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§ 634.35 Chemical testing policies and procedures.

(a) *Validity of chemical testing.* Results of chemical testing are valid under this part only under the following circumstances:

(1) Blood, urine, or other bodily substances are tested using generally accepted scientific and medical methods and standards.

(2) Breath tests are administered by qualified personnel (§ 634.33).

(3) An evidential breath-testing device approved by the State or host nation is used. For Army, Air Force, and Marine Corps, the device must also be listed on the NHTSA conforming products list published in the ''Conforming Products List for instruments that conform to the Model Specification for Evidential Breath Testing Devices (58 FR 48705), and amendments.''

(4) Procedures established by the State or host nation or as prescribed in paragraph (b) of this section are followed.

(b) *Breath-testing device operational procedures.* If the State or host nation has not established procedures for use of breath-testing devices, the following procedures will apply:

(1) Screening breath-testing devices will be used—

(i) During the initial traffic stop as a field sobriety testing technique, along with other field sobriety testing techniques, to determine if further testing is needed on an evidential breath-testing device.

(ii) According to manufacture operating instructions. (For Army, Air Force and Marine Corps, the screening breath-testing device must also be listed on the NHTSA conforming products list published in the ''Model Specifications for Evidential Breath Testers'' (September 17, 1993, 58 FR 48705).

(2) Evidential breath-testing devices will be used as follows:

(i) Observe the person to be tested for at least 15 minutes before collecting the breath specimen. During this time, the person must not drink alcoholic beverages or other fluids, eat, smoke, chew tobacco, or ingest any substance.

(ii) Verify calibration and proper operation of the instrument by using a control sample immediately before the test.

(iii) Comply with operational procedures in the manufacturer's current instruction manual.

(iv) Perform preventive maintenance as required by the instruction manual.

(c) *Chemical tests of personnel involved in fatal accidents.* (1) Installation medical authorities will immediately notify the installation law enforcement officer of—

(i) The death of any person involved in a motor vehicle accident.

(ii) The circumstances surrounding such an accident, based on information available at the time of admission or receipt of the body of the victim.

(2) Medical authorities will examine the bodies of those persons killed in a motor vehicle accident to include drivers, passengers, and pedestrians subject to military jurisdiction. They will also examine the bodies of dependents, who are 16 years of age or older, if the sponsors give their consent. Tests for the presence and concentration of alcohol or other drugs in the person's blood, bodily fluids, or tissues will be made as soon as possible and where practical within 8 hours of death. The test results will be included in the medical reports.

(3) As provided by law and medical conditions permitting, a blood or breath sample will be obtained from any surviving operator whose vehicle is involved in a fatal accident.

§ 634.36 Detection, apprehension, and testing of intoxicated drivers.

(a) Law enforcement personnel usually detect drivers under the influence of alcohol or other drugs by observing unusual or abnormal driving behavior. Drivers showing such behavior will be stopped immediately. The cause of the unusual driving behavior will be determined, and proper enforcement action will be taken.

(b) When a law enforcement officer reasonably concludes that the individual driving or in control of the vehicle is impaired, field sobriety tests should be conducted on the individual. The DD Form 1920 may be used by law enforcement agencies in examining, interpreting, and recording results of such tests. Law enforcement personnel should use a standard field sobriety test (such as one-leg stand or walk and