

Subchapter 3 - Breath-Alcohol Analysts

40:10-3-1. Qualifications and requirements for breath-alcohol operators (initial permits)

Qualifications and requirements for breath-alcohol operators (initial permits) are as follows:

- (1) Must be a qualified employee of a recognized Oklahoma law enforcement agency, or the Board of Tests for Alcohol and Drug Influence.
- (2) Minimum age of 21 years.
- (3) Good moral character.
- (4) Graduation from a state-accredited high school, or satisfactory passing of the "General Education Development Test", or equivalent educational background.
- (5) Satisfactory completion, within 1 year prior to application for an Operator permit, of a course of instruction in breath-alcohol analysis acceptable to the Board of Tests for Alcohol and Drug Influence.
- (6) Establishment, to the satisfaction of the Board of Tests for Alcohol and Drug Influence, of the applicant's competence to operate Board approved breath test instrument(s).

[Source: Amended at 20 Ok Reg 2249, eff 7-11-03; Amended at 27 Ok Reg 2657, eff 8-26-10; Amended at 31 Ok Reg 773, eff 9-12-14]

40:10-3-2. Qualifications and requirements for breath-alcohol specialist (initial permit)

Qualifications and requirements for breath-alcohol specialist (initial permits) are as follows:

- (1) Must be a qualified employee of a recognized Oklahoma law enforcement agency, or the Board of Tests for Alcohol and Drug Influence.
- (2) Minimum age of 21 years.
- (3) Good moral character.
- (4) Graduation from a state-accredited high school, or satisfactory passing of the "General Education Development Test", or equivalent educational background.
- (5) Possession of a valid Breath-Alcohol Analysis Operator Permit issued by the Board of Tests for Alcohol and Drug Influence.
- (6) Satisfactory completion, within 1-year prior to application for a Specialist permit, of a course of instruction in breath-alcohol analysis specialist acceptable to the Board of Tests for Alcohol and Drug Influence.
- (7) Establishment, to the satisfaction of the Board of Tests for Alcohol and Drug Influence, of the applicant's competence to perform administrative maintenance on breath testing equipment.

[Source: Amended at 20 Ok Reg 2249, eff 7-11-03; Amended at 27 Ok Reg 2657, eff 8-26-10; Amended at 31 Ok Reg 773, eff 9-12-14]

40:10-3-3. Qualifications and requirements for breath-alcohol operators (renewal permits)

Qualifications for breath-alcohol operators (renewal permits) are as follows:

- (1) Must be a qualified employee of a recognized Oklahoma law enforcement agency, or the Board of Tests for Alcohol and Drug Influence.
- (2) Minimum age of 21 years
- (3) Good moral character.
- (4) Graduation from a state-accredited high school, or satisfactory passing of the 'General Education Development Test,' or equivalent education background.
- (5) Possession of a valid Breath-Alcohol Analysis Operator Permit issued by the Board of Tests for Alcohol and Drug Influence.
- (6) Annual completion of a requalification or retraining course of instruction in breath alcohol analysis as applicable, consisting of such instruction as deemed applicable and necessary by the State Director of Tests for Alcohol and Drug Influence.
- (7) Annual establishment, to the satisfaction of the State Director of Tests for Alcohol and Drug Influence, of the applicant's competence to operate Board approved breath test instrument(s)

[Source: Amended at 20 Ok Reg 2249, eff 7-11-03; Amended at 27 Ok Reg 2657, eff 8-26-10; Amended at 31 Ok Reg 773, eff 9-12-14; Amended at 33 Ok Reg 1188, eff 9-11-16]

40:10-3-4. Qualifications and requirements for breath-alcohol specialist (renewal permits)

Qualifications and requirements for breath-alcohol specialist (renewal permits) are as follows:

- (1) Must be a qualified employee of a recognized Oklahoma law enforcement agency, or the Board of Tests for Alcohol and Drug Influence.
- (2) Minimum age of 21 years.
- (3) Good moral character.
- (4) Graduation from a state-accredited high school, or satisfactory passing of the "General Education Development Test," or equivalent education background.
- (5) Satisfactory completion, within one (1) year prior to renewal of the Specialist Permit, a requalification or retraining course of instruction in breath alcohol analysis and breath alcohol analysis operation and administrative maintenance as applicable, consisting of such instruction as deemed applicable and necessary by the State Director of Tests for Alcohol and Drug Influence.
- (7) Establishment, within one (1) year prior to renewal of the Specialist Permit, to the satisfaction of the Board of Tests for Alcohol and Drug Influence, of the applicant's competence to perform administrative maintenance on breath testing equipment.

[Source: Amended at 20 Ok Reg 2249, eff 7-11-03; Amended at 27 Ok Reg 2657, eff 8-26-10; Amended at 31 Ok Reg 773, eff 9-12-14]

40:10-3-5. Reinstatement of expired breath-alcohol analysis permits

Persons who otherwise meet the qualifications and requirements for issuance of a renewal Breath-Alcohol Analysis Operator or Breath-Alcohol Analysis Specialist Permit, respectively, but whose initial or renewal Permit has expired because of failure satisfactorily to complete a timely requalification course of instruction acceptable to the State Director of Tests for Alcohol and Drug Influence may regain eligibility for active and valid Permit status, for good cause and in the discretion of this Board, by the following Permit Reinstatement procedure.

- (1) Documentation that a valid Breath-Alcohol Analysis Operator or Breath-Alcohol Analysis Specialist Permit was issued to the applicant under authority of this Board, of the issue and expiration dates of said Permit, and that said Permit had not been revoked for cause.
- (2) Completion of a designated application form for Permit Reinstatement, inclusive of all required information.
- (3) Must be a qualified employee of a recognized Oklahoma law enforcement agency, whose duties include performance or training of Breath-Alcohol Analysis Testing.
- (4) Satisfactory completion of a requalification or retraining course of instruction in breath-alcohol analysis operation and/or breath-alcohol analysis specialist as applicable, consisting of such theoretical and practical instruction and laboratory practice as deemed applicable and necessary by the State Director of Tests for Alcohol and Drug Influence in consultation with the instructional staff.
- (5) Establishment, by written and practical examination, to the satisfaction of the State Director of Tests for Alcohol and Drug Influence of the applicant's respective competence to perform, or to conduct administrative maintenance on breath-alcohol testing devices.

[Source: Amended at 20 Ok Reg 2249, eff 7-11-03; Amended at 27 Ok Reg 2657, eff 8-26-10]

40:10-3-6. Initial training of breath alcohol operators

(a) **Policies pertaining to initial training of breath-alcohol operators.** Initial training of breath-alcohol operators in the State of Oklahoma shall be conducted in accordance with the following policies:

(1) The training shall be conducted by or under the authority of the Board of Tests for Alcohol and Drug Influence.

(2) The training shall comply with all applicable and current rules of the Board of Tests for Alcohol and Drug Influence and shall be conducted in accordance with such pertinent practices, procedures, and directives as are established or set forth by the State Director of Tests for Alcohol and Drug Influence.

(b) **Authorized training entities and sites.**

(1) Initial training of breath-alcohol operators may be conducted in the State of Oklahoma by employees of the Board or other suitable entities or individuals as determined by the State Director of Tests for Alcohol and Drug Influence. Other entities or individuals conducting Breath Alcohol Operator training shall comply with the rules, policies and procedures of the Board regarding such training as well as the course of instruction approved by the State Director of Tests for Alcohol and Drug Influence.

(2) Authorized training sites: Breath Alcohol Operator training may be conducted at any site, location, or facility that is suitable to provide the course of instruction approved by the State Director of Tests for Alcohol and Drug Influence.

(c) **Instructors.** All initial training of breath-alcohol operators shall be conducted by instructors holding a valid Instructor Permit issued by authority of the Board of Tests for Alcohol and Drug Influence.

(d) **Instruction, curriculum, and training materials.**

(1) The course of instruction for initial training of breath-alcohol operators shall consist of appropriate theoretical and practical subject matter, practice in breath-alcohol testing and related activities, question-and-answer sessions, and written examinations and practical exercises.

(2) Such course of instruction shall be acceptable to the Board of Tests for Alcohol and Drug Influence, as determined by the State Director of Tests for Alcohol and Drug Influence.

(3) The foregoing training shall employ and utilize such information, texts, training materials, equipment, supplies, and procedures as are designated and approved therefor by the State Director of Tests for Alcohol and Drug Influence.

(e) **Examinations, and records.** To be eligible for an initial Breath Alcohol Operator Permit, Trainees must pass a written examination or examinations and satisfactorily complete practical exercises in accordance with the course of instruction approved by the State Director of Tests for Alcohol and Drug Influence, including:

(1) One or more written examinations which shall cover the subject matter presented in the course of instruction.

(2) One or more practical examinations utilizing the equipment and apparatus covered in the course of instruction and demonstrating the trainee's ability properly to operate such apparatus and equipment.

[Source: Added at 9 Ok Reg 1801, eff 7-1-92; Amended at 14 Ok Reg 1521, eff 7-1-97; Amended at 31 Ok Reg 773, eff 9-12-14]

40:10-3-7. Instructors for breath-alcohol training courses

(a) **Policies pertaining to breath-alcohol training instructors.** The following policies apply to instructors for breath-alcohol training courses:

(1) Only the State Director of Tests for Alcohol and Drug Influence or persons possessing the qualifications set forth herein and holding an appropriate valid and current instructor permit shall conduct instruction and training within the State of Oklahoma in breath-alcohol analysis and related subjects under the jurisdiction and authority of this Board.

(2) Instructor permits shall be issued to qualified persons by authority of the Board of Tests for Alcohol and Drug Influence in such categories or combinations of categories as may, from time to time, be established by the Board.

(3) Instructors shall comply with this Board's rules and the policies, practices, procedures and directives for breath-alcohol analysis training established by authority of this Board, and with the other conditions and requirements set forth herein.

(b) **Qualifications of instructors.** Breath-alcohol training instructors shall possess the following qualifications:

(1) Possession of a valid Breath Alcohol Operator Permit in accordance with OAC 40:10-3-1 or OAC 40:10-3-3.

(2) Satisfactory completion of an instructor development course or school acceptable to the Board of Tests for Alcohol and Drug Influence, as determined by the State Director of Tests for Alcohol and Drug Influence, or equivalent background as determined by the State Director of Tests for Alcohol and Drug Influence.

(3) Competence to conduct instruction and training and to administer examinations, in one or more appropriate categories of training in breath-alcohol analysis and closely related subject matter, as determined by the State Director of Tests for Alcohol and Drug Influence or the State Director's designated representative(s).

(c) **Instructor permits.** Instructor Permits shall be issued by authority of the Board of Tests for Alcohol and Drug Influence, in the categories established by the Board, to persons who meet the above qualifications and have satisfied the requirements set forth herein.

(1) **Requirements.** Requirements for issuance of Breath-Alcohol Training Instructor Permits are as follows:

(A) Submission of a properly completed application form for the appropriate category or categories of Permits, together with the supporting documentation specified therein.

(B) Participation in such conference(s) or exercise(s) for prospective breath-alcohol training instructors as may be conducted by the State Director of Tests for Alcohol and Drug Influence or the State Director's designated representative(s)

(2) **Period of validity.** Breath-Alcohol Training Instructor Permits shall be valid to a period of three (3) years from the date of issue, and shall be subject to earlier termination or revocation at the discretion of the Board of Tests for Alcohol and Drug Influence. Such permits shall be renewable in accordance with such terms and requirements as are established by the State Director of Tests for Alcohol and Drug Influence.

[Source: Added at 9 Ok Reg 1801, eff 7-1-92; Amended at 27 Ok Reg 2657, eff 8-26-10; Amended at 32 Ok Reg 1535, eff 9-11-15]

40:10-3-8. Qualifications and requirements for Independent breath-alcohol operators (initial permits)

Qualifications and requirements for breath-alcohol Independent operators (initial permits) are as follows:

- (1) Residence within State of Oklahoma at time of application.
- (2) Minimum age of 21 years.
- (3) Good moral character.
- (4) Graduation from a state-accredited high school, or satisfactory passing of the "General Education Development Test", or equivalent educational background.
- (5) Satisfactory completion, within 1 year prior to application for an Operator permit, of a course of instruction in breath-alcohol analysis acceptable to the Board of Tests for Alcohol and Drug Influence.
- (6) Establishment, to the satisfaction of the Board of Tests for Alcohol and Drug Influence, of the applicant's competence to perform independent chemical analysis of breath for alcohol.

[Source: Added at 20 Ok Reg 2249, eff 7-11-03; Amended at 31 Ok Reg 773, eff 9-12-14]

40:10-3-9. Qualifications and requirements for Independent breath-alcohol Specialist (initial permit)

Qualifications and requirements for Independent breath-alcohol Specialist (initial permits) are as follows:

- (1) Residence within State of Oklahoma at time of application.
- (2) Minimum age of 21 years.
- (3) Good moral character.
- (4) Graduation from a state-accredited high school, or satisfactory passing of the "General Education Development Test", or equivalent educational background.
- (5) Possession of a valid Independent Breath-Alcohol Analysis Operator Permit issued by the Board of Tests for Alcohol and Drug Influence.
- (6) Satisfactory completion, within 1-year prior to application for a Specialist permit, of a course of instruction in independent breath-alcohol analysis specialist acceptable to the State Director of Tests for Alcohol and Drug Influence and meeting the recommendations of the National Safety Council's Committee on Alcohol and Other Drugs.
- (7) Establishment, to the satisfaction of the Board of Tests for Alcohol and Drug Influence, of the applicant's competence to perform administrative maintenance of chemical analysis of independent breath for alcohol.

[Source: Added at 20 Ok Reg 2249, eff 7-11-03]

40:10-3-10. Qualifications and requirements for Independent breath-alcohol operators (renewal permits)

Qualifications. Qualifications for Independent breath-alcohol operators (renewal permits) are as follows:

- (1) Residence within State of Oklahoma at time of application.
- (2) Minimum age of 21 years.
- (3) Good moral character.
- (4) Graduation from a state-accredited high school, or satisfactory passing of the "General Education Development Test," or equivalent education background.
- (5) Possession of a valid Independent Breath-Alcohol Analysis Operator Permit issued by the Board of Tests for Alcohol and Drug Influence within the preceding year upon compliance with:
 - (A) Qualifications and Requirements for Initial Issuance of such Permits then in force, or
 - (B) Qualifications and Requirements for Renewal of such Permits then in force.
- (6) Satisfactory completion, within one (1) year prior to renewal of the Independent Operator Permit, of a requalification course of instruction in independent breath alcohol analysis acceptable to the State Director of Tests for Alcohol and Drug Influence.
- (7) Establishment within one (1) year prior to renewal of the Independent Operator Permit, to the satisfaction of the Board of Tests for Alcohol and Drug Influence, of the applicant's competence to perform chemical analysis of breath for alcohol.

[Source: Added at 20 Ok Reg 2249, eff 7-11-03]

40:10-3-11. Qualifications and requirements for Independent breath-alcohol Specialist (renewal permits)

Qualifications and requirements for Independent breath-alcohol Specialist (renewal permits) are as follows:

- (1) Residence within State of Oklahoma at time of application.
- (2) Minimum age of 21 years.
- (3) Good moral character.
- (4) Graduation from a state-accredited high school, or satisfactory passing of the "General Education Development Test," or equivalent education background.
- (5) Possession of a valid Independent Breath-Alcohol Analysis Specialist Permit issued by the Board of Tests for Alcohol and Drug Influence within the preceding year upon compliance with
 - (A) the Qualifications and Requirements for Initial Issuance of such Permits then in force, or
 - (B) the Qualifications and Requirements for Renewal of such Permits then in force.
- (6) Satisfactory completion within one (1) year prior to renewal of the Independent-Specialist Permit, of a requalification course of instruction in breath alcohol analysis and administrative maintenance of breath alcohol devices acceptable to the State Director of Tests for Alcohol and Drug Influence.
- (7) Establishment, within one (1) year prior to renewal of the Independent Specialist Permit, to the satisfaction of the Board of Tests for Alcohol and Drug Influence, of the applicant's competence to perform and to the Administrative Maintenance of breath testing devices .

[Source: Added at 20 Ok Reg 2249, eff 7-11-03]

40:10-3-12. Reinstatement of expired independent breath-alcohol analysis permits

Persons who otherwise meet the qualifications and requirements for issuance of a renewal Independent Breath-Alcohol Analysis Operator or Independent Breath-Alcohol Analysis Specialist Permit, respectively, but whose initial or renewal Permit has expired because of failure satisfactorily to complete a timely requalification course of instruction acceptable to the State Director of Tests for Alcohol and Drug Influence may regain eligibility for active and valid Permit status, for good cause and in the discretion of this Board, by the following Permit Reinstatement procedure.

- (1) Documentation that a valid Independent Breath-Alcohol Analysis Operator or Independent Breath-Alcohol Analysis Specialist Permit was issued to the applicant under authority of this Board, of the issue and expiration dates of said Permit, and that said Permit had not been revoked for cause.
- (2) Completion of a designated application form for Independent Permit Reinstatement, inclusive of all required information.
- (3) Satisfactory completion of a requalification or retraining course of instruction in independent breath-alcohol analysis operation and/or independent breath-alcohol analysis specialist, as applicable, consisting of such theoretical and practical instruction and laboratory practice as deemed applicable and necessary by the State Director of Tests for Alcohol and Drug Influence in consultation with the instructional staff.
- (4) Establishment, by written and practical examination, to the satisfaction of the Board of Tests for Alcohol and Drug Influence of the applicant's respective competence to perform, or to perform and conduct administrative maintenance of breath testing devices.

[Source: Added at 20 Ok Reg 2249, eff 7-11-03]