

28-32-11. EBAT device certification. (a) Application. Each agency custodian seeking EBAT device certification shall submit an application on forms provided by the department for certification of each EBAT device that the certified agency intends to use in the certified agency's EBAT program.

~~(b) EBAT device list. The "conforming products list of evidential breath measurement devices" (CPL) established by the national highway traffic safety administration (NHTSA) and published in 71 fed. reg. 37159-37162 (2006) is hereby adopted by reference. Only an EBAT device listed on the CPL shall be submitted to the secretary for consideration for certification as an EBAT device.~~

~~(e) Initial certification requirements. Each EBAT device shall be certified by the secretary if the secretary determines that the EBAT device meets NHTSA's performance criteria when operated according to the manufacturer's instruction manual before being used by an agency.~~

~~(d) (c) Inspection. Once an EBAT device is certified, an inspection of the EBAT device may be made by the secretary at any time. Any EBAT device may be removed from service at the time of the inspection if deemed necessary.~~

~~(e) (d) Device Maintenance. Each EBAT device shall be maintained by the device custodian or the device custodian's designee as directed by the secretary.~~

~~(f) (e) Device Repair. Each EBAT device removed from service for repair shall be repaired by the manufacturer or the manufacturer's authorized repair service. When the EBAT device is returned to the agency, the EBAT device shall be tested for accuracy by the device custodian or the device custodian's designee. The device custodian or the device custodian's~~

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designee shall notify the department of the date on which the instrument is placed back into service.

(g) ~~(f)~~ Device Modification. No modification shall be made to any EBAT device without the prior written consent of the secretary. For purposes of this regulation, “modification” shall mean any change in the operating software of or any physical change to a certified EBAT device that alters the accuracy or precision of the EBAT device. (Authorized by and implementing K.S.A. ~~2006~~ 2017 Supp. 65-1,107; effective March 14, 2008; amended, T- _____, _____; amended P- _____.)

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