SOUTH CAROLINA LAW ENFORCEMENT DIVISION

4400 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA 29210

POLICY #: 8.12.8	DATE: 09/01/93	REVISION DATE: 03/01/96
TITLE: IMPLIED CONSENT - BAC DATAMASTER CERTIFICATION		PAGE 1 OF 2

RESPONSIBLE AUTHORITY: SPECIAL AGENT IN CHARGE OF FORENSIC SERVICES LABORATORY

RELATED STANDARDS/STATUTES/REFERENCES:
S.C. Code of Laws, Section 56-5-2950
S.C. Code of Laws, Section 50-21-114
S.C. Code of Laws, Section 55-1-100
S.C. Code of Laws, Section 56-1-2130
S.C. Code of Laws, Regulation 73-1
S.C. Code of Laws, Regulation 73-2
S.C. Code of Laws, Regulation 73-3

GENERAL PURPOSE: To set forth policies for the administration of implied consent breath alcohol tests.

POLICY: The Division will establish procedures for properly conducting implied consent BAC DataMaster breath alcohol tests.

SPECIFIC PROCEDURES: The BAC DataMaster is a breath testing device (instrument) that performs an accurate chemical test to determine a subject's blood alcohol concentration by weight (State vs. Squires, 426, SE 2nd 738, 1992). The current manufacturer is National Patent Analytical Systems, Inc. However, the BAC DataMaster will remain approved even if the manufacturer were to change. Alcohol, when mentioned in this document, refers to ethanol. This instrument utilizes infrared spectroscopy to perform a chemical analysis of the breath. The chemistry of alcohol determines its infrared absorption characteristics. Chemicals, such as alcohol, absorb infrared light in specific amounts at specific wavelengths. The instrument uses two infrared wavelengths to distinguish ethanol from any other possible substances.

The particular BAC DataMaster used for implied consent testing shall be certified by a SLED certified breath testing specialist. To obtain certification, an instrument must pass a calibration, supervisor, and diagnostic test at its site location. For an instrument whose testing station is a mobile van, once the instrument is certified for use in the van, it remains certified regardless of the physical location of the van. Additionally, the certification tests and certification do not have to be repeated if the instrument and/or its software are upgraded. Upgrades to the instrument and/or software must be approved by SLED and the manufacturer before installation. Upgrades will typically be phased in on the devices, unless an otherwise urgent need exists. Notification of significant upgrades to the instrument, as determined by the manufacturer, will be sent to the National Highway Traffic Safety Administration for approval and possible testing. The SLED inspection sheet will detail

important upgrades to the system. An important upgrade is defined as an upgrade that the National Highway Traffic Safety Administration considers of such a significant nature that it necessitates a separate listing for the device on their Conforming Products List of Evidential Breath Measurement Devices. No other documentation of upgrades or their approval is required.

To pass the calibration (establishment of calibration factors) and diagnostic test (an internal diagnostic routine), no errors and/or failures may appear. To pass the supervisor test (a series of a minimum of five 0.10% simulator tests), the average simulator solution reading shall be a 0.10% (0.095% through 0.105%, inclusive), and the simulator solution temperature shall be 34 degrees Celsius (C), 33.5 through 34.5, inclusive. A certification sheet stating the serial number, site location, date/time of certification, and name of SLED certified breath testing specialist shall be completed and a copy kept on file by SLED for as long as the instrument is certified at that location. Certification sheets are not required to have the signature of the SLED certified breath testing specialist, as long as his/her name is listed on the report.

This certification does not expire unless revoked by SLED. A new certification sheet will be issued for each new site location except when the instrument is moved to SLED for repair, inspection, and/or storage and later moved back to its original location. In this case, an inspection is issued when the instrument is returned to its original site. Movement of the instrument within a limited area, such as different locations within a room, may be done by the local agency without another site inspection or instrument certification by SLED.

To be eligible for BAC DataMaster operator certification, a person must be a law enforcement officer of the United States of America, the State of South Carolina, or one of the state's political subdivisions. Political subdivisions include, but are not limited to, cities and counties. Military police (civilian or military), are considered law enforcement officers of the United States of America. Certified operators are furnished certificates and/or cards to document their certification. In addition, certification records are maintained by SLED.

An operator's certification shall be revoked by the Chief of SLED if he/she does not continue to meet the necessary qualifications to perform tests, such as improper operation of instrument, etc. Any operator may be examined at any time by the Chief of SLED or his/her representative to determine if the operator has continuing ability to perform tests. The certification period begins at 12:01 A.M. on the certification date and ends at 11:59 P.M. on the expiration date. To continue as a certified operator, he/she must be recertified every two years according to procedures prescribed by SLED. Only certified operators may run implied consent tests on subjects arrested for DUI, Felony DUI, BUI, or FUI or subjects detained and/or stopped for CDL violations.

BY ORDER OF:

Robert M. Stewart, Chief