

**Fiscal Impact Analysis of Permanent Rules
10A NCAC41B CDI/FTA**

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Agency: NC Commission for Public Health
Department of Health and Human Services, Division of Public Health
Chronic Disease and Injury Control Section, Forensic Tests for Alcohol Branch

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Rule Citations: 10A NCAC 41B .0201 Initial Permit for Blood Analyst
10A NCAC 41B .0202 Granting Permits
10A NCAC 41B .0203 Approved Permits
10A NCAC 41B .0204 Modification of Permit
10A NCAC 41B .0205 Renewal of Permit
10A NCAC 41B .0206 Determination of Renewal of Permit
10A NCAC 41B .0207 Evaluation of Blood Analysts
10A NCAC 41B .0208 Revocation of Permit
10A NCAC 41B .0209 Reporting of Alcohol Concentrations by Blood Analysts
10A NCAC 41B .0322 Intoximeters: Model Intox EC/IR II
10A NCAC 41B .0323 Preventive Maintenance: Intoximeters: Model Intox
EC/IR II
10A NCAC 41B .0503 Approved Alcohol Screening Test Devices: Calibration

State Government Impact: Yes
Local Government Impact: Yes
Private Sector Impact: Yes
Substantial Impact: No

Relevant Statutes: N.C.G.S. 20-4-01; NCGS 20-16.3; NCGS 20-138.1; NCGS 20-138.2;
NCGS 20-139.1

Purpose of Rule Change

State Agency Impact: Yes
Local Agency Impact: No
Private-Sector Impact: Yes
Substantial Economic Impact: No

1. Reason for Proposed Amendments

Current 10A NCAC 41B rules limit the types of tests that can be used to determine a person's alcohol concentration or presence of an impairing substance to breath and blood for law enforcement officers under the previous provisions of G.S. 20-139.1. All processes and procedures related to the analysis, and the granting, approval, modification, renewal and revocation of permits are regulated by 10A NCAC 41B.

Proposed Rule Changes

In 2006 the North Carolina General Assembly amended N.C.G.S. 20-4.01 with the following definition: "Chemical Analysis -- A test or tests of the breath, blood, or other bodily fluid or substance of a person to determine the person's alcohol concentration or presence of an impairing substance, performed in accordance with G.S. 20-139.1, including duplicate or sequential analyses." This new definition adds to the previously approved test or tests of breath and blood "other bodily fluid or substance of a person".

Regulations related to the permitting of test or tests of the breath, blood, or other bodily fluid or substance of a person to determine the person's alcohol concentration or presence of an impairing substance are required to assure that the chemical analyses are conducted following proper procedures by qualified chemical analysts and provide accurate and reliable results.

Aligning 10A NCAC 41B with current N.C.G.S. will allow the Director of the Division of Public Health to grant, modify, renew and revoke permits to chemical analysts to conduct chemical analyses to determine the person's alcohol concentration or presence of an impairing substance of not just breath and blood but also of other bodily fluid or substance of a person. Additionally, this will allow the Director to institute a procedure for periodically testing the competence of chemical analysts, which may include supervisory inspections of laboratories in which chemical analyses of blood or other bodily fluid or substance of a person are being performed.

Chemical analyses conducted by analysts in the past two years are as follows:

2017 Blood – 11,172 Urine – 11
2018 Blood – 10,696 Urine – 3

Chemical analysis of blood and urine are the only bodily fluid or substance of a person that we are aware of that is currently being conducted. As science progresses this rule change will allow regulation of the permitting processes of other substances as they are identified for analysis.

The following rules will each reflect the addition of the language from N.C.G.S., specifically "Chemical Analysis. -- A test or tests of the breath, blood, or other bodily fluid or substance of a person to determine the person's alcohol concentration or presence of an impairing substance, performed in accordance with G.S. 20-139.1, including duplicate or sequential analyses" and "Chemical Analyst. -- A person granted a permit by the Department of Health and Human Services under G.S. 20-139.1 to perform chemical analyses."

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State Impact

The Division of Public Health currently has in place personnel and resources to permit chemical analysts. The additional responsibility of managing the permitting of chemical analysts performing tests of other bodily fluid or substance of a person to determine the person's alcohol concentration or presence of an impairing substance will not have a significant economic impact due to this change. Processes related to permitting for these purposes will be identical to existing processes with the only addition being the scope of examination related to the qualifications of the prospective chemical analysts and the laboratories where analyses are conducted. This will not necessitate the creation of completely new processes, rather it will require the editing of existing processes to include the requirements necessary and specific to the permitting of chemical analysts performing the tests of other bodily fluid or substance of a person. Based on recent statistics identifying types of analyses currently conducted there will no significant fiscal impact in the near future. If and when other bodily fluid or substance of a person is identified for analysis, there may be minimal fiscal impact.

State Crime Labs will have to comply with the requirements for permitting chemical analysts of other bodily fluid or substance of a person by using a process identical to that currently in use for blood analysts. Training of personnel and acquisition of the equipment necessary to conduct tests of other bodily fluid or substance of a person to determine the person's alcohol concentration or presence of an impairing substance will be required. Based on recent statistics identifying types of analyses currently conducted there will no significant fiscal impact in the near future. If and when other bodily fluid or substance of a person is identified for analysis, there may be some fiscal impact.

Local Impact

Local Crime Labs will have to comply with the requirements for permitting chemical analysts of other bodily fluid or substance of a person by using a process identical to that currently in use for blood analysts. Training of personnel and acquisition of the equipment necessary to conduct tests of other bodily fluid or substance of a person to determine the person's alcohol concentration or presence of an impairing substance will be required. Based on recent statistics identifying types of analyses currently conducted there will no significant fiscal impact in the near future. If and when other bodily fluid or substance of a person is identified for analysis, there may be some fiscal impact.

Private Impact

Private Crime Labs will have to comply with the requirements for permitting chemical analysts of other bodily fluid or substance of a person by using a process identical to that currently in use for blood analysts. Training of personnel and acquisition of the equipment necessary to conduct tests of other bodily fluid or substance of a person to determine the person's alcohol concentration or presence of an impairing substance will be required. Based on recent statistics identifying types of analyses currently conducted there will no significant fiscal impact in the near future. If and when other bodily fluid or substance of a person is identified for analysis, there may be some fiscal impact.

2. Reason for Proposed Amendments

The Intox EC/IR II is the only breath testing instrument currently approved for use by the Department for chemical analysis of a person's breath in any implied consent offense (driving while impaired). The Intox EC/IR II instrument is no longer manufactured and has been replaced in production by the manufacturer with the upgraded Intox EC/IR II (Enhanced with serial number 10,000 or higher) instrument. Both instruments are included on the National Highway Safety Transportation Administration (NHTSA) Conforming Products List: 49 CFR Part 40, as required by 10A NCAC 41B .0313. The upgrades to the Intox EC/IR II (Enhanced with serial number 10,000 or higher) are: updated processor, updated graphics display, larger memory capacity, and updated internal printer.

The Department approves breath-testing instruments listed on the National Highway Traffic Safety Administration, Conforming Products List of Evidential Breath Measurement Devices. Instruments are approved on the basis of results of evaluations by the Forensic Tests for Alcohol (FTA) Branch. Evaluations are not limited in scope and may include any factors deemed appropriate to ensure the accuracy, reliability, stability, cost, and ease of operation and durability of the instrument being evaluated. Evaluations were conducted by the FTA Branch on the Intox EC/IR II (Enhanced with serial number 10,000 or higher) to ensure the accuracy, reliability, stability, cost, and ease of operation and durability of the instrument. It was determined that all requirements were met. The testing protocol for the Intox EC/IR II instrument and the Intox EC/IR II (Enhanced with serial number 10,000 or higher) instrument is identical.

The Intox EC/IR II currently approved for use in North Carolina was put into service in 2007. The analytical technology used in this instrument is identical to that used in the Intox EC/IR II (Enhanced with serial number 10,000 or higher) instrument. While the Intox EC/IR II (Enhanced with serial number 10,000 or higher) has additional features which improve the usability and functionality of the instrument, the largest benefit of including it as an approved instrument is it is currently available for purchase having replaced the Intox EC/IR II.

Proposed Rule Changes

Change the language in 10A NCAC 41B .0322 Intoximeters: Model Intox EC/IR II by adding the Intox EC/IR II (Enhanced with serial number 10,000 or higher) instrument as an instrument approved for use by the Department for chemical analysis of a person's breath in any implied consent offense.

Change the language in 10A NCAC 41B .0323 Preventive Maintenance: Intoximeters: Model Intox EC/IR II by adding the Intox EC/IR II (Enhanced with serial number 10,000 or higher) instrument into this preventive maintenance procedures rule.

State Impact

The addition of the Intox EC/IR II (Enhanced with serial number 10,000 or higher) instrument would have a positive economic impact on the State agency. The Intox EC/IR II (Enhanced with serial number 10,000 or higher) instrument functions identical to the Intox EC/IR II. The FTA Branch provides training and support for all evidential instruments and the current training and support provided by the Branch for the Intox EC/IR II instrument will also satisfy the requirements of the Intox EC/IR II (Enhanced with serial number 10,000 or higher) instrument.

As the instruments are constructed and function identically, the Branch Electronics Technician would not need additional factory training on the maintenance and repair. Parts purchased to complete maintenance and repair of the Intox EC/IR II (Enhanced with serial number 10,000 or higher) instrument would be identical to parts purchased for the Intox EC/IR II instrument, and would not result in additional cost. Training materials would be updated to reflect that the training provided is for the two instruments during the transition period, with minimal economic impact as these materials are developed by the FTA Branch and ordered frequently.

Local Impact

There will be no substantial economic impact. There is no discernable difference in the manner in which the two instruments appear or function, so no additional training is required for instrument operators trained as chemical analysts.

Private Impact

There will be no substantial economic impact. This will allow the FTA Branch to purchase the Intox EC/IR II (Enhanced with serial number 10,000 or higher) from the sole source vendor if necessary. There are no planned purchases at this time.

3. Reason for Proposed Amendments

No screening test for alcohol concentration is a valid one under this section unless the alcohol screening test device used is one approved by the Department and the screening test is conducted in accordance with the applicable regulations of the Department as to the manner of its use. Additional alcohol screening test devices have been evaluated by the FTA Branch and have met the minimum requirements as set forth in the Department specifications for Alcohol Screening Test Devices for use by law enforcement officers in making on-the-scene tests of drivers for alcohol concentration.

Several alcohol screening test devices included on the current list include devices that are no longer available for purchase but remain on the list as they are still being used by law enforcement officers. Adding additional alcohol screening test devices to the approved list would be beneficial as it would offer additional choices for law enforcement agencies and create a competitive market environment, possibly resulting in lower prices.

Proposed Rule Changes

Additional alcohol screening test devices have been evaluated by the Forensic Tests for Alcohol Branch and meet the minimum requirements set forth in the Department specifications for alcohol screening test devices for use by law-enforcement officers in making on-the-scene tests of drivers for alcohol concentration. The following changes are recommended to 10A NCAC 41B .0503.

Add the following alcohol screening test devices to the existing list of approved alcohol screening test devices.

ALCO-SENSOR III (Enhanced with Serial Numbers above 1,200,000), manufactured by Intoximeters, Inc.
ALCO-SENSOR FST (Enhanced with Serial Numbers 200,000 and higher), manufactured by Intoximeters, Inc.
LIFELOC FC10, manufactured by Lifeloc Technologies, Inc.
INTOXILYZER 500, manufactured by CMI, Inc.
ALCOVISOR MERCURY, manufactured by PAS International.

State Impact

The inclusion of additional alcohol screening test devices would have moderate economic impact. The FTA Branch provides training and support for all approved alcohol screening test devices. Providing training and support would require the Branch to purchase newly approved alcohol screening test devices for classroom training of law enforcement officers, the end users. Additionally, the Branch Electronics Technician may need to be factory trained on the maintenance and repair of these new devices, and the Branch would be required to purchase parts necessary to complete maintenance and repairs as this service is provided free of charge to law enforcement agencies for all approved devices. Train the trainer training would be conducted by those attending factory training to familiarize all Branch training staff responsible for alcohol screening test device training. Estimated economic impact is limited to the following. Travel for training is regularly assigned to staff as part of their job duties and would not incur additional labor cost. All expenses related to adding additional alcohol screening test devices would be funded with funding provided by the National Highway Traffic Safety Administration and the NC Governor's Highway Safety Program.

- \$13,730 - FTA Branch purchase of alcohol screening test devices for training purposes
- \$ 6,000 – Travel expenses for factory training for staff
- \$ 1,500 – Maintenance parts and tools

Local Impact

There will be little or no substantial impact. Alcohol screening test devices recommended for inclusion on the approved list share similar costs as existing approved alcohol screening test devices. Training is provided by the FTA Branch at no charge in the theory, operation and maintenance of all approved alcohol screening test devices. This training is optional and is not required of law enforcement officers

who operate the alcohol screening test devices. Once approved those alcohol screening test devices will be included in the ongoing training provided by FTA.

The cost of any alcohol screening test device can be offset by credits earned by law enforcement agencies participating in the Governor's Highway Safety Program's Statewide Traffic Enforcement Program (STEP), which encourages participation at GHSP sponsored events and highway safety initiatives. Credits earned may be redeemed for alcohol screening test devices. If STEP credits are not used to acquire newly approved devices local agencies would have to fund the purchase. The proposed amendment will be positive in that it will offer more choices and flexibility when an agency acquires a device. All approved devices, existing and newly approved, provide the same functionality.

Private Impact

The proposed amendment will have an unknown impact on the private sector. It is estimated that the number of alcohol screening test devices acquired for use by local agencies will remain consistent with prior years' purchases. Adding these newly approved devices to the approved list will simply offer more choices to law enforcement agencies. At this time, it is unknown what device individual law enforcement agencies may select for use. All approved devices, existing and newly approved, provide the same functionality.

Summary

In summary, the proposed rules will:

1. Establish rules necessary to regulate the chemical analyses of other bodily fluid or substance and the permitting of analysts conducting the chemical analyses, consistent with statute
2. Add additional breath testing instrument, the Intox EC/IR II (Enhanced with serial number 10,000 or higher)
3. Add additional alcohol screening test devices

10A NCAC 41B is proposed for amendment as follows:

SECTION .0200 - ~~BLOOD ALCOHOL~~ CHEMICAL ANALYST TEST REGULATIONS

10A NCAC 41B .0201 INITIAL PERMIT FOR ~~BLOOD~~ CHEMICAL ANALYST

(a) Any person desiring an initial permit as a ~~blood~~ chemical analyst for blood or other bodily fluid or substance of a person shall make written application to the Director.

(b) In the application, the applicant shall set out his or her professional qualifications and experience and describe in detail the method intended to be used in performing chemical analyses of ~~blood,~~ blood or other bodily fluid or substance of a person, the equipment and chemicals to be employed, the names and professional qualifications of any persons who will assist him or her in any of the incidental phases of the analyses to be made, and the location in and conditions under which the analyses shall be made. The Director shall prepare application forms to assist applicants in presenting the required information in an orderly fashion.

History Note: Authority G.S. 20-139.1(b);

Eff. February 1, 1976;

Readopted Eff. December 5, 1977;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

NCAC 41B .0202 GRANTING PERMITS

(a) After receiving the application, the Director shall grant or deny permits to perform chemical analyses of the blood or other bodily fluid or substance of a person on the basis of his or her determination of the character and qualifications of the applicant and whether the method of chemical analysis proposed will be sufficiently reliable to meet generally accepted forensic standards.

(b) If from any application it appears that the chemical analysis of the blood or other bodily fluid or substance will be done by persons under the supervision of the applicant, the Director shall require each person slated to perform chemical analyses of the blood or other bodily fluid or substance to submit application. Where the Director is satisfied that the critical professional phases of the analysis will be performed by the applicant and that assistance from others will be incidental phases, he or she may grant the permit to the applicant.

(c) Permits granted under this Section shall be granted only to persons performing chemical analyses of blood or other bodily fluid or substance of a person for law enforcement officers under the provisions of G.S. 20-139.1. The Director may require such documentation or conduct such investigations as may be necessary to ~~insure~~ ensure that applicants for initial or renewal permits meet this requirement before granting permits.

History Note: Authority G.S. 20-139.1(b);

Eff. February 1, 1976;

Readopted Eff. December 5, 1977;

Amended Eff. September 1, 1990; July 1, 1985; January 1, 1985;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

10A NCAC 41B .0203 APPROVED PERMITS

(a) A ~~blood~~ chemical analyst performing chemical analyses of blood or other bodily fluid or substance of a person in accordance with the description set out in the application for an initial, renewal, or modified permit shall be deemed to be performing such analyses in a manner approved by the Director.

(b) All initial, modified, and renewal permits shall be valid for a period of two years.

History Note: Authority G.S. 20-139.1(b);

Eff. February 1, 1976;

Readopted Eff. December 5, 1977;

Amended Eff. April 1, 1992; September 1, 1990; July 1, 1985;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

10A NCAC 41B .0204 MODIFICATION OF PERMIT

Before making any material alteration in method or procedure for performing chemical analyses of ~~blood~~, blood or other bodily fluid or substance of a person, a ~~blood~~ chemical analyst must be granted a modified permit from the Director. The provisions applicable for the granting of initial permits shall govern. When the ~~blood~~ chemical analyst who holds a permit has assistants performing incidental phases of chemical analyses, replacement of these individuals with other assistants shall not be deemed a material alteration of procedure so long as any assistant has the same general qualifications and abilities as the person replaced.

History Note: Authority G.S. 20-139.1(b);

Eff. February 1, 1976;

Readopted Eff. December 5, 1977;

Amended Eff. September 1, 1990;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

10A NCAC 41B .0205 RENEWAL OF PERMIT

(a) At least three months prior to the expiration of the permit, a ~~blood~~ chemical analyst desiring to renew the permit must submit written application for renewal to the Director.

(b) The procedure applicable to the granting of initial applications shall govern the granting of renewal applications.

History Note: Authority G.S. 20-139.1(b);

Eff. February 1, 1976;

Readopted Eff. December 5, 1977;

Amended Eff. January 1, 1985;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

10A NCAC 41B .0206 DETERMINATION OF RENEWAL OF PERMIT

(a) In determining whether to renew the permit of a ~~blood~~ chemical analyst, the Director shall consider whether the method and procedure continues to meet the generally accepted forensic standards for chemical analyses of blood or other bodily fluid or substance of a person; he or she shall also take into account evidence available concerning the character and continuing ability of the ~~blood~~ chemical analyst.

(b) If in acting upon an application for renewal of permit the Director returns the application for additional information, or requests a modification of method, so as to cause a delay in granting the renewal or modified permit, the Director at his or her discretion may grant the ~~blood~~ chemical analyst a provisional permit under the conditions applicable to the expiring permit. A provisional permit shall be valid for the period stated in the permit, but shall not be issued for a period longer than three months. A provisional permit may be renewed once.

*History Note: Authority G.S. 20-139.1(b);
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. September 1, 1990; July 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

10A NCAC 41B .0207 EVALUATION OF ~~BLOOD~~ CHEMICAL ANALYSTS

The Director may institute a procedure for periodically testing the competence of ~~blood~~ chemical analysts, which may include supervisory inspections of laboratories in which chemical analyses of blood or other bodily fluid or substance of a person are being performed.

*History Note: Authority G.S. 20-139.1(b);
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

10A NCAC 41B .0208 REVOCATION OF PERMIT

(a) If the Director receives unfavorable information concerning the character or ability of any ~~blood~~ chemical analyst, he or she shall direct an investigation to be made. If the Director becomes satisfied that the unfavorable information is accurate, and that the ~~blood~~ chemical analyst would for this reason no longer be eligible to be granted an initial or renewal permit, he or she shall suspend or revoke the permit using the same procedures that are used for the suspension or revocation of permits in G.S. 130A-23.

(b) Appeals concerning the interpretation and enforcement of the rules in this Section shall be made in accordance with G.S. 150B.

*History Note: Authority G.S. 20-139.1(b);
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. September 1, 1990; December 1, 1987; April 1, 1987; January 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

10A NCAC 41B .0209 REPORTING OF ALCOHOL CONCENTRATIONS BY ~~BLOOD~~ CHEMICAL ANALYSTS

When performing chemical analyses of blood or other bodily fluid or substance of a person under the authority of G.S. 20-139.1 and the provisions of these rules, ~~blood~~ chemical analysts shall report alcohol concentrations based on grams of alcohol per 100 milliliters of whole blood.

*History Note: Authority G.S. 20-139.1(b);
Eff. October 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

10A NCAC 41B .0322 INTOXIMETERS: MODEL INTOX EC/IR II AND INTOXIMETERS: MODEL INTOX EC/IR II (ENHANCED WITH SERIAL NUMBER 10,000 OR HIGHER)

The operational procedures to be followed in using the Intoximeters, Model Intox EC/IR II and Intoximeters, Model Intox EC/IR II (Enhanced with serial number 10,000 or higher) are:

- (1) ~~Insure~~ Ensure instrument displays time and date;
- (2) ~~Insure~~ Ensure observation period requirements have been met;
- (3) Initiate breath test sequence;
- (4) Enter information as prompted;
- (5) Verify instrument accuracy;
- (6) When "PLEASE BLOW" appears, collect breath sample;
- (7) When "PLEASE BLOW" appears, collect breath sample; and
- (8) Print test record.

If the alcohol concentrations differ by more than 0.02, a third or fourth breath sample shall be collected when "PLEASE BLOW" appears. Subsequent tests shall be administered as soon as feasible by repeating steps (1) through (8), as applicable.

*History Note: Authority G.S. 20-139.1(b);
Eff. November 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

10A NCAC 41B .0323 PREVENTIVE MAINTENANCE: INTOXIMETERS: MODEL INTOX EC/IR II AND INTOXIMETERS: MODEL INTOX EC/IR II (ENHANCED WITH SERIAL NUMBER 10,000 OR HIGHER)

The preventive maintenance procedures for the Intoximeters, Model Intox EC/IR II and Intoximeters, Model Intox EC/IR II (Enhanced with serial number 10,000 or higher) to be followed at least once every four months are:

- (1) Verify the ethanol gas canister displays pressure, or the alcoholic breath simulator thermometer shows 34 degrees, plus or minus .2 degree centigrade;
- (2) Verify instrument displays time and date;
- (3) Initiate breath test sequence;
- (4) Enter information as prompted;
- (5) Verify instrument accuracy;
- (6) When "PLEASE BLOW" appears, collect breath sample;
- (7) When "PLEASE BLOW" appears, collect breath sample;
- (8) Print test record;
- (9) Verify Diagnostic Program; and
- (10) Verify that the ethanol gas canister is being changed before expiration date, or the alcoholic breath simulator solution is being changed every four months or after 125 Alcoholic Breath Simulator tests, whichever occurs first.

A signed original of the preventive maintenance ~~record~~ record, or an electronic copy of the signed original of the preventive maintenance record, shall be kept on file for at least three years.

History Note: Authority G.S. 20-139.1(b2);

Eff. November 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

10A NCAC 41B .0503 APPROVED ALCOHOL SCREENING TEST DEVICES: CALIBRATION

(a) The following breath alcohol screening test devices are approved as to type and make:

- (1) ALCO-SENSOR (with two-digit display), made by Intoximeters, Inc.
- (2) ALCO-SENSOR III (with three-digit display), made by Intoximeters, Inc.
- (3) ALCO-SENSOR IV, manufactured by Intoximeters, Inc.
- (4) ALCO-SENSOR FST, manufactured by Intoximeters, Inc.
- (5) S-D2, manufactured by CMI, Inc.
- (6) S-D5, manufactured by CMI, Inc.
- (7) ALCO-SENSOR III (Enhanced with Serial Numbers above 1,200,000), manufactured by Intoximeters, Inc.
- (8) ALCO-SENSOR FST (Enhanced with Serial Numbers 200,000 and higher), manufactured by Intoximeters, Inc.
- (9) LIFELOC FC10, manufactured by Lifeloc Technologies, Inc.

(10) INTOXILYZER 500, manufactured by CMI, Inc.

(11) ALCOVISOR MERCURY, manufactured by PAS International.

(b) The agency or operator shall verify instrument calibration of each alcohol screening test device at least once during each 30 day period of use. The verification shall be performed by employment of an alcoholic breath simulator using simulator solution in accordance with the rules in this Section or an ethanol gas canister.

(c) Alcoholic breath simulators used exclusively to verify instrument calibration of alcohol screening test devices shall have the solution changed every 30 days or after 25 calibration tests, whichever occurs first.

(d) Ethanol gas canisters used exclusively to verify instrument calibration of alcohol screening test devices shall not be utilized beyond the expiration date on the canister.

(e) Requirements of Paragraphs (b), (c), and (d) of this Rule shall be recorded on an alcoholic breath simulator log or an ethanol gas canister log designed by the Forensic Tests for Alcohol Branch and maintained by the user agency.

History Note: Authority G.S. 20-16.3;

Eff. February 1, 1976;

Readopted Eff. December 5, 1977;

Amended Eff. July 1, 2007; November 1, 2005; April 1, 2001; January 1, 1995; January 4, 1994; April 1, 1993; January 4, 1993;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.