



Comments Regarding Repeal and Replacement of 18.20.11 NMAC

Submitted: 01/27/2023

On behalf of Consumer Safety Technology, LLC d/b/a Intoxalock, thank you for the opportunity to comment on proposed rules 18.20.11. Intoxalock is certified as an ignition interlock provider in 47 states and has been an ignition interlock provider for over 25 years. Intoxalock is currently a certified ignition interlock provider in New Mexico.

Below you will find Intoxalock's comments on the proposed rules, redlined suggested changes for specific sections (if applicable), and the rationale for the recommended changes.

Should you have questions, or need additional information, please contact Mike Pelkey, New Mexico Regulatory Rules Liaison, at mpelkey@intoxalock.com or at 515-782-7147.

Respectfully Submitted,



Owned and operated by Consumer Safety Technology, LLC
515-782-7147

NMAC 18.20.11.5 Effective Date

 , unless a later date is cited at the end of a section.

COMMENT – We suggest July 1, 2023 as an effective date to start implementing changes with additional 60 days to complete roll-out. This will allow ample time to make the necessary adjustments to daily processes and ensure all customers are within compliance.

NMAC 18.20.11.7 Driver / Driver

P. driver means a person who operates in the driver seat and operating a motor vehicle in which an who is blowing into an ignition interlock device is as required to be installed pursuant to Sections 66-8-102, 66-8-102.3, 66-8-111, or 32A-2-3 NMSA 1978 or by order of the parole board.

Q. driver specific means the driver or person in the driver seat and operating the motor vehicle who is blowing into the ignition interlock device.

COMMENT – We are uncertain why there are two definitions for “driver.” We suggest merging these definitions to create a single definition.

NMAC 18.20.11.7 Indigent Driver

V. indigent driver means a driver who has been determined to be indigent by the bureau, or, prior to July 1, 2010, by a court, parole board, or probation and parole officer, and who therefore is not required to pay the full cost of the interlock device fee, or the costs of installation and removal, or the full cost of leasing the device.

COMMENTS – We suggest changing the rule to include “full cost” for leasing the device. This recommendation is due to the bureau/state only covers the cost to a specific amount. Clarification is needed for instances where the bureau/state does not cover the cost of leasing entirely.

NMAC 18.20.11.7 Service Center / Fixed-Site Service Center

S. service center or fixed-site service center means a facility service center in a permanent physical location in New Mexico, which may include one or more mobile service units, where ignition interlock devices are installed, serviced, and/or removed.

QQ. service center means a fixed site service center, which may include one or more mobile service units, where ignition interlock devices are installed, serviced, and removed.

COMMENT – There is confusion having two definitions for “service center.” We suggest merging these definitions to create a single definition. This allows the bureau to use service center or fixed-site service center interchangeably throughout NMAC 18.20.11.

NMAC 18.20.11.7 Vehicle Switch

VV. vehicle switch means the process in which the ignition interlock service center removes and transfers an interlock device from one motor vehicle to another **for the same driver subject to an ignition interlock requirement.** ~~with the bureau's approval.~~

COMMENT – We would suggest removing the requirement for bureau approval prior to scheduling or conducting a vehicle switch for a customer. Requiring bureau approval will likely generate undue hardship for the customer as the manufacturer waits for approval.

NMAC 18.20.11.7 Verified Active Usage

WW. verified active usage is determined by a report from the interlock manufacturer documenting that the ignition interlock device has been used in the manner in which it was intended, including but not limited to verification of service and maintenance of the vehicle/device monthly or bi-monthly as required by 18.20.11 NMAC; record of interlock events, including but not limited to breath violations and ~~rolling~~ **random** re-tests; and verification of corresponding payment for service.

COMMENT – As defined in 18.20.11.7.LL, “random re-test(s)” should be utilized in place of “rolling retests” as there is no definition for “rolling re-test(s)” Using “random re-tests” provides consistency throughout the NMAC rules.

NMAC 18.20.11.7 Mobile Service Center

YY. mobile service center means a vehicle operated by a licensed service center operator, attached to a service center or operating independently, allowing their installer or technician to service approved ignition interlock devices at a location other than a service center.

COMMENT – We understand the importance of providing the State of New Mexico with the best service center coverage possible for residents of the state. Allowing the option for a Service Center Operator to operate a Mobile Service Center only, independently from a fixed-site location, will reduce any hardship by the service center operator due to overhead costs associated with renting/purchasing a physical location while increasing availability into rural areas of the state, benefitting interlock required drivers and potentially increasing the state's overall compliance rate. We have provided a suggested definition for “mobile service center” for consideration.

NMAC 18.20.11.8 Application for Approval of Ignition Interlock Devices

C. Contents of Application. Any manufacturer seeking approval of an ignition interlock device shall submit an application to the bureau at the address specified on the application. The application shall include:

- (3) a copy of the manufacturer's New Mexico business license and state and federal tax identification numbers.

COMMENTS – Clarity is needed for this rule as it is a vague term. Is it meant to be a certificate of registration issued by the New Mexico Secretary of State?

D. Qualifying provisions required with application packet.

(1) a certificate of product liability insurance, written on an occurrence basis, covering defects in product design, materials, and manufacturing of ignition interlock devices. The certificate of insurance shall:

(d) show the type of coverage and have a minimum liability limits of ~~two~~ **one** million dollars (\$~~2~~1,000,000) per occurrence and three million dollars (\$3,000,000) in the aggregate; the products liability coverage must either be issued as a separate policy or the three million dollars (\$3,000,000) aggregate limit must apply separately to the products liability coverage; and

(f) proof of ISO 9001 certification to require aspects related to procurement, assembly, distribution, maintenance, and repair functions of the manufacturer.

COMMENT – We are uncertain why the minimum liability limits are increasing to two million dollars per occurrence. If there is damage related to an interlock, it would be related to a motor vehicle, and not personal injury. Has there been any insurance claims to support the increase in liability limits? The suggested change compliments industry standard.

We recommend the requirement of all manufacturers to obtain ISO 9001 certification. ISO 9001 is the internationally recognized Quality Management System (QMS) standard that sets specific requirements designed to assist businesses and organizations to be more efficient and improve customer satisfaction. ISO 9001 is being utilized by states in their interlock programs and is becoming an industry standard.

NMAC 18.20.11.10 Responsibilities of Manufacturers

Q. take measures to ensure that all ignition interlock devices are installed and serviced in an appropriate manner and with appropriate processes that protect the health and safety of all customers, individuals, installers and service technicians. Prior to any installation of the interlock device, the manufacturer or service center will ensure that the interior of each ignition interlock device is sanitized by using a highly concentrated, food or medical-grade disinfectant or that there is auditable proof that all internal breath components of the device are replaced with new materials between all new customer's use.

COMMENTS – We suggest that specific processes are required for manufacturers to ensure adequate sanitation of interlock devices to reduce the possible exposure to drivers, service center operators, installers, technicians and any person who may come into contact with the interlock device. As we all are aware of the impact from COVID, existing still today. Minimum sanitation practices will assist the reduction of COVID related illnesses.

NMAC 18.20.11.11 Performance Standards for Ignition Interlock Devices

A. Performance standards for all ignition interlock devices. All ignition interlock devices must:

(1) prevent a person from starting or driving a vehicle 95 percent of the time when the person has a BrAC of 0.025 or more grams of alcohol per 210 liters of breath, ~~whether the device is a breath alcohol ignition interlock device or a non-breath alcohol ignition interlock device;~~

COMMENT – Clarity is needed for definition of “non-breath alcohol ignition interlock device”. This term is not defined in rule. We understand the importance of implementing new technology into rule, unfortunately current rules as written do not support such infrastructure at this time. We suggest removing any reference to such technology until the bureau/state can incorporate more specific guidance on “non-breath alcohol ignition interlock device.”

(20) ~~if it contains~~ a camera unit, ~~the unit~~ that shall not distract or impede the driver in any manner from safe and legal operation, shall record all ignition interlock activity of the ~~person~~ driver, and shall provide any visual evidence of actual or attempted tampering, alteration, bypass or circumvention, and report this information directly to the manufacturer.

(21) The camera shall be able to record and store visual evidence of ~~each person~~ the driver providing a BrAC, and shall meet the following:

(a) ~~within 24 hours of~~ at installation, the camera shall take a reference picture of the ~~person~~ driver, and keep on file

(b) a clear picture shall be taken for each event, including initial start, all ~~rolling~~ random tests and whenever a violation is recorded;

(c) ~~each picture shall be a wide angle view of the cabin of the vehicle, including the passenger side, to ensure the camera can clearly capture the entire face of the person and any passengers~~ affixed to the vehicle in such a way to maximize an image of the front driver and passenger seats; and

(d) the camera ~~shall produce a digital image, identifiable verification, or~~ must be able to capture a clear, unobstructed photograph of the person in all lighting conditions.

COMMENT – A camera gives the participant more flexibility by allowing monitors to confirm or refute a violation by reviewing the images. This can make participants more comfortable sharing vehicles among family members and in turn increase participation in the program. We suggest a state-wide recommendation for all customer in the State of New Mexico.

We recommend allowing a period of time after installation for selection of a reference photograph. This ensures the best photograph of the required driver is selected and ensure the reference photograph is not of the service center operators, installers, or technicians.

As defined in rule, using the term “person” when requiring a reference photo to be captured allows for discretion on who is to be photographed. We suggest using “driver” instead.

Clarity is needed for “identifiable verification” as this term is not defined in rule. As written, multiple cameras would be required to capture “the entire face of the person and any passengers.” To capture the entire face, the camera would need to be positioned directly in front of the driver and passenger, causing a

visual obstruction and safety hazard. We recommend position the camera on the driver side or passenger side “A” pillar.

18.20.11.12 Required Testing

All ignition interlock devices must meet the following minimum standards for testing drivers.

A. Initial test. An ignition interlock device shall:

(5) require a driver to wait five (5) minutes before attempting to start the vehicle a second or third time if the breath alcohol ignition interlock device detects a BrAC of 0.025 or more grams of alcohol per 210 liters of breath on the initial or second breath test, ~~or the driver otherwise fails the initial or second test on a non-breath alcohol ignition interlock device;~~

(6) require a driver to wait 30 minutes before attempting to start the vehicle a fourth or subsequent time if the breath alcohol ignition interlock device detects a BrAC of 0.025 or more grams of alcohol per 210 liters of breath on the third or subsequent test, ~~or the driver otherwise fails the third or subsequent test on a non-breath alcohol device; and~~

COMMENT – Clarity is needed for definition of “non-breath alcohol ignition interlock device”. This term is not defined in rule.

NMAC 18.20.11.14 Application for Service Center License:

C. Contents of application. A person seeking approval of a service center license shall submit an application to the bureau at the address specified in the application. The application shall include:

(3) a copy of the applicant’s limited driving history from the motor vehicle division, driver services bureau, or its equivalent from every state in which the applicant has held a driver’s license in the past ~~ten~~ **five** years, dated no earlier than 60 days before the date the application is filed with the bureau;

(4) a state police background check on the applicant from every state in which the applicant has resided in the past ~~ten~~ **five** years, dated no earlier than 60 days before the date the application is filed with the bureau, or verification that the applicant submitted a request for a state police background check to the department of public safety or its equivalent at least 60 days before the date the application is filed with the bureau;

COMMENT – We acknowledge and understand the importance of conducting driver’s license and criminal history checks on service center operators. Ten years seems excessive when the only disqualifier for certification with a set timeframe is outlined in 18.20.11.15.A(6)(c) “any alcohol or drug-related offense within the past five (5) years;”. We suggest reducing the history checks to five years to align with the mentioned disqualifying factor. The 10 year requirement will make it much more difficult to find qualified personnel, thereby depriving underserved areas of the benefit of an ignition interlock service.

NMAC 18.20.11.15 Issuance of Initial Service Center License

A. Standards for issuance. In reviewing an application for service center license, the bureau shall consider whether:

(5) the applicant holds a clean driving record.

COMMENT – As written, “clean driving record” is vague and is subject to interpretation. Clarity is needed to explain what is included in this requirement. Is speed, safety belt use, and/or other traffic related infractions/violations a disqualifying factor? How many points is no longer considered clean per the bureau?

B. Qualifying provisions. The application packet must contain:

(1) the physical location of:

(a) the service center ~~fixed-site~~ which will accommodate installation, inspection, servicing or removing of ignition interlock devices; **to include** any mobile units the service center will operate. **of any type, fixed site or mobile unit, of service center the applicant will operate.** A service center cannot operate without at least one (1) ~~fixed-site service center~~, and at least one ~~(1)~~ certified ignition interlock installer; **or**

(b) where the mobile service center is registered, if operating independently from a service center. A mobile service center cannot operate without at least one (1) certified ignition interlock installer.

COMMENT – As written in definition, a service center must have a physical location or “fixed-site.” We are uncertain why this rule is requiring a service center to have a physical location in order to be operational. We recommend re-wording to make it easier to understand the requirement.

Completely independent (not affiliated with any brick-and-mortar location) mobile service centers allow for expansion into rural areas without causing hardship to a service center operator and would be very beneficial to customers.

(6) a certificate of commercial liability insurance, written on an occurrence basis, covering injury, death or property damage resulting from the installation, servicing, or removal of ignition interlock devices. The certificate of insurance shall:

(d) show the type of coverage and have minimum liability limits in the following amounts:

(i) commercial general liability insurance, written on an occurrence basis, for one-hundred thousand ~~million~~ dollars ~~(\$1,000,000)~~ **(\$100,000)** per occurrence and three-hundred thousand dollars ~~(\$300,000)~~ **two million dollars (\$2,000,000)** in the aggregate; or

(ii) garage operations liability insurance, for one-hundred thousand dollars ~~(\$100,000)~~ **million dollars (\$1,000,000)** per occurrence for each accident, auto only; one-hundred thousand dollars ~~(\$100,000)~~ **million dollars (\$1,000,000)** per occurrence for each accident, other than auto only; and three-hundred thousand dollars ~~(\$300,000)~~ **two million dollars (\$2,000,000)** in the aggregate, other than auto only; and

(e) include a statement from the insurance company that it will notify the bureau thirty (30) days before canceling the insurance. In the event the bureau finds the certificate of insurance to be insufficient, the manufacturer shall send a copy of the policy to the bureau upon request; and

~~(f) list the bureau name and address as the certificate holder.~~

COMMENT – We are uncertain why the minimum liability limits are increasing by one million dollars. If there is damage related to an interlock, it would be related to a motor vehicle, and not generally personal injury. This liability increase will generate a hardship on many service center operators with higher monthly premiums. This hardship that will likely cause service centers to discontinue providing interlock services, generating additional hardships for customers. The suggested change to lower minimum liability requirements may allow for additional service centers to join a manufacturer's network without sustaining a hardship. This will then lead to better service and assistance to customers. Standard mechanic shops that repair brakes and other safety equipment are not required to be insured. Is there data available to indicate of more than one ignition interlock incident requiring an insurance claim?

We are uncertain to why the bureau is required as the certificate holder for service centers. A certificate holder is an entity that receives the certificate of insurance from the provider. This process will require additional steps by the service center operator and may result in service centers discontinuing services. As described in subsection (e) of this rule, an insurance provider will notify the bureau of any cancelling insurance. Current practice provides the bureau with a copy of the insurance policy.

NMAC 18.20.11.16 Term of Service Center License

B. License Renewal.

(3) The application shall be submitted to the bureau at the address specified in the application and shall be accompanied by:

(a) a copy of the service center operator's limited driving history from the motor vehicle division, driver services bureau of the taxation and revenue department or its equivalent from every state in which the applicant has held a driver's license in the past ~~ten~~ **five** years, dated no earlier than 60 days before the date the application is filed with the bureau; and

(b) a state police background check on the service center operator, from every state in which the applicant has resided for the past ~~ten~~ **five** years, dated no earlier than 60 days before the date the application is filed with the bureau, or verification that the applicant submitted a request for a state police background check to the department of public safety or its equivalent, at least 60 days before the date the application is filed with the bureau.

COMMENT – We acknowledge and understand the importance of conducting driver's license and criminal history checks on service center operators. Ten years seems excessive when the only disqualifier for certification with a set timeframe is outlined in 18.20.11.15.A(6)(c) "any alcohol or drug-related offense within the past five (5) years;". We suggest reducing the past history checks to five years to align with the mentioned disqualifying factor. The 10 year requirement will make it much more difficult to find qualified personnel, thereby depriving underserved areas of the benefit of an ignition interlock service.

NMAC 18.20.11.17 Responsibilities of Service Center Operators

H. impose ~~the same~~ **a consistent** fee on all drivers for installing, servicing, leasing, and removing ignition interlock devices based on vehicle features and complexity, except for drivers who have received a determination of indigency under 18.20.11.30 NMAC. The bureau shall reimburse the service center operator for all indigent drivers in accordance with Subsection E of 18.20.11.30 NMAC, but in no event shall the bureau be responsible for any portion of the leasing fee for any driver who knowingly and deliberately tampers or interferes with the proper and intended operation of an ignition interlock device, terminates a service contract before its expiration date, fails to have a device serviced, or whose vehicle cannot support the proper and intended operation of the interlock device. The service center operator shall reimburse the bureau for any overpayments obtained from the bureau in violation of this section, **when the service center or service center operator is determined at fault;**

S. provide **guidance to customer on where they can obtain** forms from the bureau for determination of indigency, but shall not assist in completion of indigency forms, or guarantee or promise a determination of indigency to any driver;

BB. notify the appropriate authorities within **five business days** ~~24 hours~~ of removal of a device under 18.20.11.25 NMAC that a device has been removed from a vehicle;

COMMENT – We agree fees should be consistent from one customer to another, however complexity of vehicle should dictate for allowable differences. A new electric vehicle is far more complex than an older fuel powered vehicle. More complexity causes for more work and expense to the service center. We understand the intent of this rule is to deter discrimination, however we suggest allowing for promotional discounts incentives etc.

We understand overpayment to a service center may be a hardship to the bureau. We however believe the hardship is greater for a service center operator is required to reimburse the bureau when the service center operator is determined not at fault by the bureau. We suggest additional language to allow for such occasions.

We suggest a service center providing guidance on where a customer may find/obtain the necessary forms from the bureau, i.e. bureau website, to fill out for bureau determination of indigency.

As written, notification of device removal within 24 hours does not count for holidays and weekends. We suggest that this allowed time gets increased to 5 business days to be consistent with other reporting requirements.

NMAC 18.20.11.18 Initial Certification of Installers

C. Contents of application. A person seeking approval of an installer certificate shall submit an application to the bureau at the address specified in the application. The application shall contain:

(4) a copy of the applicant's limited driving history from the motor vehicle division, driver services bureau or its equivalent from every state in which the applicant has held a driver's license in the past ~~ten~~ **five** (5) years dated no earlier than 60 days before the date the application is filed with the bureau;

(5) a state police background check on the applicant from every state in which the applicant has resided for the past ~~ten~~ **five** years dated no earlier 60 days before the date the application is filed with the bureau, or verification that the applicant submitted a request for a state police background check to the department of public safety or its equivalent, at least 60 days before the date the application is filed with the bureau; and

COMMENT – We acknowledge and understand the importance of conducting driver's license and criminal history checks on Installers. Ten years seems excessive when the only disqualifier for certification with a set timeframe is outlined in 18.20.11.18.E(7)(c) "any alcohol or drug-related offense within the past five (5) years;" We suggest reducing the history checks to five years to align with the mentioned standards for issuance of installer. The 10 year requirement will make it much more difficult to find qualified personnel, thereby depriving underserved areas of the benefit of an ignition interlock service. Cannabis is legal in New Mexico. Will previous convictions be a disqualifier?

NMAC 18.20.11.19 Recertification of Installers

A. Certificate renewal.

(3) The application shall be sent to the address specified in the application and shall be accompanied by:

(a) a copy of the installer's limited driving history from the motor vehicle division, driver services bureau of the taxation and revenue department or its equivalent from every state in which the applicant has held a driver's license in the past ~~ten~~ **five** years, dated no earlier than 60 days before the date the application is filed with the bureau; and

(b) a state police background check on the installer from every state in which the applicant has resided for the past ~~ten~~ **five** years, dated no earlier than 60 days before the date the application is filed with the bureau, or verification that the applicant submitted a request for a state police background check to the department of public safety or its equivalent at least 60 days before the date the application is filed with the bureau.

COMMENT – We acknowledge and understand the importance of conducting history checks on Installers. Ten years seems excessive when the only disqualifier for certification with a set timeframe is outlined in 18.20.11.18.E(7)(c) "any alcohol or drug-related offense within the past five (5) years;" We suggest reducing the history checks to five years to align with the mentioned standards for issuance of installer. The 10 year requirement will make it much more difficult to find qualified personnel, thereby depriving underserved areas of the benefit of an ignition interlock service. Cannabis is legal in New Mexico. Will previous convictions be a disqualifier?

NMAC 18.20.11.20 Initial Certification of Service Technicians

C. Contents of application. A person seeking to obtain a service technician certificate shall submit an application to the address specified in the application. The application shall contain:

- (4) a copy of the applicant's limited driving history from the motor vehicle division, driver services bureau of the taxation and revenue department or its equivalent from every state in which the applicant has held a driver's license in the past ~~ten~~ **five** years, dated no earlier than 60 days before the date the application is filed with the bureau;
- (5) a state police background check on the applicant from every state in which the applicant has resided for the past ~~ten~~ **five** years dated no earlier than 60 days before the date the application is filed with the bureau, or verification that the applicant submitted a request for a state police background check to the department of public safety or its equivalent, at least 60 days before the date the application is filed with the bureau; and

COMMENT – As written in rule 18.20.11.20.E(6)(c), a technician is subjected to disqualification for “any alcohol or drug-related offense within the past five years.” We suggest reducing the history check to five years to align with the bureau’s standards for issuance certification. The 10 year requirement will make it much more difficult to find qualified personnel, thereby depriving underserved areas of the benefit of an ignition interlock service. Cannabis is legal in New Mexico. Will previous convictions be a disqualifier?

NMAC 18.20.11.21 Recertification of Service Technicians

A. Certificate renewal.

(3) The application shall be sent to the bureau at the address specified in the application and shall be accompanied by:

- (a) a copy of the service technician's limited driving history from the motor vehicle division, driver services bureau or its equivalent from every state in which the applicant has held a driver's license in the past ~~ten~~ **five** years, dated no earlier than 60) days before the date the application is filed with the bureau; and
- (b) a state police background check on the service technician from every state in which the applicant has resided for the past ~~ten~~ **five** years, dated no earlier than 60 days before the date the application is filed with the bureau, or verification that the applicant submitted a request for a state police background check to the department of public safety or its equivalent, at least 60 days before the date the application is filed with the bureau.

COMMENT – As written in rule 18.20.11.20.E(6)(c), a technician is subjected to disqualification for “any alcohol or drug-related offense within the past five years.” We suggest reducing the history check to five years to align with the bureau’s standards for issuance certification. The 10 year requirement will make it much more difficult to find qualified personnel, thereby depriving underserved areas of the

benefit of an ignition interlock service. Cannabis is legal in New Mexico. Will previous convictions be a disqualifier?

NMAC 18.20.11.23 Installing of Ignition Interlock Device

A. An installer shall:

(3) — obtain a copy of the vehicle registration prior to installation of an ignition interlock device, which shall be kept in the file;

COMMENT – As written would exclude any required driver with a newly purchased vehicles. This will generate undue hardship for customers. We suggest removing this subsection of rule or expand the rule to allow for a photograph of Vehicle Identification Number (VIN) to be used and kept in the file. VIN is captured at time of scheduling an installation.

(4) not install an ignition interlock device without the written or audio recorded permission of the registered owner of the vehicle, if the registered owner is not the sentenced driver;

COMMENTS – Calls with customers at time of installation are recorded and available for review after the fact. Requiring written consent from a third-party vehicle owner, may negatively impact the driver attempting to comply with their interlock requirement. We suggest allowing for multiple options to obtain and record permission for interlock installation. This rule does not include newly purchased vehicles, when the required driver will be the registered owner, but the process is still pending.

NMAC 18.20.11.26 Recordkeeping and Reporting Requirements

A. shall maintain for a period of three (3) years and make available to the appropriate authorities, including the bureau, upon request:

(1) records on every driver, including indigent clients, driver license number, vehicle registration license plate and/or vehicle identification number (VIN), and proof of insurance. Must also include document from appropriate authorities, date of installation, signature of the installer, dates and the results of every service visit and a copy of the agreement with the driver;

COMMENT – As written, this rule does not allow for newly purchased vehicles, where the registration is not complete with MVD. Allowing the capture and recording of a VIN would accelerate the installation process for the customer, providing quicker service and compliance to the interlock requirement.

C. shall within 24 hours five business days of switching a device to another vehicle for a driver, report such switch to the appropriate authorities, including the vehicle year, make and model;

COMMENT – We understand the importance of reporting a vehicle switch to the bureau. We are uncertain as to why reporting a vehicle switch must be conducted within such a short period of time given the definition of “Vehicle Switch” requires pre-approval from the bureau. The suggested change will align with existing reporting requirements for evidence of circumvention, removing, or tampering; missed

service visit, failure of six initial tests within three hours of each other; and failure of ten initial or random retests in any 30-day period.

NMAC 18.20.11.27 Removal of Ignition Interlock Devices

A. A certified installer shall remove an ignition interlock device, permanently reconnect all severed wires and insulate them with heat shrink tubing or its equivalent, and otherwise return a vehicle to normal operating condition:

(2) for devices installed pursuant to administrative proceedings and Section 66-5-35 NMSA 1978:

(c) upon ~~written~~ request of the driver. The service center operator ~~and/or manufacturer~~ shall provide the driver with ~~an affidavit for removal of ignition interlock device~~ a form ~~prepared by the bureau to request removal of a device~~, which shall include the driver's name, date of birth, driver's license number and signature acknowledging ~~that the driver has requested removal. of the device and that the service center operator will notify~~ ~~The removal will be reported to~~ the appropriate authorities ~~upon removal~~.

COMMENT – As written, this rule is confusing to understand. We suggest rewording. The Affidavit for Removal of Ignition Interlock Device form is available at the service center or by calling the manufacturer's customer service center. Requiring a customer to submit in writing a request to obtain the affidavit may cause hardship. Per current practice the affidavit is submitted to NMDOT for approval prior to receiving authorization to schedule the removal of the interlock. This creates unnecessary steps and delays the process for the customer. We suggest allowing for other ways to obtain the form (i.e. in person or via phone).

NMAC 18.20.11.29 Temporary or Permanent Withdrawal of Approval of an Ignition Interlock Device

A. Grounds. The bureau may temporarily or permanently withdraw its approval of an ignition interlock device if:

(9) the manufacturer ~~does not have~~ ~~has~~ any outstanding NRVs ~~pending resolution by the bureau~~ where a corrective action plan has not been submitted by the manufacturer and resolution has not been reached.

COMMENT – There is confusion to this rule as written. We believe this to be typo error and suggest rewording. Clarity is needed on how long the bureau has to resolve an NRV, once submitted by the manufacturer. We suggest adding language to rule to notify the manufacturer of every rule violation at the service center level. We will not be able to correct a problem unless may are unaware it.

18.20.11.30 Suspension, Revocation or Non-Renewal of a Service Center License or an Installer or Service Technician Certificate:

A. Service center license. The bureau may suspend, revoke or not renew the license of a service center if:

(10) the service center operator ~~does not have~~ **has** any outstanding NRVs ~~pending resolution by the bureau.~~ **where a corrective action plan has not been submitted and resolution has not been reached.**

B. Installer or service technician certificate. The bureau may suspend, revoke or not renew the certificate of an installer or service technician if:

(6) the installer or service technician ~~does not have~~ **has** any outstanding NRVs ~~pending resolution by the bureau.~~ **where a corrective action plan has not been submitted and resolution has not been reached.**

C. Effective date. The suspension or revocation shall be effective 30 days after notice is sent to the service center or installer with a copy to the manufacturer via certified mail, return receipt requested, except in cases where the bureau determines immediate suspension or revocation is necessary for the safety and welfare of the citizens of New Mexico.

COMMENT – There is confusion to these rules as written. We believe this to be typo error and suggest rewording. Clarity is needed on how long the bureau has to resolve an NRV, once submitted. We suggest adding language to rule to notify the manufacturer of every rule violation at the service center level. We will not be able to correct a problem unless may are unaware it.

18.20.11.31 Interlock Device Fund and Fee

A. Collection of the interlock device fee. The motor vehicle division of the taxation and revenue department shall, pursuant to Section 66-8-102.3 NMSA 1978, collect an interlock device fee from all drivers not determined to be indigent under Subsection D and deposit the fee in the interlock device fund, which is appropriated to the bureau.

E. Determination of indigency.

(2) After reviewing a complete request for indigency, the bureau shall send the applicant a determination of indigency notice indicating whether the request has been granted.

(a) If approved, an approval notice shall be issued and shall state the effective dates of the benefits, during which time the applicant shall be eligible for benefits. The applicant shall provide a copy of the approval notice to the ignition interlock provider, which shall apply the benefit by reducing the scheduled fee for approved services. ~~and not requiring the driver to pay the indigent device fund fee.~~

COMMENT – We suggest removing the language from paragraph E(2)(a) as it is outlined in paragraph A of this rule, the MVD shall collect the interlock device fee from all drivers not determined indigent.

J. Notice of tampering, circumvention and other violations.

(2) If the bureau determines that benefits will be denied for violations reported under this paragraph, the bureau shall inform the indigent driver at the address listed on the current or last approved indigent application that the benefit will be denied, and shall instruct the service center **and/or manufacturer** to

charge the driver the full cost of the lease for the months in which the infractions occurred and the ignition interlock indigent fund shall not be charged for the denied service period.

COMMENT – We suggest adding manufacturer as an entity that can charge a customer the cost of a least during the months in which violations/infractions occurred. Based on service performed, a customer may pay either the manufacturer or service center directly.