

**40:30-1-1. Purpose**

The rules in this Chapter concern analysis of alcohol in specimens of breath under the provisions of 47 O.S., Sections 751–761 and 3 O.S., Section 303 and 63 O.S., Section 4210A. They include scientific and procedural safeguards to assure the validity and reliability of such tests, designate methods and procedures for breath-alcohol analysis approved by the Board, and prescribe and control other aspects of such tests.

**40:30-1-2. Breath-alcohol analysis with the Breathalyzer Model 900 and Model 900A [REVOKED]**

#### **40:30-1-3. Breath-alcohol analysis with Board approved devices**

(a) **Approved method.** Analysis of breath specimens for the determination of the alcohol content therein may be accomplished by any method, technique, or instrument approved by the Board in accordance with OAC 40: 25-1-2.

(b) **Operating procedure(s).** Each such analysis shall include the following steps:

(1) Determination that the subject's mouth has no presence of any substantial loose material(s), foreign substance(s), or any such substance(s). Metal, porcelain, or hard plastic items need not be removed.

(2) Observation of the subject whose breath is to be tested sufficient to determine that, for a period of at least fifteen (15) minutes prior to the collection of the first breath specimen, and continuing through the second breath specimen, the subject shall not have ingested alcohol in any form or any other substance, vomited, or smoked. Such observation shall be carried out by the breath-alcohol analysis Operator or by any other qualified person.

(3) Analysis for alcohol of two (2) or more specimens of breath consisting substantially of expired alveolar air.

(4) A blank analysis preceding analysis of each breath specimen.

(5) Analysis of at least one control sample from a dry gas canister deployed by the agency in accordance with 40:25-1-3 to verify the calibration of the instrument at the time of the test. The results of each such control analysis must coincide with the corresponding vapor-alcohol concentration target value within plus or minus one-hundredths gram per two hundred and ten liters ( $\pm 0.01\text{g}/210\text{L}$ ).

(6) The operator performing each such analysis shall properly complete a Breath-Alcohol Analysis Record and Report form prescribed and designated by the State Director of Tests for Alcohol and Drug Influence, and shall promptly forward one (1) copy thereof to the Oklahoma Department of Public Safety, and to other agencies and persons listed on the form.

(c) **Reporting results.** The results of each such breath-alcohol analysis shall be reported in terms of the concentration of alcohol in the subject's breath, in grams of alcohol per two hundred and ten liters of breath ( $\text{g}/210\text{ L}$ ), truncated to two (2) decimal places. Results of duplicate breath alcohol analyses, on the same subject on the same occasion, which are within three-hundredths grams per two hundred and ten liters of breath ( $\pm 0.03\text{g}/210\text{L}$ ) shall be deemed to be in acceptable agreement and mutually confirmatory and substantive. Results of analysis of all breath specimens shall be reported, but actions and interpretation of the results of such duplicate analyses shall be based upon the lowest such acceptable breath alcohol result obtained.

(d) **Maintenance.** Maintenance shall be performed on the CMI Intoxilyzer 8000, equipped with an approved dry gas canister, at such time as the regulator of the pressurized dry gas canister fails to provide a gas sample for analysis or by the manufacturers stated expiration date, whichever occurs first. Such maintenance shall be performed by Board personnel, ~~according to the procedure(s) prescribed by the State Director of Tests for Alcohol and Drug Influence,~~ and shall consist of a bench check report, a certificate of calibration and operation, and a mock subject test.

**40:30-1-3.1. Independent Breath-alcohol analysis with the Intoxilyzer Model 5000-D [REVOKED]**

**40:30-1-4. Analysis of retained breath-alcohol specimens [REVOKED]**