

2.11 Tests and Experiments

[Arrangements have been made to conduct a test or experiment.] [A test or experiment was conducted.]

[Observe] [You observed] the conditions under which that test or experiment [is] [was] made. These conditions may or may not duplicate the conditions and other circumstances that existed at the time and place of the incident involved in this case.

It is for you to decide what weight, if any, you give to the test or experiment.

Comment

See d'Hedouville v. Pioneer Hotel Co., 552 F.2d 886, 890 (9th Cir. 1977) (holding that district court properly allowed experiment evidence regarding flammability of carpet sample despite differences between test fire and actual fire); *Canada Life Assur. Co. v. Houston*, 241 F.2d 523, 537 (9th Cir. 1957) (“[T]he conditions surrounding a test or experiment of this nature need not be identical with those existing at the time of the occurrence in question provided there is a substantial similarity.”) (internal quotations omitted).