

## § 40.225

test, you are to complete the entire screening and confirmation process on one employee before starting the screening process on another employee.

(3) You are not allowed to leave the alcohol testing site while the testing process for a given employee is in progress, except to notify a supervisor or contact a DER for assistance in the case an employee or other person who obstructs, interferes with, or unnecessarily delays the testing process.

### § 40.225 What form is used for an alcohol test?

(a) The DOT Alcohol Testing Form (ATF) must be used for every DOT alcohol test beginning February 1, 2002. The ATF must be a three-part carbonless manifold form. The ATF is found in Appendix G to this part. You may view this form on the ODAPC web site (<http://www.dot.gov/ost/dapc>).

(b) As an employer in the DOT alcohol testing program, you are not permitted to modify or revise the ATF except as follows:

(1) You may include other information needed for billing purposes, outside the boundaries of the form.

(2) You may use a ATF directly generated by an EBT which omits the space for affixing a separate printed result to the ATF, provided the EBT prints the result directly on the ATF.

(3) You may use an ATF that has the employer's name, address, and telephone number preprinted. In addition, a C/TPA's name, address, and telephone number may be included, to assist with negative results.

(4) You may use an ATF in which all pages are printed on white paper. You may modify the ATF by using colored paper, or have clearly discernable borders or designation statements on Copy 2 and Copy 3. When colors are used, they must be green for Copy 2 and blue for Copy 3.

(5) As a BAT or STT, you may add, on the "Remarks" line of the ATF, the name of the DOT agency under whose authority the test occurred.

(6) As a BAT or STT, you may use a ATF that has your name, address, and telephone number preprinted, but under no circumstances can your signature be preprinted.

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(c) As an employer, you may use an equivalent foreign-language version of the ATF approved by ODAPC. You may use such a non-English language form only in a situation where both the employee and BAT/STT understand and can use the form in that language.

[65 FR 79526, Dec. 19, 2000, as amended at 66 FR 41954, Aug. 9, 2001]

### § 40.227 May employers use the ATF for non-DOT tests, or non-DOT forms for DOT tests?

(a) No, as an employer, BAT, or STT, you are prohibited from using the ATF for non-DOT alcohol tests. You are also prohibited from using non-DOT forms for DOT alcohol tests. Doing either subjects you to enforcement action under DOT agency regulations.

(b) If the STT or BAT, either by mistake, or as the only means to conduct a test under difficult circumstances (*e.g.*, post-accident test with insufficient time to obtain the ATF), uses a non-DOT form for a DOT test, the use of a non-DOT form does not, in and of itself, require the employer or service agent to cancel the test. However, in order for the test to be considered valid, a signed statement must be obtained from the STT or BAT in accordance with § 40.271(b).

### § 40.229 What devices are used to conduct alcohol screening tests?

EBTs and ASDs on the NHTSA conforming products lists (CPL) for evidential and non-evidential devices are the only devices you are allowed to use to conduct alcohol screening tests under this part. You may use an ASD that is on the NHTSA CPL for DOT alcohol tests only if there are instructions for its use in this part. An ASD can be used only for screening tests for alcohol, and may not be used for confirmation tests.

[65 FR 79526, Dec. 19, 2000, as amended at 66 FR 41954, Aug. 9, 2001]

### § 40.231 What devices are used to conduct alcohol confirmation tests?

(a) EBTs on the NHTSA CPL for evidential devices that meet the requirements of paragraph (b) of this section are the only devices you may use to conduct alcohol confirmation tests

under this part. Note that, among devices on the CPL for EBTs, only those devices listed without an asterisk (\*) are authorized for use in confirmation testing in the DOT alcohol testing program.

(b) To conduct a confirmation test, you must use an EBT that has the following capabilities:

(1) Provides a printed triplicate result (or three consecutive identical copies of a result) of each breath test;

(2) Assigns a unique number to each completed test, which the BAT and employee can read before each test and which is printed on each copy of the result;

(3) Prints, on each copy of the result, the manufacturer's name for the device, its serial number, and the time of the test;

(4) Distinguishes alcohol from acetone at the 0.02 alcohol concentration level;

(5) Tests an air blank; and

(6) Performs an external calibration check.

**§ 40.233 What are the requirements for proper use and care of EBTs?**

(a) As an EBT manufacturer, you must submit, for NHTSA approval, a quality assurance plan (QAP) for your EBT before NHTSA places the EBT on the CPL.

(1) Your QAP must specify the methods used to perform external calibration checks on the EBT, the tolerances within which the EBT is regarded as being in proper calibration, and the intervals at which these checks must be performed. In designating these intervals, your QAP must take into account factors like frequency of use, environmental conditions (*e.g.*, temperature, humidity, altitude) and type of operation (*e.g.*, stationary or mobile).

(2) Your QAP must also specify the inspection, maintenance, and calibration requirements and intervals for the EBT.

(b) As the manufacturer, you must include, with each EBT, instructions for its use and care consistent with the QAP.

(c) As the user of the EBT (*e.g.*, employer, service agent), you must do the following:

(1) You must follow the manufacturer's instructions (see paragraph (b) of this section), including performance of external calibration checks at the intervals the instructions specify.

(2) In conducting external calibration checks, you must use only calibration devices appearing on NHTSA's CPL for "Calibrating Units for Breath Alcohol Tests."

(3) If an EBT fails an external check of calibration, you must take the EBT out of service. You may not use the EBT again for DOT alcohol testing until it is repaired and passes an external calibration check.

(4) You must maintain records of the inspection, maintenance, and calibration of EBTs as provided in § 40.333(a)(2).

(5) You must ensure that inspection, maintenance, and calibration of the EBT are performed by its manufacturer or a maintenance representative certified either by the manufacturer or by a state health agency or other appropriate state agency.

**§ 40.235 What are the requirements for proper use and care of ASDs?**

(a) As an ASD manufacturer, you must submit, for NHTSA approval, a QAP for your ASD before NHTSA places the ASD on the CPL. Your QAP must specify the methods used for quality control checks, temperatures at which the ASD must be stored and used, the shelf life of the device, and environmental conditions (*e.g.*, temperature, altitude, humidity) that may affect the ASD's performance.

(b) As a manufacturer, you must include with each ASD instructions for its use and care consistent with the QAP. The instructions must include directions on the proper use of the ASD, and, where applicable the time within which the device must be read, and the manner in which the reading is made.

(c) As the user of the ADS (*e.g.*, employer, STT), you must follow the QAP instructions.

(d) You are not permitted to use an ASD that does not pass the specified quality control checks or that has passed its expiration date.

(e) As an employer, with respect to breath ASDs, you must also follow the