

40:55-1-1. Approved devices

Devices listed on the current *Conforming Products List of Screening Devices to Measure Alcohol in Bodily Fluids* (77 FR 35745) or the *Conforming Products List of Evidential Breath Alcohol Measurement Devices* (82 FR 50940), or conforming to the *Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids* (73 FR 16956) or the *Model Specifications for Evidential Breath Alcohol Measurement Devices* (58 FR 48705), published by the National Highway Traffic Safety Administration are approved for use as alcohol screening devices for law enforcement use to aid in the detection of impaired drivers.

[Source: Added at 34 Ok Reg 847, eff 9-11-17; Amended at 35 Ok Reg 799, eff 9-14-18]

40:55-1-2. Operating Procedure

(a) **Authorized use.** Alcohol screening devices approved by these rules shall be used as a presumptive preliminary breath test. The operator of the alcohol screening device, or the law enforcement agency employing the operator, shall determine the appropriate timing for use of the alcohol screening device during impaired driving investigations.

(b) **Operation.** Alcohol screening devices approved by these rules shall be operated in accordance with the manufacturer's instructions. In addition to any manufacturer's instructions, the operator of the alcohol screening device shall observe the subject for at least 15 minutes prior to obtaining a breath sample to confirm that the subject has not ingested any substance, vomited, or smoked during that time.

[Source: Added at 34 Ok Reg 847, eff 9-11-17]

40:55-1-3. Calibration check and calibration

(a) **Authorized personnel.** The calibration, or calibration check, may be performed by the operator, a designated member of the law enforcement agency employing the operator, or a third party in accordance with the manufacturer's instructions.

(b) **Calibration check interval and procedure.** Alcohol screening devices approved by these rules shall be checked for calibration accuracy annually. Calibration accuracy shall be within (\pm) 0.005 g/210L of the value of the reference method at the time of the calibration check. Calibration checks shall be performed in accordance with the manufacturer's instructions.

(c) **Calibration procedure.** Calibrations shall be performed in accordance with the manufacturer's instructions when a calibration check falls outside (\pm) 0.005 g/210L of the value of the reference method at the time of the calibration check.

[Source: Added at 34 Ok Reg 847, eff 9-11-17]

40:55-2-1. Approved method

The approved method for drug screening devices for use in the field by law enforcement officers is oral fluid testing accomplished by immunoassay lateral flow testing devices.

[Source: Added at 34 Ok Reg 847, eff 9-11-17]

40:55-2-2. Approved devices

The following devices are approved for use as drug screening devices:

- (1) Draeger Drug Test 5000
- (2) Alere DDS-2 or Abbott SoToxa

[Source: Added at 34 Ok Reg 847, eff 9-11-17; Amended at 37 Ok Reg 1005, eff 9-11-20]

40:55-2-3. Use, precautions, and maintenance

(a) Oral fluid testing shall be performed in accordance with the manufacturer's instructions related to the use of the approved device.

(b) The officer shall be trained in the use of the approved drug screening device in accordance with the manufacturer's specifications. The drug screening device results do not imply impairment in and of themselves. All precautions for the safety of the subject as prescribed by the manufacturer shall be adhered to.

(c) Approved drug screening devices shall be maintained in accordance with the manufacturer's instructions.

[Source: Added at 34 Ok Reg 847, eff 9-11-17]