytical:
Analytical Instruments Calibrated Using NMI Traceable Standards.
Certification Numbers: A679-20190918, D049803-20220329

No effecting environmental conditions during analysis.

*NMI is recognized by NIST through the Mutual Recognition Agreement (CIPM MRA).
CALGAZ calibration devices were found to meet all applicable requirements of the National Highway Traffic Safety Administration Model Specifications for calibrating units for breath alcohol testers.

Manufactured Date: November 27, 2023

APPROVED BY: _____

"We certify that all the cylinders for the Lot numbers identified herin are manufactured and tested within the requirements of CFR 49 part 178.65 and that physical and chemical test reports are on file and copies will be furnished upon request."

CALGAZ, a division of Airgas USA LLC
821 Chesapeake Drive, Cambridge, MD 21613-0149
Phone: (410) 228-6400 Fax: (410) 228-4251

CERTIFICATE OF ANALYSIS

EBS - ETHANOL BREATH STANDARD

Part Number: 4401036
DRAEGER MEDICAL SYSTEMS INC

Sales order: 1123816776
Date: September 18, 2023

METHOD OF ANALYSIS: IR Breath Alcohol Analyzer
ANALYTICAL ACCURACY: +/-0.002 BrAC or +/-2% whichever is greater.
CALGAZ LOT#: 302-402843436
ETHANOL IN NITROGEN

Product Expiration: September 08, 2026

COMPONENT	PPM	(BrAC)
ETHANOL	260.5PPM	(0.100)
NITROGEN	BAL	

AVERAGE ANALYTICAL VALUE	PPM	(BrAC)
ETHANOL	263.3	(0.101)

REFERENCE STANDARD	CYLINDER	CONCENTRATION PPM
N.M.I. TRACEABLE STANDARDS*	ND38424	260.7

* CERTIFICATION TRACEABLE TO NATIONAL METROLOGY INSTITUTE TRACEABLE STANDARDS

TRACEABILITY
Preparation:
Gas mixtures manufactured with balances calibrated by an ISO 17025 accredited company using NIST traceable weights and meets or exceeds the requirements of NIST Handbook 44.
Traceable certificate numbers 3445312 and 3398673.

Analytical:
Analytical Instruments Calibrated Using NMI Traceable Standards.
Certification Numbers: *A679-20190918, D049803-20220329*

No effecting environmental conditions during analysis.

***NMI is recognized by NIST through the Mutual Recognition Agreement (CIPM MRA).**
CALGAZ calibration devices were found to meet all applicable requirements of the National Highway Traffic Safety Administration Model Specifications for calibrating units for breath alcohol testers.

Manufactured Date: September 08, 2023

APPROVED BY:

"We certify that all the cylinders for the Lot numbers identified herin are manufactured and tested within the requirements of CFR 49 part 178.65 and that physical and chemical test reports are on file and copies will be furnished upon request."

CALGAZ, a division of Airgas USA LLC
821 Chesapeake Drive, Cambridge, MD 21613-0149
Phone: (410) 228-6400 Fax: (410) 228-4251

Dräger

Alcotest 9510

CERTIFICATE OF ACCURACY

This is to certify that the Alcotest 9510 has been tested for accuracy and found to be in compliance with the National Highway Traffic Safety Administration Standard for evidential breath testing devices. The Alcotest 9510 is compliant as a "mobile" and "nonmobile" EBT with 49 FR 48854, 49 FR 48864, and 58 FR 48705. The manufacturer recommends accuracy verification of this instrument within 12 months of the calibration date below, or sooner, according to your state's specifications.

Certification Date: 5-8-2023

Serial Number: ARMK-0004

Draeger, Inc. MB / GR

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

TAHESHA L. WAY
Lt. Governor

MATTHEW J. PLATKIN
Attorney General

COLONEL PATRICK J. CALLAHAN
Superintendent

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:** 09/13/2023

BREATH ALCOHOL SIMULATOR SOLUTION LOT NUMBER: 23240

Representative samples of the above-referenced Lot Number were tested by Gas Chromatography and found to have a mean ethyl alcohol concentration range of 0.1196 to 0.1212 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 June 28, 2025.

As OFS Director 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
OFS Director
NJSP Office of Forensic Sciences

Sworn to and subscribed before me this 15 day of September, 2023.

Notary

KAREN E. STAHL
NOTARY PUBLIC OF NEW JERSEY
Commission # 50110522
My Commission Expires 8/13/2024

CALIBRATED BY TRANSCAT CERTIFICATE OF CALIBRATION

Customer: DRAEGER INC
7256 S SAM HOUSTON PKWY W
STE 100
HOUSTON, TX 77085
PO Number: S1O4303440829

ANAB ACCREDITED ISO/IEC 17025 CALIBRATION LABORATORY
ANAB AC-2489.02

Certificate/SO Number: 5-F2R0O-220-1 Revision 0

Manufacturer: Drager Safety AG & Co. KGaA
Model Number: X-Cal 2000
Description: Breath Alcohol Simulator
Serial Number: ARRD-0003
ID: NONE

As-Found: In Tolerance
As-Left: In Tolerance

Issue Date: Oct 03, 2024
Calibration Date: Oct 03, 2024
Due Date: Oct 03, 2025

Calibrated To: Customer Specification
Calibration Procedure: 1-AC103519-1

Transcat Calibration Laboratories have been audited and found in compliance with ISO/IEC 17025:2017. Accredited calibrations performed within the Lab Scope of Accreditation are indicated by the presence of the Accrediting Body Logo and Certificate Number. Any measurements on an accredited calibration not covered by the Lab Scope of Accreditation are listed in the notes section of the certificate. SCC, NRC, CLAS or ANAB do not guarantee the accuracy of an individual calibration by accredited laboratories.

Transcat calibrations, as applicable, are performed in compliance with the requirements of the Transcat Quality Manual QAC-P01-000, the customer Purchase Order and/or Quality Agreement requirements, ISO 9001:2015, ANSI/NCSL Z540.1-1994 (R2002), and ISO 10012:2003, as applicable. When specified contractually, the requirements of ISO TS16949:2009, 10CFR21, 10CFR50 App. B, ASME NQA-1:2012, and ANSI/NCSL Z540.3-2006 (R2013) are also covered.

Complete records of work performed are maintained by Transcat and are available for inspection. Laboratory standards used in the performance of this calibration are listed on this certificate.

Transcat documents the traceability of measurements to the SI units through the National Institute of Standards and Technology (NIST), or the National Research Council of Canada (NRC), or other national measurement institutes (NMI) that are signatories to the CIPM Mutual Recognition Arrangement, or accepted fundamental and/or natural physical constants, or by the use of specified methods, consensus standards or ratio type measurements. Documentation supporting traceability information is available for review upon written request at a Transcat facility. The measured quantity and the measurement uncertainty are required for further dissemination of traceability.

Uncertainties are reported with a coverage factor k=2, providing a level of confidence of approximately 95%. All calibrations have been performed using processes having a TUR of 4:1 or better (3:1 for mass calibrations), unless otherwise noted. The Test Uncertainty Ratio (TUR) is calculated in accordance with NCSL International RP-18. For mass calibrations: Conventional mass referenced to 8.0 g/cm³.

The results in this report relate only to the item calibrated or tested. Recorded calibration data is valid at the time of calibration within the stated uncertainties at the environmental conditions noted. The determination of compliance to the specification is specific to the model/serial no./ID no. referenced above based on the tolerances shown; these tolerances are either the original equipment manufacturers (OEM's) warranted specifications or the client's requested specifications. Any number of factors can cause a unit to drift out of tolerance at any time following its calibration. Limitations on the uses of this instrument are detailed in the OEM's operating instructions. This certificate may not be reproduced except in full, without the written approval of Transcat. Additional information, if applicable may be included on separate report(s).

CALIBRATED BY TRANSCAT CERTIFICATE OF CALIBRATION

Customer: DRAEGER INC
7256 S SAM HOUSTON PKWY W
STE 100
HOUSTON, TX 77085
PO Number: S1O4303440829

ANAB ACCREDITED ISO/IEC 17025 CALIBRATION LABORATORY
ANAB AC-2489.02

Certificate/SO Number: 5-F2R0O-220-1 Revision 0

As Found/As Left Data

Description	Setpoints	Accuracy	Low Limit	High Limit	As Found / As Left	OOT	Cal Process Uncertainty (k=2; ±)	Measurement Uncertainty (k=2; ±)	Units	TUR
Function Checks										
Bubble Check			P	P	P					
Seal Check			P	P	P					
Temperature Source: Accuracy Test										
Accuracy Test	34.00°C	±(0.02 °C)	33.98	34.02	34.01 °C		1.5e-002	1.6e-002	°C	1.3 : 1
Temperature Source: Stability Test										
Stability Test	0.00°C	±(0.02 °C)	-0.02	0.02	0.00 °C		5.0e-003	7.6e-003	°C	4.0 : 1

Field not applicable.

Traceable Standards

Asset	Manufacturer	Model Number	Description	Cal Date	Due Date	Traceability Number	Use
05H1409	Mensor Corp	CPT9000	Precision Pressure Transducer	10-Jun-24	31-Dec-24	5-&05H1409-3-1	AF/AL
HP927312	Hart Scientific/Fluke	1575	Super Thermometer	10-Jul-24	31-Jan-26	5-&HP927312-9-1	AF/AL

The use of the standard is defined as: AF - used for as-found readings, AL - used for as-left readings.

Environmental Data

Temperature	Relative Humidity	Temp / RH Asset	Lab Area	Lab Description
70.00°F /21.11°C	54.00%	DewK8	G	Temperature

Decision Rule

When compliance statements are present, they are reported without factoring in the effects of uncertainty and comply with the guidelines as follows: The acceptance zone is defined as: less than or equal to the high limit, and/or greater than or equal to the low limit. The rejection zones are defined as greater than the high limit and/or less than the low limit. Single measurement results in the acceptance zone

Customer: DRAEGER INC
7256 S SAM HOUSTON PKWY W
STE 100
HOUSTON, TX 77085
PO Number: S1O4303440829

ANAB ANSI National Accreditation Board ACCREDITED ISO/IEC 17025 CALIBRATION LABORATORY
ANAB AC-2489.02

Certificate/SO Number: 5-F2R0O-220-1 Revision 0

are identified as in-tolerance. Single measurement results in the rejection zone are identified as out-of-tolerance (OOT). When all measurement results are in the acceptance zone for repeated measurements, for the same characteristic, the test is identified as in-tolerance. For repeated characteristic measurements, a single measurement result in the rejection zone, will cause the test to be identified as out-of-tolerance (OOT). Data rejection for cause, (outliers) is permitted after the "Determining and Verifying Out Of Tolerance (OOT) and/or Op Fail Readings" procedure outlined in this document has been completed and the anomalous reading cannot be repeated, and the anomalous reading does not represent the system under test. Statements of conformity are binary.

CALIBRATED BY TRANSCAT CERTIFICATE OF CALIBRATION

Customer: DRAEGER INC
7256 S SAM HOUSTON PKWY W
STE 100
HOUSTON, TX 77085
PO Number: S1O4303440829

ANSI National Accreditation Board ACCREDITED ISO/IEC 17025 CALIBRATION LABORATORY
ANAB AC-2489.02

Certificate/SO Number: 5-F2R0O-220-1 Revision 0

Legend

Topic	Description
Accuracy	UUT specification that establishes expected tolerances and a time limit (calibration interval) over which the instrument is expected to hold these tolerances
As Found	Initial measurement results
As Left	Measurement results after adjustment and/or repair
Blank Data Field	Test is not applicable for the UUT
Cal Process Uncertainty (CPU)	The uncertainty of calibration process for the reported measurement result
Calibration Date	Indicates the date that the calibration was completed
Cover Factor (k)	A measure of uncertainty that defines an interval about the measurement result
Due Date	Indicates the end of the calibration cycle as requested by the customer
Issue Date	Indicates the date that the calibration has passed the Data Review Process and was signed by an authorized signatory or the date that a revision to the original certificate has been issued
Low / High Limits	Establishes UUT acceptable performance limits for the test measurement
Measurement Uncertainty	The dispersion of the values attributed to a measured quantity
OOA	Out of Acceptance (#)
OOT	Out of Tolerance (*)
Setpoints	Measurement target values
Traceability	Unbroken chain of comparisons relating an instrument's measurements to a known standard(s)
Traceability Number	Unique identifier(s) used to document traceability of calibration standards
TUR	Test Uncertainty Ratio, ratio of the tolerance or specification of the test measurement in relation to the uncertainty in measurement results
UUT	Unit Under test

CALIBRATED BY TRANSCAT CERTIFICATE OF CALIBRATION

Customer: DRAEGER INC
7256 S SAM HOUSTON PKWY W
STE 100
HOUSTON, TX 77085
PO Number: S1O4303440829

ANAB ACCREDITED ISO/IEC 17025 CALIBRATION LABORATORY
ANAB AC-2489.02

Certificate/SO Number: 5-F2R0O-220-1 Revision 0

Calibrated At:
16115 Park Row
Houston, TX 77084

Facility Responsible:
16115 Park Row
Houston, TX 77084
800-828-1470

Unit Barcode: 0900B587245

Date Received: October 01, 2024
Service Level : R9

Calibrated By:
Electronically Signed By:
Jose Martinez

Jose Martinez	Oct 03, 2024
Calibration Technician	18:27:48 -04:00

Reviewed By:
Electronically Signed By:
Daniel Beights for

Josh Soileau	Oct 03, 2024
Lab Manager	19:24:44 -04:00

Customer Number: 1-659111-000

CALIBRATED BY TRANSCAT CERTIFICATE OF CALIBRATION

Customer: DRAEGER INC
7256 S SAM HOUSTON PKWY W
STE 100
HOUSTON, TX 77085
PO Number: S1O4303208869

ANAB ACCREDITED ISO/IEC 17025 CALIBRATION LABORATORY
ANAB AC-2489.02

Certificate/SO Number: 5-E8A6B-180-1 Revision 0

Manufacturer: Wika Instr/Mensor Corp/Trend
Model Number: CPG2300
Description: Portable Barometer
Serial Number: 410013F5
ID: NONE

As-Found: In Tolerance
As-Left: In Tolerance

Issue Date: Jan 10, 2024
Calibration Date: Jan 10, 2024
Due Date: Jan 10, 2025

Calibrated To: Manufacturer Specification
Calibration Procedure: 1-AC107288-0

Transcat Calibration Laboratories have been audited and found in compliance with ISO /IEC 17025:2017. Accredited calibrations performed within the Lab Scope of Accreditation are indicated by the presence of the Accrediting Body Logo and Certificate Number. Any measurements on an accredited calibration not covered by the Lab Scope of Accreditation are listed in the notes section of the certificate . SCC, NRC, CLAS or ANAB do not guarantee the accuracy of an individual calibration by accredited laboratories.

Transcat calibrations, as applicable, are performed in compliance with the requirements of the Transcat Quality Manual QAC -P01-000, the customer Purchase Order and/or Quality Agreement requirements, ISO 9001:2015, ANSI/NCSL Z540.1-1994 (R2002), and ISO 10012:2003, as applicable. When specified contractually, the requirements of ISO TS16949:2009, 10CFR21, 10CFR50 App. B, ASME NQA-1:2012, and ANSI/NCSL Z540.3-2006 (R2013) are also covered.

Complete records of work performed are maintained by Transcat and are available for inspection . Laboratory standards used in the performance of this calibration are listed on this certificate.

Transcat documents the traceability of measurements to the SI units through the National Institute of Standards and Technology (NIST), or the National Research Council of Canada (NRC), or other national measurement institutes (NMI) that are signatories to the CIPM Mutual Recognition Arrangement, or accepted fundamental and/or natural physical constants, or by the use of specified methods, consensus standards or ratio type measurements. Documentation supporting traceability information is available for review upon written request at a Transcat facility . The measured quantity and the measurement uncertainty are required for further dissemination of traceability.

Uncertainties are reported with a coverage factor k=2, providing a level of confidence of approximately 95%. All calibrations have been performed using processes having a TUR of 4:1 or better (3:1 for mass calibrations), unless otherwise noted. The Test Uncertainty Ratio (TUR) is calculated in accordance with NCSL International RP-18. For mass calibrations: Conventional mass referenced to 8.0 g/cm³.

The results in this report relate only to the item calibrated or tested. Recorded calibration data is valid at the time of calibration within the stated uncertainties at the environmental conditions noted. The determination of compliance to the specification is specific to the model/serial no./ID no. referenced above based on the tolerances shown; these tolerances are either the original equipment manufacturers (OEM's) warranted specifications or the client's requested specifications. Any number of factors can cause a unit to drift out of tolerance at any time following its calibration. Limitations on the uses of this instrument are detailed in the OEM's operating instructions . This certificate may not be reproduced except in full, without the written approval of Transcat. Additional information, if applicable may be included on separate report(s).

CALIBRATED BY TRANSCAT — CERTIFICATE OF CALIBRATION

Customer: DRAEGER INC
7256 S SAM HOUSTON PKWY W
STE 100
HOUSTON, TX 77085
PO Number: S1O4303208869

ANAB ACCREDITED ISO/IEC 17025 CALIBRATION LABORATORY
ANAB AC-2489.02

Certificate/SO Number: 5-E8A6B-180-1 Revision 0

As Found/As Left Data

Description	Setpoints	Accuracy	Low Limit	High Limit	As Found / As Left	OOT	Cal Process Uncertainty (k=2; ±)	Measurement Uncertainty (k=2; ±)	Units	TUR
Pressure Measure: 552 to1172 mbara Range										
	550.57mbara	±(0.015% FS)	550.39	550.75	550.60 mbara		1.1e-002	1.3e-002	mbara	16.3 : 1
	610.66mbara	±(0.015% FS)	610.48	610.84	610.70 mbara		1.2e-002	1.3e-002	mbara	14.7 : 1
	670.94mbara	±(0.015% FS)	670.76	671.12	671.00 mbara		1.3e-002	1.5e-002	mbara	13.4 : 1
	742.82mbara	±(0.015% FS)	742.64	743.00	742.90 mbara		1.5e-002	1.6e-002	mbara	12.1 : 1
	803.09mbara	±(0.015% FS)	802.91	803.27	803.10 mbara		1.6e-002	1.7e-002	mbara	11.2 : 1
	863.49mbara	±(0.015% FS)	863.31	863.67	863.50 mbara		1.7e-002	1.8e-002	mbara	10.4 : 1
	923.62mbara	±(0.015% FS)	923.44	923.80	923.70 mbara		1.8e-002	1.9e-002	mbara	9.7 : 1
	983.85mbara	±(0.015% FS)	983.67	984.03	983.90 mbara		2.0e-002	2.1e-002	mbara	9.1 : 1
	1052.8mbara	±(0.015% FS)	1052.6	1053.0	1052.9 mbara		2.1e-002	6.1e-002	mbara	9.5 : 1
	1113.2mbara	±(0.015% FS)	1113.0	1113.4	1113.3 mbara		2.2e-002	6.2e-002	mbara	9.0 : 1
	1173.5mbara	±(0.015% FS)	1173.3	1173.7	1173.5 mbara		2.3e-002	6.2e-002	mbara	8.5 : 1
	923.62mbara	±(0.015% FS)	923.44	923.80	923.70 mbara		1.8e-002	1.9e-002	mbara	9.7 : 1
	863.48mbara	±(0.015% FS)	863.30	863.66	863.50 mbara		1.7e-002	1.8e-002	mbara	10.4 : 1
	803.09mbara	±(0.015% FS)	802.91	803.27	803.20 mbara		1.6e-002	1.7e-002	mbara	11.2 : 1

Field not applicable.

CALIBRATED BY TRANSCAT CERTIFICATE OF CALIBRATION

Customer: DRAEGER INC
7256 S SAM HOUSTON PKWY W
STE 100
HOUSTON, TX 77085
PO Number: S1O4303208869

ANAB ACCREDITED ISO/IEC 17025 CALIBRATION LABORATORY
ANAB AC-2489.02

Certificate/SO Number: 5-E8A6B-180-1 Revision 0

Traceable Standards

Asset	Manufacturer	Model Number	Description	Cal Date	Due Date	Traceability Number	Use
DewK2	Hart Scientific	2626-H	Hygro-Thermometer, Probe,	8-Mar-23	31-Mar-24	15-&DEWK2-13-1	AF/AL
DW09BA	Fluke/DH Instruments	PG7601	Piston Gauge	11-Sep-23	30-Sep-24	5-&DW09BA-16-1	AF/AL
DW09LOW	Fluke/DH Instruments	PC-7100/7600-10-TC	Gas Piston-Cylinder Module	22-Aug-23	31-Aug-28	5-&DW09LOW-5-1	AF/AL
DW09MASS	Fluke/DH Instruments	MS-AMH-38	AMH Mass Set	4-Jan-23	31-Jan-24	5-&DW09MASS-7-1	AF/AL

The use of the standard is defined as: AF - used for as-found readings, AL - used for as-left readings.

Environmental Data

Temperature	Relative Humidity	Temp / RH Asset	Lab Area	Lab Description
71.43°F /21.91°C	31.90%	DewK8	B	GP Pressure

Decision Rule

When compliance statements are present, they are reported without factoring in the effects of uncertainty and comply with the guidelines as follows : The acceptance zone is defined as: less than or equal to the high limit, and/or greater than or equal to the low limit. The rejection zones are defined as greater than the high limit and/or less than the low limit. Single measurement results in the acceptance zone are identified as in-tolerance. Single measurement results in the rejection zone are identified as out-of-tolerance (OOT). When all measurement results are in the acceptance zone for repeated measurements, for the same characteristic, the test is identified as in-tolerance. For repeated characteristic measurements, a single measurement result in the rejection zone, will cause the test to be identified as out-of-tolerance (OOT). Data rejection for cause, (outliers) is permitted after the â€œDetermining and Verifying Out Of Tolerance (OOT) and/or Op Fail Readingsâ€ procedure outlined in this document has been completed and the anomalous reading cannot be repeated, and the anomalous reading does not represent the system under test. Statements of conformity are binary.

CALIBRATED BY TRANSCAT CERTIFICATE OF CALIBRATION

Customer: DRAEGER INC
7256 S SAM HOUSTON PKWY W
STE 100
HOUSTON, TX 77085
PO Number: S1O4303208869

ANAB ACCREDITED ISO/IEC 17025 CALIBRATION LABORATORY
ANAB AC-2489.02

Certificate/SO Number: 5-E8A6B-180-1 Revision 0

Legend

Topic	Description
Accuracy	UUT specification that establishes expected tolerances and a time limit (calibration interval) over which the instrument is expected to hold these tolerances
As Found	Initial measurement results
As Left	Measurement results after adjustment and/or repair
Blank Data Field	Test is not applicable for the UUT
Cal Process Uncertainty (CPU)	The uncertainty of calibration process for the reported measurement result
Calibration Date	Indicates the date that the calibration was completed
Cover Factor (k)	A measure of uncertainty that defines an interval about the measurement result
Due Date	Indicates the end of the calibration cycle as requested by the customer
Issue Date	Indicates the date that the calibration has passed the Data Review Process and was signed by an authorized signatory or the date that a revision to the original certificate has been issued
Low / High Limits	Establishes UUT acceptable performance limits for the test measurement
Measurement Uncertainty	The dispersion of the values attributed to a measured quantity
OOA	Out of Acceptance (#)
OOT	Out of Tolerance (*)
Setpoints	Measurement target values
Traceability	Unbroken chain of comparisons relating an instrument's measurements to a known standard(s)
Traceability Number	Unique identifier(s) used to document traceability of calibration standards
TUR	Test Uncertainty Ratio, ratio of the tolerance or specification of the test measurement in relation to the uncertainty in measurement results
UUT	Unit Under test

CALIBRATED BY TRANSCAT CERTIFICATE OF CALIBRATION

Customer: DRAEGER INC
7256 S SAM HOUSTON PKWY W
STE 100
HOUSTON, TX 77085
PO Number: S1O4303208869

ANAB ANSI National Accreditation Board ACCREDITED ISO/IEC 17025 CALIBRATION LABORATORY
ANAB AC-2489.02

Certificate/SO Number: 5-E8A6B-180-1 Revision 0

Calibrated At:
16115 Park Row
Houston, TX 77084

Facility Responsible:
16115 Park Row
Houston, TX 77084
800-828-1470

Unit Barcode: 0900B541813

Date Received: January 04, 2024
Service Level : R9

Calibrated By:
Electronically Signed By:
Fritz Cardona

Fritz Cardona	Jan 10, 2024
Calibration Technician	15:07:25 -05:00

Reviewed By:
Electronically Signed By:
Josh Soileau

Josh Soileau	Jan 10, 2024
Lab Manager	15:14:34 -05:00

Customer Number: 1-659111-000

CERTIFICATE OF ANALYSIS

EBS - ETHANOL BREATH STANDARD

Sales order: 1111663404

NJSP DEPT OF LAW AND PUBLIC SAFETY Date: July 05, 2022

METHOD OF ANALYSIS: IR Breath Alcohol Analyzer
ANALYTICAL ACCURACY: +/-0.002 BrAC or +/-2% whichever is greater.
CALGAZ LOT#: 302-402448282
ETHANOL IN NITROGEN Product Expiration: May 20, 2025

COMPONENT	PPM	(BrAC)
ETHANOL	260.5PPM	(0.100)
NITROGEN	BAL	

AVERAGE ANALYTICAL VALUE	PPM	(BrAC)
ETHANOL	263.3	(0.101)

REFERENCE STANDARD	CYLINDER	CONCENTRATION PPM
N.M.I. TRACEABLE STANDARDS*	ND38434	260.4

* CERTIFICATION TRACEABLE TO NATIONAL METROLOGY INSTITUTE TRACEABLE STANDARDS

TRACEABILITY
Preparation:
Gas mixtures manufactured with balances calibrated by an ISO 17025 accredited company using NIST traceable weights and meets or exceeds the requirements of NIST Handbook 44.

Calibration test 283190, 283189, 283188, or 283192 dated 6th January 2022 applies

Analytical:
Analytical Instruments Calibrated Using NMI Traceable Standards.
Certification Numbers: ND38434-20211028, A679, A650, ND38462-20211027, ND18363-20211104, ND50144-20201218
No effecting environmental conditions during analysis.

***NMI is recognized by NIST through the Mutual Recognition Agreement (CIPM MRA).**
CALGAZ calibration devices were found to meet all applicable requirements of the National Highway Traffic Safety Administration Model Specifications for calibrating units for breath alcohol testers.

Manufactured Date: May 20, 2022

APPROVED BY: Steven Blatchley

"We certify that all the cylinders for the Lot numbers identified herin are manufactured and tested within the requirements of CFR 49 part 178.65 and that physical and chemical test reports are on file and copies will be furnished upon request."

CALGAZ, a division of Airgas USA LLC
821 Chesapeake Drive, Cambridge, MD 21613-0149
Phone: (410) 228-6400 Fax: (410) 228-4251

CERTIFICATE OF ANALYSIS

EBS - ETHANOL BREATH STANDARD

Sales order: 1111918174

DRAEGER MEDICAL SYSTEMS INC. Date: July 27, 2022

METHOD OF ANALYSIS: IR Breath Alcohol Analyzer
ANALYTICAL ACCURACY: +/-0.002 BrAC or +/-2% whichever is greater.
CALGAZ LOT#: 302-402488140
ETHANOL IN NITROGEN Product Expiration: July 15, 2025

COMPONENT	PPM	(BrAC)
ETHANOL	104.2PPM	(0.040)
NITROGEN	BAL	

AVERAGE ANALYTICAL VALUE	PPM	(BrAC)
ETHANOL	107.1	(0.041)

REFERENCE STANDARD	CYLINDER	CONCENTRATION PPM
N.M.I. TRACEABLE STANDARDS*	ND38434	260.4

* CERTIFICATION TRACEABLE TO NATIONAL METROLOGY INSTITUTE TRACEABLE STANDARDS

TRACEABILITY
Preparation:
Gas mixtures manufactured with balances calibrated by an ISO 17025 accredited company using NIST traceable weights and meets or exceeds the requirements of NIST Handbook 44.
Calibration test 283192, dated 6th January 2022 or calibration test 292029, 292030 or 292031, dated 26th March 2022 applies
Analytical:
Analytical Instruments Calibrated Using NMI Traceable Standards.
Certification Numbers: ND38434-20211028, A679, A650, ND38462-20211027, ND18363-20211104, ND50144-20201218
No effecting environmental conditions during analysis.

***NMI is recognized by NIST through the Mutual Recognition Agreement (CIPM MRA).**
CALGAZ calibration devices were found to meet all applicable requirements of the National Highway Traffic Safety Administration Model Specifications for calibrating units for breath alcohol testers.

Manufactured Date: July 15, 2022

APPROVED BY: _____

"We certify that all the cylinders for the Lot numbers identified herin are manufactured and tested within the requirements of CFR 49 part 178.65 and that physical and chemical test reports are on file and copies will be furnished upon request."

CALGAZ, a division of Airgas USA LLC
821 Chesapeake Drive, Cambridge, MD 21613-0149
Phone: (410) 228-6400 Fax: (410) 228-4251

CERTIFICATE OF ANALYSIS
EBS - ETHANOL BREATH STANDARD

Sales order: 1111713599
Date: July 05, 2022

NJSP DEPT OF LAW AND PUBLIC SAFETY

METHOD OF ANALYSIS: IR Breath Alcohol Analyzer
ANALYTICAL ACCURACY: +/-0.002 BrAC or +/-2% whichever is greater.
CALGAZ LOT#: 302-402477282
ETHANOL IN NITROGEN

Product Expiration: June 24, 2025

COMPONENT	PPM	(BrAC)
ETHANOL	208.4PPM	(0.080)
NITROGEN	BAL	

AVERAGE ANALYTICAL VALUE	PPM	(BrAC)
ETHANOL	212.2	(0.081)

REFERENCE STANDARD	CYLINDER	CONCENTRATION PPM
N.M.I. TRACEABLE STANDARDS*	ND38434	260.4

* CERTIFICATION TRACEABLE TO NATIONAL METROLOGY INSTITUTE TRACEABLE STANDARDS

TRACEABILITY
Preparation:
Gas mixtures manufactured with balances calibrated by an ISO 17025 accredited company using NIST traceable weights and meets or exceeds the requirements of NIST Handbook 44.

Calibration test 283190, 283189, 283188, or 283192 dated 6th January 2022 applies

Analytical:
Analytical Instruments Calibrated Using NMI Traceable Standards.
Certification Numbers: ND38434-20211028, A679, A650, ND38462-20211027, ND18363-20211104, ND50144-20201218
No effecting environmental conditions during analysis.

***NMI is recognized by NIST through the Mutual Recognition Agreement (CIPM MRA).**
CALGAZ calibration devices were found to meet all applicable requirements of the National Highway Traffic Safety Administration Model Specifications for calibrating units for breath alcohol testers.

Manufactured Date: June 24, 2022

APPROVED BY: Steven Klutschely

"We certify that all the cylinders for the Lot numbers identified herin are manufactured and tested within the requirements of CFR 49 part 178.65 and that physical and chemical test reports are on file and copies will be furnished upon request."

CALGAZ, a division of Airgas USA LLC
821 Chesapeake Drive, Cambridge, MD 21613-0149
Phone: (410) 228-6400 Fax: (410) 228-4251

CERTIFICATE OF ANALYSIS
EBS - ETHANOL BREATH STANDARD

Sales order: 1111788955
NJSP Date: July 14, 2022

METHOD OF ANALYSIS: IR Breath Alcohol Analyzer
ANALYTICAL ACCURACY: +/-0.002 BrAC or +/-2% whichever is greater.
CALGAZ LOT#: 302-402486005
ETHANOL IN NITROGEN Product Expiration: July 13, 2025

COMPONENT	PPM	(BrAC)
ETHANOL	416.8PPM	(0.160)
NITROGEN	BAL	

AVERAGE ANALYTICAL VALUE	PPM	(BrAC)
ETHANOL	420.0	(0.161)

REFERENCE STANDARD	CYLINDER	CONCENTRATION PPM
N.M.I. TRACEABLE STANDARDS*	ND38434	260.4

* CERTIFICATION TRACEABLE TO NATIONAL METROLOGY INSTITUTE TRACEABLE STANDARDS

TRACEABILITY
Preparation:
Gas mixtures manufactured with balances calibrated by an ISO 17025 accredited company using NIST traceable weights and meets or exceeds the requirements of NIST Handbook 44.

Calibration test 283192, dated 6th January 2022 or calibration test 292029, 292030 or 292031, dated 26th March 2022 applies

Analytical:
Analytical Instruments Calibrated Using NMI Traceable Standards.
Certification Numbers: ND38434-20211028, A679, A650, ND38462-20211027, ND18363-20211104, ND50144-20201218

No effecting environmental conditions during analysis.

***NMI is recognized by NIST through the Mutual Recognition Agreement (CIPM MRA).**
CALGAZ calibration devices were found to meet all applicable requirements of the National Highway Traffic Safety Administration Model Specifications for calibrating units for breath alcohol testers.

Manufactured Date: July 13, 2022

APPROVED BY: _____

"We certify that all the cylinders for the Lot numbers identified herin are manufactured and tested within the requirements of CFR 49 part 178.65 and that physical and chemical test reports are on file and copies will be furnished upon request."

CALGAZ, a division of Airgas USA LLC
821 Chesapeake Drive, Cambridge, MD 21613-0149
Phone: (410) 228-6400 Fax: (410) 228-4251

CERTIFICATE OF ANALYSIS

EBS - ETHANOL BREATH STANDARD

Sales order: 1111709457

NJSP Date: July 19, 2022

METHOD OF ANALYSIS: IR Breath Alcohol Analyzer
ANALYTICAL ACCURACY: +/-0.002 BrAC or +/-2% whichever is greater.
CALGAZ LOT#: 302-402488144
ETHANOL IN NITROGEN Product Expiration: July 15, 2025

COMPONENT	PPM	(BrAC)
ETHANOL	781.5PPM	(0.300)
NITROGEN	BAL	

AVERAGE ANALYTICAL VALUE	PPM	(BrAC)
ETHANOL	785.3	(0.301)

REFERENCE STANDARD	CYLINDER	CONCENTRATION PPM
N.M.I. TRACEABLE STANDARDS*	ND38434	260.4

* CERTIFICATION TRACEABLE TO NATIONAL METROLOGY INSTITUTE TRACEABLE STANDARDS

TRACEABILITY
Preparation:
Gas mixtures manufactured with balances calibrated by an ISO 17025 accredited company using NIST traceable weights and meets or exceeds the requirements of NIST Handbook 44.

Calibration test 283192, dated 6th January 2022 or calibration test 292029, 292030 or 292031, dated 26th March 2022 applies

Analytical:
Analytical Instruments Calibrated Using NMI Traceable Standards.
Certification Numbers: ND38434-20211028, A679, A650, ND38462-20211027, ND18363-20211104, ND50144-20201218

No effecting environmental conditions during analysis.

***NMI is recognized by NIST through the Mutual Recognition Agreement (CIPM MRA).**
CALGAZ calibration devices were found to meet all applicable requirements of the National Highway Traffic Safety Administration Model Specifications for calibrating units for breath alcohol testers.

Manufactured Date: July 15, 2022

APPROVED BY: Chris Donelly

"We certify that all the cylinders for the Lot numbers identified herin are manufactured and tested within the requirements of CFR 49 part 178.65 and that physical and chemical test reports are on file and copies will be furnished upon request."

CALGAZ, a division of Airgas USA LLC
821 Chesapeake Drive, Cambridge, MD 21613-0149
Phone: (410) 228-6400 Fax: (410) 228-4251

DEPARTMENT OF

Law and Public Safety

This is to certify that

Nicholas E. Mimikos

New Jersey State Police

IS QUALIFIED AND COMPETENT TO CONDUCT CHEMICAL BREATH ANALYSES PURSUANT TO CHAPTER 142 OF THE LAWS OF 1966 IN THE OPERATION OF THE Alcotest 9510 A METHOD TO DETERMINE INTOXICATION.

GIVEN UNDER MY HAND AT TRENTON, NEW JERSEY THIS 8th DAY OF June TWO THOUSAND AND Twenty One

COLONEL
NEW JERSEY STATE POLICE

ATTORNEY GENERAL
STATE OF NEW JERSEY

ORIGINAL COURSE DATES _____

	DATE	Refresher Course PLACE	INSTRUCTOR
1.	7-14-23	Hamilton Tech	MF
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			

S.P. 293B (Rev. 01/18)

DEPARTMENT OF

Law and Public Safety

This is to certify that

Nicholas E. Mimikos

Breath Test Coordinator/Instructor

IS QUALIFIED AND COMPETENT TO CONDUCT CHEMICAL BREATH ANALYSES PURSUANT TO CHAPTER 142 OF THE LAWS OF 1966 IN THE OPERATION OF THE Alcotest 9510 A METHOD TO DETERMINE INTOXICATION.

GIVEN UNDER MY HAND AT TRENTON, NEW JERSEY THIS 8th DAY OF June TWO THOUSAND AND Twenty One

COLONEL
NEW JERSEY STATE POLICE

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. 293B (Rev. 01/18)

DEPARTMENT OF
Law and Public Safety
This is to certify that

Robert W. Waldrop

Breath Test Coordinator/Instructor

IS QUALIFIED AND COMPETENT TO CONDUCT CHEMICAL BREATH ANALYSES PURSUANT TO CHAPTER 142 OF THE LAWS OF 1966 IN THE OPERATION OF THE Alcotest 9510 A METHOD TO DETERMINE INTOXICATION.

GIVEN UNDER MY HAND AT TRENTON, NEW JERSEY THIS 25th DAY OF March TWO THOUSAND AND Twenty Four

COLONEL
NEW JERSEY STATE POLICE

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. 293B (Rev. 10/22)

DEPARTMENT OF
Law and Public Safety
This is to certify that

Robert W. Waldrop

New Jersey State Police

IS QUALIFIED AND COMPETENT TO CONDUCT CHEMICAL BREATH ANALYSES PURSUANT TO CHAPTER 142 OF THE LAWS OF 1966 IN THE OPERATION OF THE Alcotest 9510 A METHOD TO DETERMINE INTOXICATION.

GIVEN UNDER MY HAND AT TRENTON, NEW JERSEY THIS 28th DAY OF April TWO THOUSAND AND Twenty Three

COLONEL
NEW JERSEY STATE POLICE

ATTORNEY GENERAL
STATE OF NEW JERSEY

ORIGINAL COURSE DATES _____

	DATE	Refresher Course PLACE	INSTRUCTOR
1.			
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3.			
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9.			

S.P. 293B (Rev. 10/22)

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE
PO BOX 085
TRENTON, NJ 08625-0085
TELEPHONE: (609) 984-6500

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

MATTHEW J. PLATKIN
Attorney General

THERESA L. HILTON
Director

To: All County Prosecutors
All Municipal Prosecutors

From: Theresa Hilton, Director, Division of Criminal Justice

Date: December 30, 2025

Subject: **Guidance on Prosecutions with Alcotest 9510 Instruments**

The following instructions apply to all prosecutions utilizing the Alcotest 9510 breath-testing instrument to determine an individual's blood alcohol content ("BAC").

Previously Stayed Cases

Pursuant to the Supreme Court's Order, dated December 19, 2025, the limited stay of 9510 DWI matters is lifted, and all matters should proceed in the normal course, including prosecutions relying on Alcotest 9510 readings.

The Law Remains Unchanged

The Supreme Court dismissed the reliability challenge to the Alcotest 9510 presented in State v. Cunningham after defendant moved to withdraw her motion for a reliability hearing, and no other defendant or *amici* was willing to serve as the named party in the case. Therefore, prosecutors should continue to rely on prior precedent, including State v. Chun, 194 N.J. 54 (2008) (upholding established principles of breath testing generally, and the reliability of the Alcotest 7110 specifically), and State v. Olenowski, 253 N.J. 133 (2023) (clarifying legal framework for challenges to reliability of novel scientific evidence in the criminal context).

Prosecutors seeking to admit breath-testing results from an Alcotest 9510 system should proceed in the normal manner, establishing that: (1) the instrument was in proper working order at the time of the test; (2) that the operator was certified; and (3) that the test

was administered according to official procedure. Chun, 194 N.J. at 54 (citing Romano v. Kimmelman, 96 N.J. 66, 81 (1984)). The State shall offer into evidence the most recent certification report prior to a defendant's test, including control tests, linearity tests, the parameter report, wet and dry adjust, cylinder installation reports, all certificates of analysis for the simulator solution, simulator, dry gas, and barometer, the instrument certificate of accuracy, and the credentials of the coordinator who performed the certification. See Chun, 194 N.J. at 154.

Future Reliability Challenges

The upgrade from the Alcotest 7110 to the Alcotest 9510 does not change the Supreme Court's historic acceptance of breath testing as a reliable means of determining an individual's blood alcohol content. Despite that fact, defendant Cunningham and *amici* initially sought to challenge the reliability of the Alcotest 9510 instrument specifically; however, the matter was dismissed before any challenges specific to the instrument were heard. If there are future Daubert-Olenowski challenges to the reliability of the Alcotest 9510 specifically, the State will continue to seek to consolidate those challenges to be heard at a Statewide level.

Accordingly, any prosecutor handling a DWI matter in which the defendant files a Daubert-Olenowski motion, or is informed that such a motion will be forthcoming, **must** immediately communicate that fact to their County Prosecutors Office Municipal Prosecutor Liaison, who is to then notify the Division of Criminal Justice.

Prosecutors should also inform their court that the challenge will be forwarded to the Division of Criminal Justice for review and consideration for a motion for direct certification. It is possible that such defendants may become named defendants in a reliability hearing before the Supreme Court and likely a Special Adjudicator. In order to prevent undue delay or inefficiency, prosecutors should advise defendants pursuing such motions that the Supreme Court in Cunningham repeatedly held that the defense was responsible for its own litigation expenses, including the cost of any defense expert witnesses the defense believed necessary to support its motion.