§ 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 quality assurance plan (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.
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(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 device use and care requirements of § 40.233.

Subpart L—Alcohol Screening Tests

§ 40.243 What is the procedure for an alcohol screening test using an EBT or non-evidential breath ASD?

As the BAT or STT, you must take the following steps:

(a) Select, or allow the employee to select, an individually wrapped or sealed mouthpiece from the testing materials.

(b) Open the individually wrapped or sealed mouthpiece in view of the employee and insert it into the device in accordance with the manufacturer’s instructions.

(c) Instruct the employee to blow steadily and forcefully into the mouthpiece for at least six seconds or until the urine collection process begins.

(d) If the employee needs medical attention (e.g., an injured employee in an emergency medical facility who is required to have a post-accident test), do not delay this treatment to conduct a test.

(e) Require the employee to provide positive identification. You must see a photo ID issued by the employer (other than in the case of an owner-operator or other self-employer individual) or a Federal, state, or local government (e.g., a driver’s license). You may not accept faxes or photocopies of identification. Positive identification by an employer representative (not a co-worker or another employee being tested) is also acceptable. If the employee cannot produce positive identification, you must contact a DER to verify the identity of the employee.

(f) If the employee asks, provide your identification to the employee. Your identification must include your name and your employer’s name but is not required to include your picture, address, or telephone number.

(g) Complete Step 1 of the ATF.

(h) Direct the employee to complete Step 2 on the ATF and sign the certification. If the employee refuses to sign this certification, you must document this refusal on the “Remarks” line of the ATF and immediately notify the DER. This is a refusal to test.