

Red Tape Review Rule Report (Due: September 1, 2026)

Department Name:	Public Safety	Date:	7/15/2025	Total Rule Count:	7
IAC #:	661	Chapter/ SubChapter/ Rule(s):	157	Iowa Code Section Authorizing Rule:	321J.2
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of this rule is to outline the approved devices and methods to take a specimen of a person's breath or urine for the purpose of determining the alcohol or drug concentration.

Additionally, one change was made in 157.7(1) to clarify the levels used in the table are for drugs detected within the urine only and not blood.

Is the benefit being achieved? Please provide evidence.

Yes, law enforcement agencies and any person reviewing these rules can clearly understand the collection procedures and device approval processes.

What are the costs incurred by the public to comply with the rule?

There is no cost to the public to comply with the rule.

What are the costs to the agency or any other agency to implement/enforce the rule?

There are no costs to the Department or any other agency to implement or enforce these rules.

Do the costs justify the benefits achieved? Please explain.

Yes, there are no costs to the public to comply and law enforcement/the public benefits from clearly defined collection procedures and device approval methods.

Are there less restrictive alternatives to accomplish the benefit? ☐ YES ☒ NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

No, the Department has determined this to be the least restrictive and least costly method to accomplish the intended benefit of the rule.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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One change was made to 157.7(1) to clarify the levels used in the table are for drugs detected within the urine only and not blood. The federal reference was also updated.

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 157
DEVICES AND METHODS TO TEST BODY FLUIDS FOR ALCOHOL OR DRUGS

661—157.1(321J) Approval of devices and methods to test for alcohol or drug concentration. The commissioner, by these rules, approves the following devices and methods to take a specimen of a person's breath or urine for the purpose of determining the alcohol or drug concentration.

661—157.2(321J) Evidentiary breath testing.

157.2(1) A breath testing device is a device designed and constructed to measure a subject's breath alcohol concentration by utilizing a sample of the subject's breath.

157.2(2) A peace officer desiring to perform testing of a subject's breath for the purpose of determining the alcohol concentration shall employ, or cause to be used, a breath testing device of a type meeting the minimum performance requirements established in Highway Safety Programs; Model Specifications for Devices to Measure Breath Alcohol, Federal Register, Volume 58, No.179 (September 17, 1993), pp. 48705-48708. All devices so used must be certified to be in proper working order at least once per calendar year according to procedures specified for that device. The interval between certifications shall not be more than 450 days.

157.2(3) The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner of public safety for collection of breath samples for evidentiary purposes. The current list shall be available upon request to the Division of Criminal Investigation Criminalistics Laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or on the website of the department of public safety.

157.2(4) The operator of an evidentiary breath testing device shall have been certified as competent in the operation of the breath testing device and shall proceed in accordance with the instructions included in an operating manual furnished by the division of criminal investigation criminalistics laboratory. An operating manual, with number and date, specific to a particular approved device and prepared by the division of criminal investigation criminalistics laboratory shall be available to operators using the device. The current version of the operating manual for each device currently approved for use in Iowa may be obtained by contacting the Division of Criminal Investigation Criminalistics Laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or from the department's website.

157.2(5) All certifications of evidentiary breath testing devices shall be made by the division of criminal investigation criminalistics laboratory. All certifications of operators shall be made by the division of criminal investigation criminalistics laboratory or a designee. A designee shall be a person trained and certified by the division of criminal investigation criminalistics laboratory.

[ARC 7529B, IAB 1/28/09, effective 4/1/09; ARC 0219C, IAB 7/25/12, effective 9/1/12; ARC 5407C, IAB 1/27/21, effective 3/3/21]

661—157.3(321J) Urine collection. A peace officer who collects a sample of a subject's urine for the purpose of determining alcohol or drug concentration shall proceed as follows.

157.3(1) The collection shall be made in the presence of a peace officer or other reliable person under the supervision of a peace officer. The peace officer or other person in the presence of the subject shall be of the same gender as the subject.

157.3(2) As soon as practicable, the subject shall urinate into a urine alcohol kit-supplied bottle, cup or other suitable container which is clean, dry, and free from any visible contamination. Anticoagulant and antimicrobial substances in a blood or urine kit do not constitute visible contamination.

157.3(3) The peace officer shall collect a second urine void for alcohol testing in a suitable container which is clean, dry, and free from visible contamination. If a second void cannot be collected, the peace officer shall submit a sample from the first void and shall inform the Iowa division of criminal investigation criminalistics laboratory on the laboratory receipt form that the sample is from a first void. It is not necessary that the subject's bladder be completely emptied.

157.3(4) When collection of the sample for alcohol testing has been completed, the peace officer shall cause a portion of the collected sample to be transferred to a test tube containing 100 milligrams of sodium fluoride and anticoagulant.

157.3(5) A listing of test kits known to meet the requirements of subrules 157.3(2), 157.3(3) and 157.3(4) may be found on the criminalistics laboratory website. Any peace officer wishing to use a test kit which is not listed should inquire of the criminalistics laboratory as to whether the other test kit meets the requirements. Any provider of test kits may request the addition of a kit to the list by sending a sample kit to the administrator of the criminalistics laboratory with a cover letter requesting that the kit be added to the list of kits known to meet the requirements of this subrule.

NOTE: The current location of information about test kits on the laboratory website is: dps.iowa.gov/divisions/criminal-investigation/criminalistics-laboratory/toxicology.

157.3(6) If the peace officer requests additional toxicological testing, the remainder of the sample may be retained in a container and sent for analysis to the Iowa division of criminal investigation criminalistics laboratory.

157.3(7) The peace officer shall label the container showing the date and time the sample was collected and identifying the peace officer, the subject, and the person present during the collection of the sample if other than the peace officer.

661—157.4(321J) Submission of samples for alcohol and drug testing to the criminalistics laboratory. Any sample of urine or blood may be submitted to the division of criminal investigation criminalistics laboratory or other appropriate laboratory via ordinary mail, private courier, or personal delivery.

661—157.5(321J) Preliminary breath screening test.

157.5(1) A peace officer desiring to perform a preliminary screening test of a person's breath shall use a device approved by the division of criminal investigation criminalistics laboratory. Such devices are approved for accuracy and precision using a dry gas standard or breath simulating device. The division of criminal investigation criminalistics laboratory shall employ scientifically established tests or methods appropriate to a particular device in determining whether the device meets an acceptable standard for operation including accuracy, or the laboratory may, at its discretion, accept test results from another laboratory. The standards shall include the requirement that in all cases the device shall indicate the alcohol concentration on a numerical display. Devices shall be of a type that may be calibrated on a monthly basis by officers in the field.

The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner for use as preliminary breath screening devices. The list of currently approved devices is available on the website of the department.

157.5(2) Any peace officer using an approved device shall follow the instructions furnished by the manufacturer for use of such a device. The calibration of each unit shall be checked at least once per month, and the device shall be calibrated, if necessary, using a dry gas standard. The officer or officer's department shall maintain a record of each calibration. This record shall include:

- a. The identity of the person performing the calibration.
- b. The date.
- c. The value of standard used.
- d. The unit type and identification number.
- e. The expiration date of the standard used.

[ARC 5407C, IAB 1/27/21, effective 3/3/21]

661—157.6(123) Chemical test—alcohol concentration—public intoxication. All devices and methods approved in this chapter for the purpose of determining a person's alcohol concentration for evidential purposes under Iowa Code chapter 321J, and the devices otherwise approved in this chapter only for use in performing preliminary breath screening tests, are equally approved for testing to determine alcohol concentration in connection with arrests for public intoxication under Iowa Code section 123.46. The chemical test results shall be expressed in terms of alcohol concentration as defined in Iowa Code section 321J.1.

661—157.7(321J) Detection of drugs other than alcohol.

157.7(1) Adoption of federal standards. Initial test requirements based upon standards adopted by the federal Substance Abuse and Health Services Administration in "Mandatory Guidelines for Federal Workplace Drug Testing Programs," 88 FR 70768, section 3.4, and displayed in the following table are hereby adopted as standards for determining detectable levels of controlled substances in a person's urine in the division of criminal investigation criminalistics laboratory initial testing or analysis for controlled substances detected by the presence of the following: marijuana metabolites, cocaine metabolites, codeine/morphine, hydrocodone/hydromorphone, oxycodone/oxymorphone, 6-acetylmorphine, phencyclidine, amphetamine/methamphetamine, and MDMA/MDA. The following table shows the minimum levels of these substances which will result in a finding that a controlled substance is present at a detectable level:

Initial test analyte	Initial test cutoff<fo:wrapper font-size=".69em" baseline-shift=".33em">1</fo:wrapper>
Marijuana metabolites (THCA)<fo:wrapper font-size=".69em" baseline-shift=".33em">2</fo:wrapper>	50 ng/ml<fo:wrapper font-size=".69em" baseline-shift=".33em">3</fo:wrapper>
Cocaine metabolites (Benzoylecgonine)	150 ng/ml<fo:wrapper font-size=".69em" baseline-shift=".33em">3</fo:wrapper>

Codeine/Morphine	2000 ng/ml
Hydrocodone/Hydromorphone	300 ng/ml
Oxycodone/Oxymorphone	100 ng/ml
6-Acetylmorphine	10 ng/ml
Phencyclidine	25 ng/ml
Amphetamine/Methamphetamine	500 ng/ml
MDMA<fo:wrapper font-size=".69em" baseline-shift=".33em">4</fo:wrapper>/MDA<fo:wrapper font-size=".69em" baseline-shift=".33em">5</fo:wrapper>	500 ng/ml

¹ For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

² An immunoassay must be calibrated with the target analyte, D-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

³ *Alternate technology* (THCA and benzoylecgonine): The confirmatory test cutoff must be used for an alternate technology initial test that is specific for the target analyte (i.e., 15 ng/mL for THCA, 100 ng/mL for benzoylecgonine).

⁴ Methylenedioxymethamphetamine (MDMA).

⁵ Methylenedioxyamphetamine (MDA).

157.7(2) Reserved.

[ARC 0219C, IAB 7/25/12, effective 9/1/12; ARC 5407C, IAB 1/27/21, effective 3/3/21]

These rules are intended to implement Iowa Code section 123.46 and chapter 321J.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	+6 (clarification verbiage added)
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	0

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.