

<b>Approved Screening Device (ASD)</b>		Inspection and Enforcement New Brunswick	1.1.1
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Chief/Executive Director	September 3 2020	April 14, 2023	April 2025
Approved by	This policy was approved on:	This version takes effect on:	This policy will be reviewed by:

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## 1. General

- A. Inspection & Enforcement New Brunswick, (IENB) uses only approved roadside screening devices. The IENB approved roadside screening devices are used for the purpose of testing breath samples of a driver suspected of having alcohol in their body but does not show sufficient signs for the officer to formulate reasonable grounds, to make the demand for a breath test by an approved instrument.
- B. The approved roadside screening device indicates presence of alcohol in the blood. It is used as an investigative tool to gain the reasonable grounds to read the demand for a breath test by an approved instrument (Fail reading), to issue a notice of suspension of driver's licence (Warn reading), to issue a POPA ticket to a Novice Driver with any alcohol in their body (S.310.02(3)MVA) and suspend their driving privileges for a period of 7 days or a class 5 driver with a restriction 23 (Under 21 years of age with 0% BAC) on their drivers licence (S.91(1.02)MVA).
- C. The approved roadside screening device is to be used only for the intended purpose in accordance with Section 320.27(1) of the Criminal Code and the MVA. It is not to be used as an investigative tool in relation to other criminal matters.
- D. When conducting an investigation as much evidence as possible will be gathered, such as and not limited to driving evidence, physical signs displayed by the driver, witness evidence and evidence from the ASD.
- E. The ASD may only be used by qualified persons who have successfully completed training on their use.
- F. An ASD may be used to help establish grounds for making a breath demand on an approved instrument.

## 2. Definitions

**Chief of Inspection and Enforcement New Brunswick (IENB)** - the Chief of Inspection and Enforcement New Brunswick (IENB) or their Designate.

**IENB** - Inspection and Enforcement New Brunswick.

**IENB CPIC Operator** - a member of IENB who has received the appropriate security clearance from CPIC (Canadian Police Information Centre) and has been trained on how to input information on the CPIC system. IENB CPIC shall be identified through the IENB chain of command.

**Approved Screening Device (ASD)** - a device as listed under Section 320.11 of the *Criminal Code of Canada (CCC)* which defines an “approved screening device” as a device that is designed to ascertain the presence of alcohol in a person’s blood and that is approved by the Attorney General of Canada under paragraph 320.39(a).

**Novice Driver** - the holder of a learner’s licence as detailed under Section 84(1) and 84.01(1) of the New Brunswick Motor Vehicle Act.

**MVA** - the New Brunswick Motor Vehicle Act.

**Qualified Technician** - a person designated by the Attorney General as being qualified to operate an approved instrument.

### 3. Approved Screening Device Coordinator

The Chief of IENB will designate an Approved Screening Device Coordinator, who will ensure:

- A. proper security and maintenance of equipment;
- B. an inventory of Officers trained as calibrators is maintained;
- C. Accuracy check of the approved roadside screening devices are carried out every thirty-one days by Officers who have had the required training, utilizing the JPS Alco Sensor FST Accuracy Check Procedures form and JPS Alco Sensor FST Calibration Procedures form;
- D. Alco-Sensor FST Accuracy Check Procedures Dry-Gas Alcohol Standard or Alco-Sensor FST Accuracy Check Procedures Wet Bath Alcohol Standard if calibration of the approved roadside screening device is required, Officers who have had the required training carry out the calibration utilizing the Alco-Sensor FST Calibration Procedures;
- E. Unserviceable equipment receives the required attention and that all serviced/new equipment receive a calibration check to ensure results are acceptable; and
- F. All data is recorded on the forms listed above.
- G. The Approved Screening Device Coordinator sign the acknowledgement form (attached) and forward the original to the Training Office for retention in a master file.

#### 4. Storage, Handling, and Transport

- A. The Alco-Sensor FST® has been designed to be carried and used by peace officers under operational conditions. Normal physical shocks encountered in the law enforcement environment will not generally be a problem. In order to extend the life of the Alco-Sensor FST®, the following basic principles should be observed:
- i. Employ reasonable precautions against excessive shocks. For example, use the supplied wrist strap to ensure the Alco-Sensor FST® is not dropped during its use.
  - ii. When not in use, the Alco-Sensor FST® should be kept in its carrying case.
  - iii. At end of your shift, remove the Alco-Sensor FST® from your vehicle.
  - iv. At the end of your rotation return the Alco-Sensor FST® to the office, or as per supervisor's direction.
  - v. Ensure there are an adequate number of mouthpieces in the carrying case.
- B. The Alco-Sensor FST® is designed to operate when the device temperature (not the ambient temperature) is between -12°C and 55°C.
- C. If the temperature is outside of the proper operating range, the device will indicate TOO HOT or TOO Cold before powering OFF.
- D. If you must perform a test with the device, place it in an environment that will bring it to within the operating temperature range.

#### 5. Maintenance and Repairs

- A. Annual maintenance shall be completed for the approved roadside screening device(s) and is to be done at an authorized service center:

- B. When the approved roadside screening device(s) needs repair or maintenance forward them to the following authorized service center.

## 6. Procedure

### A. Section 84(4)(d) & 84(5)(c) MVA

- i. Pass: 0.00% - <0.05%
    - a. If the approved screening device registers a pass reading (a reading .049 or under) advise the subject accordingly and issue a POPA ticket
      - 1. novice driver with BAC over 0.00%.
    - b. Impose 7-day suspension
    - c. 7-day impoundment of vehicle (mandatory)
  - ii. Warning: 0.05% to 0.08%
    - a. If the approved screening device registers a "WARN" (greater the .05% but less than 0.08%) check for previous provincial convictions within 5 years.
    - b. Impose short-term licence suspension (roadside)
      - 1. 1st offense in 5 years = issue 7 day suspension,
      - 2. 2nd offence in 5 years - issue 15 day suspension, and
      - 3. 3rd and all subsequent offences = issue 30 day suspension.
    - c. Issue POPA (same as for BAC over 0.00%)
    - d. 7- day impoundment of vehicle (mandatory).
  - iii. Fail: over 0.08% or Refusal/Failure to provide sample
    - a. Refer to afore mentioned: Fail: over 0.08% or Refusal/Failure to provide sample.
- B. If the approved screening device registers a warn, read the bottom portion from the demand card advising of their right to require a further analysis by a second approved instrument.

**Note:** Under these circumstances should the subject request a further analysis and the analysis registers a Fail (a reading of 100mg% or over), read the Demand for Breath test by an approved instrument, under Section 320.28(1)(a)(i) CCC and proceed as per the IENB Impaired Driving Guide.

- C. If the subject does not wish to provide another sample, advise that their driver's licence is being revoked and driving privileges are suspended for the specified period of time commencing immediately and to surrender their driver's license.
- D. Provide the subject with the second copy of the roadside suspension ticket in accordance with Section 310.01(10)(a) and (b) of the Motor Vehicle Act.
- E. The vehicle may be impounded as previously mentioned at the cost of the driver or owner. Do not leave the subject or passengers abandoned on the side of the road.
- F. If the Officer is of the opinion that it is not safe to leave the unattended vehicle at that location it may be moved and stored at the driver's expense in accordance with Section 310.01(11) and (12) of the Motor Vehicle Act.
- G. Should a subject fail to provide a suitable breath sample, immediately check to see if the mouthpiece is obstructed. Then test the approved screening device by blowing through another mouthpiece to establish if the instrument is capable of accepting a proper sample. Should the subject continue to fail to provide a suitable breath sample, retain their mouthpiece as an exhibit.
- H. When a person refuses a demand or fails to provide a suitable sample of breath after a demand has been made, effect arrest under Section 320.15(1) of the Criminal Code and follow the procedures outlined in the IENB Impaired Driving Guide.
- I. Licences are suspended as per aforementioned sections and subject to seizure when the subject:
  - i. blows a warn on the approved screening device; or
  - ii. has an approved instrument reading of over .05 and is not being charged for impaired driving.
- J. Officer shall make detailed notes regarding the investigation.

## 7. Roadside Suspension Tickets

- A. Before the conclusion of the Officer's shift, fax a copy of the suspension form and a photocopy of the seized driver's licence to the Office of the Registrar: 1(506) 462-2130
- B. Attach the Peace Officer copy of the suspension form issued to the applicable driver's licences seized and leave them at the office.
- C. The Peace Officers copy of ticket will be the file copy which may be required for court and shall be retained.
- D. When a suspension notice is issued the Officer shall contact an IENB CPIC Operator as soon as practicable and provide the following particulars:
  - i. driver's licence number,
  - ii. registration number and province,
  - iii. start and finish time of suspension,
  - iv. driver's surname, and
  - v. disposition of vehicle (towed or parked).
- E. The IENB CPIC Operator will check the driver's licence and confirm the surname of the subject and will enter the suspension on CPIC:
  - i. enter subject under the Persons Prohibited category;
  - ii. Conditions Code - D.P. - Temporary Suspension approve screening device program;
  - iii. Remarks - suspended from - hours, date, to - hours, date. Exactly 24 hours later; and
  - iv. Purge - utilize diary date facility to ensure record is removed from CPIC.
- F. If a seized driver's licence is not picked up at the office within the time frame indicated on the notice, return the licence to the driver by regular mail. Make a notation to this effect on the original suspension notice.

## 8. Related Documentation

- A. Notice of 24 Hour Licence Suspension/ Avis de suspension de 24 heures du permis de conduire
- B. Notice and order of suspension/Avis et ordre de suspension
- C. Notice of Vehicle Impound/Avis de mise en fourrière d'un véhicule
- D. IENB Impaired Driving Guide/Guide Pour Les Situations de Conduite Avec Facultés Affaiblies.

Appendix "A"



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***Approved Screening Devices Coordinator:***

Acknowledgement of Approved Screening Devices Coordinator

(Please Print): Name: \_\_\_\_\_

Date: \_\_\_\_\_

I hereby certify that I have read and acknowledge my responsibilities as per the IENB Approved Screening Device Policy.

Signature: \_\_\_\_\_

Witness: \_\_\_\_\_