

40:25-1-1. Purpose

The rules in this chapter concern the method of approving apparatus, devices, and equipment, materials, supplies and other items used for or involved in tests for alcohol and other intoxicating substances under the provisions of 47 O.S., Sections 751-761 and 3 O.S., Section 303 and 63 O.S., Section 4210A.

[**Source:** Amended at 14 Ok Reg 1533, eff 7-1-97; Amended at 20 Ok Reg 2839, eff 6-5-03 (emergency); Amended at 21 Ok Reg 2655, eff 7-11-04; Amended at 25 Ok Reg 1524, eff 6-12-08]

40:25-1-2. Approved evidential breath-alcohol measurement devices

The Intoxilyzer 8000 is hereby approved for determining the presence or concentration of alcohol in subject's breath.

[**Source:** Amended at 14 Ok Reg 1533, eff 7-1-97; Amended at 20 Ok Reg 2839, eff 6-5-03 (emergency); Amended at 21 Ok Reg 2655, eff 7-11-04; Amended at 24 Ok Reg 285, eff 11-1-06 (emergency)¹; Amended at 24 Ok Reg 2681, eff 6-4-07 (emergency)¹; Amended at 25 Ok Reg 1524, eff 6-12-08; Amended at 34 Ok Reg 98, eff 10-10-16 (emergency); Amended at 34 Ok Reg 844, eff 9-11-17]

EDITOR'S NOTE: ¹Pursuant to 75 O.S., Section 253, the 11-1-06 emergency amendments to this Section 40:25-1-2 were scheduled to expire on 7-15-07, if not already superseded by a permanent action or by another emergency action(s) that retained the same 7-15-07 expiration date. If the emergency action expired, the text of the Section would then revert back to the permanent text that was effective prior to the 11-1-06 emergency action. As of 7-15-07, the Board had not superseded the 11-1-06 emergency amendments with a permanent action or with another emergency action that retained the 7-15-07 expiration date. However, on 6-4-07, the Board did issue another emergency action amending this Section, but cited a later expiration date of 7-15-08. Because this Section was not amended or revoked by permanent action in 2007, the text of the Section was not reprinted in the 2007 Supplement. However, the number and tagline of the Section were published, as well as annotations citing to the publication of the two emergency actions in the Oklahoma Register and the publication of the last effective permanent text of the Section in the 2006 Edition of the OAC. The Section was later amended by permanent action on 6-12-08.

40:25-1-3. Approved dry gas canisters

(a) Any pressurized dry gas canister labeled by the manufacturer with a target value of 0.080 BAC, 2% or .002, whichever is greater, is hereby approved for use in association with approved evidential breath alcohol measurement devices.

(b) The State Director of Tests, in accordance with the needs of the agency, may deploy dry gas canisters approved by this section for the purpose of performing calibration checks of approved evidential breath alcohol measurement devices.

(c) The State Director of Tests shall maintain a list of the dry gas canisters approved by this section that have been deployed by the agency.

[**Source:** Amended at 14 Ok Reg 1533, eff 7-1-97; Amended at 20 Ok Reg 2839, eff 6-5-03 (emergency); Amended at 21 Ok Reg 2655, eff 7-11-04; Amended at 22 Ok Reg 2341, eff 7-11-05; Amended at 24 Ok Reg 285, eff 11-1-06 (emergency)¹; Amended at 24 Ok Reg 2681, eff 6-4-07 (emergency)¹; Amended at 25 Ok Reg 1525, eff 6-12-08; Amended at 34 Ok Reg 98, eff 10-10-16 (emergency); Amended at 34 Ok Reg 844, eff 9-11-17]

EDITOR'S NOTE: ¹Pursuant to 75 O.S., Section 253, the 11-1-06 emergency amendments to this Section 40:25-1-3 were scheduled to expire on 7-15-07, if not already superseded by a permanent action or by another emergency action(s) that retained the same 7-15-07 expiration date. If the emergency action expired, the text of the Section would then revert back to the permanent text that was effective prior to the 11-1-06 emergency action. As of 7-15-07, the Board had not superseded the 11-1-06 emergency amendments with a permanent action or with another emergency action that retained the 7-15-07 expiration date. However, on 6-4-07, the Board did issue another emergency action amending this Section, but cited a later expiration date of 7-15-08. Because this Section was not amended or revoked by permanent action in 2007, the text of the Section was not reprinted in the 2007 OAC Supplement. However, the number and tagline of the Section were published, as well as annotations citing to the publication of the two emergency actions in the Oklahoma Register and the publication of the last effective permanent text of the Section in the 2006 Edition of the OAC. The Section was later amended by permanent action on 6-12-08.

40:25-1-4. Disposable materials, supplies, and paraphernalia [REVOKED]

[Source: Amended at 33 Ok Reg 1189, eff 9-11-16; Revoked at 34 Ok Reg 98, eff 10-10-16 (emergency); Revoked at 34 Ok Reg 844, eff 9-11-17]

40:25-1-5. Approval of equipment for breath-alcohol analysis

Any manufacturer of any apparatus, device, or equipment made for the purpose of analyzing the alcoholic content of breath, or for the purpose of simulating specimens of breath of known alcoholic content, may request this Board to approve such apparatus, device, or equipment. The Board will consider said request upon submission of such information, instructions for use, exemplars, and other pertinent data as the Board may request.