

Kansas Administrative Regulations

Department of Health and Environment

Article 32.—Testing Human Breath for Law Enforcement Purposes

28-32-10. Operator certification.

(a) Application. Each individual seeking certification shall submit an application for operator certification through that individual's certified agency on forms provided by the department. Each applicant shall be a duly appointed Kansas law enforcement officer or have the written endorsement of a supervisory law enforcement officer or an agency custodian.

(b) Certification requirements. Each applicant for operator certification shall be required to successfully complete the course of instruction and written examination approved by the secretary. Additional instruction may be required by the secretary to qualify a certified operator to perform evidential breath alcohol tests using additional EBAT devices.

(c) Certificate term. Each applicant that meets the requirements for conducting evidential breath alcohol testing shall be issued a certificate by the secretary. Each operator certificate that is issued in an even-numbered year shall expire at midnight on December 31 of the next even-numbered year. Each operator certificate that is issued in an odd-numbered year shall expire at midnight on December 31 of the next odd-numbered year.

(d) Certificate renewal. Each certified operator seeking to renew the operator certificate shall submit an application for renewal through that individual's certified agency on forms provided by the department. As a condition of an operator's certificate renewal, each certified operator shall biennially complete EBAT continuing education as approved by the secretary. If an application for renewal is submitted and approved before the certificate's expiration date, the certificate shall be considered renewed even if the operator does not have physical possession of the renewal certificate.

(e) Effect of military service or official leave of absence.

(1) Any operator who returns from active military service or an official leave of absence that does not exceed two years may renew an inactive certification by meeting all of the following requirements and submitting the required information to the department on forms provided by the department:

- (A) Provide proof of active military duty or official leave of absence;
- (B) provide proof of the last operator certification before going on active duty or taking leave of absence;
- (C) pass the current department-approved written operator examination; and
- (D) provide proof of satisfactory performance of EBAT device operation in the presence of a device custodian.

(2) Any operator who returns from active military service or an official leave of absence that exceeds two years may renew an expired certification by meeting all of the following requirements and submitting the required information to the department on forms provided by the department:

- (A) Provide proof of active military duty or official leave of absence;
- (B) provide proof of the last operator certification before going on active duty or taking leave of absence;
- (C) provide proof of completion of EBAT continuing education within 180 days of the date of return to the agency;
- (D) pass the current department-approved written operator examination; and
- (E) provide proof of satisfactory performance of EBAT device operation in the presence of a device custodian.

(f) Certificate denial, suspension, and revocation. The failure of an applicant or a certified operator to comply with this regulation may be grounds for denial of the application or renewal or for suspension or revocation of the operator's certificate. (Authorized by and implementing K.S.A. 2006 Supp. 65-1,107; effective March 14, 2008.)