

STATE OF MINNESOTA  
DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption  
of Rules of the State Department of  
Public Safety Governing Preliminary  
Screening Breath Test Devices -  
Standards and Minimum Specifications.

STATEMENT OF NEED AND REASONABLENESS

The above captioned rules are amendments to existing rules of the State Department of Public Safety. The captioned rules were last adopted December 2, 1971.

The need to adopt these rules arises because of modifications and technological advances made in preliminary screening breath test (PBT) devices as well as law changes that have occurred since the rules were first promulgated in 1971.

Throughout the rules the term "blood alcohol concentration" is changed to "alcohol concentration" to reflect the terminology change enacted in Minnesota Laws 1978, Ch. 727.

Part 7501.0300B. - This change provides that the screening device must not indicate numerical results when the test is positive. The PBT's are meant to be screening devices under 169.121, Subd. 6. If the devices give a numerical reading at .10 and above there will be a temptation to use the actual reading in place of an evidentiary test.

The performance standard for the PBT's are not as rigid as those for evidentiary tests. If a numerical value is displayed at .10 and above it would cause unnecessary conflict with the evidentiary test in court proceedings.

The "fail" displayed at 0.10 AC and above would release the officer from any decision making other than requiring an evidentiary test.

The language would allow for devices that could give numerical values below 0.10 AC for other screening purposes (such as work release or juvenile consumption testing).

All currently approved "PBT's" have "pass, warn, fail" displays and do not display a numerical value.

Part 7501.0300H. - This section requires that a PBT device hold its calibration for a minimum of seven days. It sets forth the variance allowed ( $\pm .010$ AC) and the frequency of testing to assure stability.

This testing sequence has been applied to all currently certified PBT's. In each instance the devices met the criteria.

The PBT's are not calibrated before each test since they are used under field condition. This requires that calibration be done at a central location where a simulator is available. The criterion set forth in this section is important to maintaining the accuracy of these devices.

Part 7501.0700 and 7501.0800. - This change removes the two year renewal requirement for approved devices and requires the manufacturer to supply information when design changes are made to ensure compliance. The commissioner retains the right to revoke such approval should such devices fail to meet minimum standards and specifications for any reason.

These rules may have some impact on small businesses in Minnesota, and the department has considered the methods for reducing the impact as required by Minn. Stat. Section 14.155, subd. 2. The Universe of small businesses potentially affected by these rules are manufacturers of preliminary breath test screening devices.

Part 7501.0300B. - The requirement set in this section will not be an additional burden to manufactures of PBT devices. All approved "PBT's" in use currently meet this requirement. ✓

Part 7501.0300H. - The performance standard set out in this section will not be an additional burden to manufacturers of PBT devices. All of the approved PBT's in use currently meet this requirement. This section is necessary to ensure the accuracy of these devices. ✓

Part 7501.0700 and 7501.0800. - This section allows for less stringent renewal requirements for approved devices. It has been the commissioner's experience that the two year renewals have proved to be both cumbersome and unnecessary. This section specifies that when design changes are made that supportive documentation be supplied. This will alleviate any problems with elimination of the renewal requirement and will be less burdensome.

PAUL J. TSCHIDA  
COMMISSIONER