NEBRASKA ADMINISTRATIVE CODE

TITLE 250, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1

NEBRASKA DEPARTMENT OF MOTOR VEHICLES

RULES AND REGULATIONS OF THE DEPARTMENT OF MOTOR VEHICLES REGARDING THE APPROVAL AND INSTALLATION OF IGNITION INTERLOCK DEVICES AND ADMINISTRATION OF THE IGNITION INTERLOCK PERMIT PROGRAM.

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RULES AND REGULATIONS OF THE DEPARTMENT OF MOTOR VEHICLES REGARDING THE APPROVAL AND INSTALLATION OF IGNITION INTERLOCK DEVICES AND ADMINISTRATION OF THE IGNITION INTERLOCK PERMIT PROGRAM.

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LAST EFFECTIVE DATE: **February 27, 1994.**

RULES AND REGULATIONS OF THE DEPARTMENT OF MOTOR VEHICLES REGARDING THE APPROVAL AND INSTALLATION OF IGNITION INTERLOCK DEVICES AND ADMINISTRATION OF THE IGNITION INTERLOCK PERMIT PROGRAM.

001 PURPOSE. The purpose of these rules and regulations is to promulgate performance standards for the approval and the installation of ignition interlock devices (also known as Breath Alcohol Ignition Interlock Device or BAIID) and administration of the ignition interlock permit program. ~~Upon approval of these regulations as provided by the Administrative Procedure Act, this new version of 250 NAC 1 rule shall be effective and shall replace the version of 250 NAC 1 approved by Gov. Ben Nelson on February 18, 1994, which shall be repealed in its entirety.~~

002 INTERPRETATION. These rules shall be interpreted so as to favor the safety of the public and the findings of the legislature that ignition interlock devices are designed to supplement other conditions of probation, reprieve, or punishment of those convicted of driving while intoxicated or driving under the influence. References to statutory standards, regulations, or governmental agencies shall be read as referring to and including any amendments. In the absence of a rule specifically addressing a particular matter, there shall be applied reasonable, just and equitable procedures and substantive decisions which are predictable from the spirit and intent of the legislative enactment and these rules.

003 DEFINITIONS.

003.01 Alcohol ~~shall~~ means ethanol or ethyl alcohol (C_2H_5OH).

003.02 ALR means administrative license revocation pursuant to Neb.Rev.Stat. § 60-498.01 to 60-498.04. ~~**003.02 Alcohol set point** shall mean the breath alcohol concentration at which the ignition interlock device is set to lock the ignition that is set at the time of calibration.~~

~~**003.03 Authorization** means that the Department of Motor Vehicles has approved issuance of an Ignition Interlock Permit (IIP) to a driver who, after he or she has submitted an order for an IIP from a court or the Board of Pardons or submitted an application for an IIP while subject to an administrative license revocation, has met all requirements, and is not ineligible for an IIP for any reason. After authorization, the IIP applicant shall apply for the IIP.~~

~~**003.04 BAC fail** shall mean the condition in which the ignition interlock device registers a BrAC value in excess of the alcohol set point limit when the driver conducts an initial test(s) or retest(s) in a motor vehicle equipped with an ignition interlock device.~~

003.035 BrAC shall means the breath alcohol concentration in a given amount of breath, expressed a weight by volume (w/v) based upon grams of alcohol per 210 liters of breath (2100: 1 ratio).

003.046 Board shall means the Nebraska Board of Pardons. that may order a driver to obtain a permit to operate a motor vehicle equipped with an ignition interlock device pursuant to Neb. Rev. Stat. § 60-6,209.

003.057 Breath sample shall means a normal expired human breath primarily containing alveolar or end-expiratory breath that is analyzed for alcohol concentration content (BrAC) after the expiration.

003.08 Calibration interval shall mean the maximum time period that an ignition interlock device may be used without a calibration check, after which the motor vehicle ignition must lock. The ignition interlock device shall signal a need to have a calibration performed at 30 days. If the calibration has not been accomplished prior to the 36th day, on the 36th day the ignition interlock device shall prevent the motor vehicle from being started or prevent restart after being turned off.

003.069 Circumvention shall means an attempt to bypass the proper correct operation of an ignition interlock device whether by the use of an altered breath sample, by starting the motor vehicle without using the ignition switch, or by any other means without first providing a valid breath sample.

003.0710 Court shall means the judge who sentences a driver convicted of operating or being in the actual physical control of any motor vehicle while intoxicated or driving under the influence, or who refuses a chemical test, and as a condition of probation or sentence, imposes the use of an ignition interlock device. This definition shall also means any district probation offices or court administrative officers assigned to the case of a driver limited to operation of a motor vehicle equipped with an ignition interlock device.

003.0811 Department shall means the Nebraska Department of Motor Vehicles.

003.0912 Director shall means the Director of the Nebraska Department of Motor Vehicles or his or her designee.

003.1013 Driver shall means a person who has been convicted under Neb. Rev. Stat. § 60-6,196 or 60-6,197 and has been ordered by the court or by the Board of Pardons that he or she not operate a motor vehicle during the time period stated in the order unless his or her motor vehicle is equipped with a functioning and approved ignition interlock device and the person has obtained the required license or permit. Driver shall also means any person who applies to the Department for issuance of an Ignition Interlock Permit for use during a period of administrative license revocation.

003.114 Eligible shall means that an operator driver's driver's license is not subject to any other suspension, cancellation, impoundment, no-driving period, or period of

revocation;, and the person has successfully completed the ignition interlock permit application process, served any applicable no-drive period; and:

003.141A Is subject to an administrative license revocation pursuant to Neb. Rev. Stat. §§ 60-498.01 through 60-498.04 and has waived his or her right to an administrative license revocation hearing; or

003.114B Is subject to a court order for an Ignition Interlock Permit as part of a sentence pursuant to Neb. Rev. Stat. §§ 60-6,196, 60-6,197.01, 60-6,197.03, 60-6,197.06, 28-306(3)(b) or (c), 28-394(3)(b) or (c), or subject to an administrative license revocation pursuant to Neb. Rev. Stat. §§ 60-498.01 through 60-498.04; or

003.114C Has an order from the Board for an Ignition Interlock Permit.

003.15 Fail-safe shall mean a condition in which the ignition interlock device cannot operate properly due to some problem (e.g., improper voltage, temperature exceeding operating range, dead sensor, etc.). In a fail-safe condition, the ignition interlock device will not permit the motor vehicle to be started.

003.126 Ignition interlock device, or (breath alcohol ignition interlock device, or BAIID) shall means a device that is designed to allow a driver to start a motor vehicle if the driver's BrAC is below the set point and to prevent the driver from starting the motor vehicle if the driver's BrAC is at or above the set point. An approved device shall have an alcohol specific fuel cell breath alcohol analyzer as a major component that interconnects with the ignition and other control systems of a motor vehicle. The purpose of the ignition interlock device is to measure the BrAC of the driver, to prevent the motor vehicle from being started if the BrAC exceeds a pre-set limit, to deter and to record attempts to circumvent or tamper with the device.

003.137 Ignition Interlock Fund means the fund created by statute to be used by the Department of Motor Vehicles to pay for the cost of installation, removal, and or maintenance of the ignition interlock device for any person the Department has determined to be indigent and incapable of paying as provided in Neb. Rev. Stat. §.60-6,211.05(8)(b).

003.148 Ignition Interlock Permit (IIP) means a permit issued to a driver which allows the driver to operate a motor vehicle which is equipped with an ignition interlock device. The permitted uses of the driver's IIP shall be printed on the back of the IIP. An IIP will not confer CDL privileges. shall not be used to operate a commercial motor vehicle.

003.159 Interlock Data Logger shall means a device within an ignition interlock device that records all pertinent events and times during the period of installation and use of an ignition interlock device.

003.16 Lockout or lockout mode means the ignition interlock device shall cause the ignition system of the motor vehicle to be disabled, thereby preventing the motor vehicle from starting, or, if in motion, preventing further tests from being introduced once the engine is turned off.

003.17 ~~20~~ NHTSA ~~shall~~ means ~~the federal agency known as~~ the National Highway Traffic Safety Administration.

003.18~~21~~ Operator's license ~~or driver's license~~ ~~shall~~ means any license or permit to operate a motor vehicle issued under the laws of this state, including:

(1) Any replacement or duplicate license or instr~~s~~uction permit;

(2) The privilege of any person to drive a motor vehe~~e~~icle whether such person holds a valid license;

(3) Any nonresident's operating privilege which ~~shall~~ means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation of a motor vehicle in this state by such person or the use in this state of a motor vehicle owned by such person;

(4) An employment driving permit issued as provided by section 60-4,129 and 60-4,130; and

(5) A medical hardship driving permit issued as provided by sections 60-4,~~-~~130.01 and 60-4,130.02.

003.19~~22~~ Provider means an approved vendor, distributor, or supplier of an ignition interlock device. The provider shall have installer sites to act as the provider's agent throughout Nebraska. The provider is responsible to the department for the actions or inactions of its installers. ~~shall mean a manufacturer's designated representative installer or authorized agent in Nebraska.~~

~~**003.23 Restart** shall mean the allowance of the motor vehicle ignition key switching system for the driver to start the motor vehicle without having to give a breath alcohol analysis. The driver shall be able to initiate a restart within two minutes after the ignition interlock has turned off the motor vehicle so long as the driver has not registered a BAC fail.~~

003.20 Retest means two additional opportunities to provide a breath sample below the alcohol set point when the initial test failed before the vehicle will enter a temporary lockout.

003.21 Running retest means a subsequent breath test that must be conducted within five minutes after starting the vehicle and randomly during each subsequent thirty minute time period thereafter while the vehicle is in operation;

003.22 Set point means the Breath Alcohol Concentration (BrAC) at which a BAIID is set to prevent a vehicle from starting. In Nebraska, the set point is .03 BrAC.

~~**003.24 Rolling or random retest** shall mean a required test by an ignition interlock device of a breath sample that must be conducted according to the pre-set conditions of the ignition interlock device on a fixed time period and shall be completed while the motor vehicle is running but stopped in a safe location as provided in 004.02K of these rules and regulations. Failure to execute a valid retest will cause the motor vehicle ignition system to enter a lockout condition after a fixed time period.~~

003.25 Service interval shall mean the maximum time period that an ignition interlock device may be used without maintenance or data download, after which the motor vehicle ignition must lock and prevent the motor vehicle from starting until maintenance service has been completed.

003.236 Tampering means an attempt to physically disable, disconnect, adjust, or otherwise alter the proper operation of an ignition interlock device, including the camera, in any way that allows the motor vehicle to be started without the driver providing his or her own breath sample into the ignition interlock device, or or allows a driver with a BrAC at or above the set point to start the engine, or prevents a photograph of the driver.

003.24 Test fail or failed test means the ignition interlock device has not received a valid sample under the alcohol set point within 15 minutes of the initial test or 15 minutes of a rolling retest.

003.25 Valid Sample means a breath sample below the .03 BrAC set point so that the ignition interlock device will enable the vehicle to start.

004 IGNITION INTERLOCK DEVICE PERFORMANCE STANDARDS. An ignition interlock device must meet the following criteria to be approved for use in Nebraska

004.01 Submission of Breath Alcohol Ignition Interlock Device Specifications for Approval. An ignition interlock device may be approved for use in Nebraska: by meeting either 004.01A or 004.01B below.

004.01A NHTSA Standards. The Any breath alcohol ignition interlock device specifications submitted to the Department for approval as an approved ignition interlock device for use in this state maymust be accompanied by a certificate of an independent testing laboratory indicating that the device meets or exceeds the performance standards of the National Highway Traffic Safety Administration for such devices as published in Model Specifications for Breath Alcohol Ignition Interlock Devices, (BAIID), Federal Register, Volume 78 , No. 89, Page 26849 et seq. on May 8, 2013 75, No. 193, Page 61820 et seq. on October 6, 2010, as amended, and which are incorporated with these rules and regulations as Attachment 1. A complete and certified copy of the testing protocol and the results thereof of the independent testing laboratory shall also accompany the breath alcohol ignition interlock device specifications submitted for approval.

The submission should specify that the device meets or exceeds the standards references in this section. In lieu of such documentation, to be approved the submission may show that the submitted model is a fuel cell specific technology equipped model that appears on NHTSA's Conforming Products List. If the device has been given any exemptions from specific provisions of the above regulations by NHTSA, documentation of the exemption shall accompany the submitted material; or

004.02 Current Ignition Interlock Devices. Any ignition interlock device approved by the Department prior to the effective date of these rules and regulations may continue to be used in Nebraska and may be recertified until December 31, 2017 without meeting

004.01 provided the device and provider meet all other requirements in these rules and regulations. Beginning January 1, 2018, all interlocks must conform completely to these rules and regulations.

004.01B At minimum, any breath alcohol ignition interlock device specifications submitted to the Department for approval as an approved ignition interlock device for use in this state shall be accompanied by a certificate of an independent testing laboratory indicating that the device meets or exceeds the performance standards of the National Highway Traffic Safety Administration for such devices as published in Model Specifications for Breath Alcohol Ignition Interlock Devices, (BAIID), Federal Register, Volume 57, No. 67, Page 11772 et seq. on April 7, 1992, as amended, and which are incorporated with these rules and regulations as Attachment II. A complete and certified copy of the testing protocol and the results thereof of the independent testing laboratory shall also accompany the breath alcohol ignition interlock device specifications submitted for approval. If the device has been given any exemptions from specific provisions of the above regulations by NHTSA, documentation of the exemption shall accompany the submitted material.

004.01C In addition to the meeting standards set in either 004.01A or 004.01B of these rules and regulations to be approved for use in Nebraska, the submitted ignition interlock device must use fuel cell specific technology.

004.01D A model submitted for approval for use in this state may have a detachable sensor to allow mail-in service to user customers.

004.031E Camera. In addition to meeting 004.01A or 004.01B of these rules and regulations, an ignition interlock device submitted for approval in this state shall The submitted ignition interlock device must have a camera; and the digital images taken shall capture a wide-angle view of the area around the steering wheel and front cabin. Manufacturers of ignition interlock devices approved for use in this state prior to the effective date of this rule shall have until January 1, 2014, to comply with 004.01E of these rules and regulations. Manufacturers of ignition interlock devices seeking approval for an ignition interlock device on and after January 1, 2014, shall comply with 004.01E. Ignition interlock devices without a digital camera function in compliance with 004.01E shall not be installed in Nebraska on or after January 1, 2014, except manufacturers may apply to the Director in writing for an extension beyond January 1, 2014. The written application for the extension should provide an explanation of the need for the extension and provide the date the manufacturer will begin installation of ignition interlock devices equipped with a camera. Such request for an extension must be received or postmark on or before January 1, 2014. Camera requirements shall include:

004.01E1 At installation the provider must take a reference image of the driver with the camera. The reference image shall be retained by the provider for identification of the person receiving the equipment.

004.01E2 The ignition interlock device camera shall have sufficient storage for all digital images taken until the date of the next calibration at which point images may be downloaded and stored by the provider as required in 004.01E4 and 004.01E5.

~~**004.01E3** At minimum an image shall be taken when there is a BAC test fail, a failure to take a BAC test when required, a rolling/random retest failure, and a failure to complete a rolling/random retest. The digital images taken shall capture a wide-angle view of the area around the steering wheel and front cabin;~~
~~and the camera shall be able to recognize it is taking pictures of a person.~~

~~**004.01E4** Images required by this rule shall be retained by the provider in electronic format sufficent to allow the provider to find, select, and provide images of events recorded by a specific device installed for a driver upon request by the DMV, a court, a probation office or the Board of Pardons. Applicable images shall be provided to the DMV, a court, a probation office, or the Board of Pardons with any report filed pursuant to 006 of these regulations.~~

~~**004.01E5** Images recorded pursuant to this section may be disposed of one year after the ignition interlock has been removed from the motor vehicle.~~

~~**004.02 Standards for Approval by the Department.** In order to obtain approval of the Department as an approved ignition interlock device, the manufacturer shall comply with subrule 004.01 of these rules and regulations and show that the device fulfills the following requirements:~~

004.0~~42A~~ **Safe Operation.** The ignition interlock device shall offer safe operation of the motor vehicle in which the device is installed;

004.0~~52B~~ **No Tampering.** The ignition interlock device shall offer protection against tampering and preservation of evidence of such tampering;

004.0~~62C~~ **No Circumvention.** The ignition interlock device shall be able to detect and be resistant to circumvention;

004.0~~72D~~ **Reliable.** The ignition interlock device shall work reliably and accurately in an ~~-~~unsupervised environment and, if the ignition interlock device cannot operate properly due to some problem (e.g., improper voltage, temperature exceeding operating range, dead sensor, etc.) the device will lockout. If fault is found with the ignition interlock device, the costs for repair or replacement shall be borne by the provider and manufacturer.~~in a fail-safe condition cause the motor vehicle not to start;~~

004.0~~82E~~ **Restart.** The ignition interlock device shall be able to initiate a "restart" of the motor vehicle's ignition within two minutes after the ignition has been turned off without requiring another breath alcohol analysis so long as the driver has not registered a BrAC fail or is not in the process of completing a retest;

004.0~~92F~~ **Fuel Cell.** The ignition interlock device shall use an alcohol specific fuel cell technology and shall be designed and constructed to measure a driver's breath alcohol concentration from a deep lung breath sample blown directly into the device;

004.02G The ignition interlock device shall be designed and constructed so that the ignition system of the motor vehicle in which it is installed is disabled if the alcohol concentration of the driver using the device exceeds the alcohol set point permitted by subrule 004.02H of these rules and regulations;

004.10 02H Three Attempts. The ignition interlock device test shall permit the driver three attempts to provide a valid sample in 15 minutes cause a driver's motor vehicle . The device will require at least 3 minutes before accepting the next sample. When first starting the vehicle, the ignition interlock device will lockout temporarily for 30 minutes if no valid sample is provided within 15 minutes. to fail to start (BAC fail) when the driver's breath alcohol concentration (BrAC) is at or greater than .03 grams of alcohol per 210 liters of breath;

004.11 02I Permanent Lockout Warning. The ignition interlock device shall provide a warning for five days before cause the ignition system of the motor vehicle is permanently locked for any of the following: to be disabled if the ignition interlock device has not been calibrated and serviced

A. After a temporary lockout;
B. After an attempt to circumvent or tamper with a device; or
C. Time for calibration, download, or service.

within the period provided in 003.08 of these rules and regulations, subsequent to its installation, or last calibration interval, or inspection, whichever is sooner;

004.12 02J Data Logger. The ignition interlock device shall be able to record each time the motor vehicle is started, the time of each start, how long the motor vehicle was operated, and any instances of tampering or attempted tampering with the unit;

004.13 02K Running olling or Random Retest. The ignition interlock devices shall require be capable of random runningolling retests. as provided below:

004.02K1 The running retest ignition interlock device shall allow for a random rolling retest of a subsequent breath test shall take place within the first five minutes of starting operation of the motor vehicle. After thee initial runningolling retest, within five minutes of starting operation of the motor vehicle, the ignition interlock device shall require the driver to perform another randomly timed runningolling retest during each following 30-minute interval of operation until the motor vehicle is turned off.

004.13A 02K2 During the rolling retest, the retest set point shall be .036 grams alcohol per 210 liters of breath to preclude a false positive test result. In order to alert the driver that a running rolling retest is required, a warning light and/or tone shall come on. After the warning is activated, the driver shall have five minutes to safely provide a valid sample. pull over. If the sample fails, Tthe driver shall have an additional five two minutes to provide a valid breath sample for the retest. The motorist will have three opportunities in total to provide a valid sample before the ignition interlock device enters lockout mode and will temporarily lockout when the ignition is turned off. If the engine is intentionally or accidentally shut down after the warning but before retest sample is provided

the retest clock shall not be reset. The free restart shall not be operative when the ignition interlock device is awaiting a rolling retest sample.

004.02K3 The ignition interlock device shall be installed in such a way that the ignition system of the motor vehicle will be prevented from restarting after the motor vehicle is turned off if the driver fails to meet the requirements with regard to an alcohol concentration as prescribed in subrule 004.02H or subrule 004.02K of these rules and regulations. Failure of the test shall mean the driver is above the prescribed allowable breath alcohol concentration (BrAC). A BAC fail of a retest or failure to provide a sample for retest shall be recorded as an event on the data logger. The driver will be warned by a unique auditory or visual cue that the motor vehicle ignition will enter a lockout condition within a period of five days, and the lockout will occur in five days as provided in 004.02P of these rules and regulations. If the driver starting a motor vehicle has BAC fail, the device shall allow a second breath test within two minutes. If there is a second BAC fail, the device shall allow retest subsequent to the initial test at intervals no shorter than 15 minutes.

004.14 02L **Visible Cautions.** The ignition interlock device shall visibly and/or audibly indicate the following to the driver and any qualified person:

004.14A02L1 the device is on;

004.14B02L2 the device has enabled the ignition system of the motor vehicle in which it is installed;

004.14C02L3 the device is in need of service or calibration at least five days before the end of the calibration interval;

004.14D02L4 the failure to provide a valid sample and the number of remaining retests permitted before a temporary lockout; (BAC fail) of the BrAC threshold and the reading obtained by the device on the breath sample introduced; and

004.02L5 The ignition interlock device may augment visible signals or indicators provided to the driver with audible ones.

004.02M Any ignition interlock device installed in Nebraska on or after January 1, 2013, shall be capable of recording the events listed in 004.02O below on the data logger. These recorded events shall also be downloadable. The provider has a duty to report events to the Department, district probation offices, courts, or the Board as required by section 006 of these rules. Reports may be delivered by electronic means to the Department, district probation offices, courts, or the Board in a format prescribed by the agency.

004.02O The ignition interlock device shall cause a warning message to be displayed to the driver whenever the following events are recorded:

004.14E~~02O1~~ A ~~BAC~~ test or running retest failure;

004.14F~~02O2~~ A failure to take a ~~BAC~~ test or running retest when required;

~~**004.02O3** A rolling retest failure;~~

~~**004.02O4** A failure to complete a rolling retest;~~

004.14G~~02O5~~ A circumvention attempt; or

004.14H~~02O6~~ A tampering attempt.~~; or~~

~~**004.02O7** At least five days before the end of the calibration interval when service of the ignition interlock device must be performed as provided in 003.08 of these rules and regulations.~~

004.15 Options. An ignition interlock device may have a detachable sensor to allow mail-in service to customers. An ignition interlock device may include advanced technologies, e.g., real time reporting or GPS.

~~**004.02P** The driver shall be required to report to a manufacturer or manufacturer's designated representative for service within five days of a recall message/lockout warning to prevent a lockout by the ignition interlock device. A recall message/lockout warning message shall be displayed to the driver upon the occurrence of any combination of three of the following events during a calibration period:~~

~~**004.02P1** A BAC test fail;~~

~~**004.02P2** A failure to take a BAC test when required;~~

~~**004.02P3** A rolling retest failure;~~

~~**004.02P4** A failure to complete a rolling retest.~~

~~**004.02Q** Lockout shall be required after one circumvention attempt or one tampering attempt.~~

~~**004.02R** **Driver's Reporting Requirements.** A driver required to have an IIP and ignition interlock device must contact the device's manufacturer or report to a manufacturer's designated representative to have the interlock data logger downloaded within five days of an occurrence listed in 004.02P or 004.02Q above. Failure of the driver to arrange and complete such download or service within five days shall cause the motor vehicle to enter a lockout condition.~~

~~**004.03** **Warning Label.** The manufacturer and/or representative shall also supply for each ignition interlock device installed as a result of a court or Board order, a warning~~

~~label which shall not be less than one-half inch in height by three inches in length and carry the following language: "WARNING! ANY ACTUAL OR ATTEMPTED TAMPERING OR CIRCUMVENTION OF THIS DEVICE IS A CRIME. NEB. REV. STAT. 60-6,211.11".~~

005 PROVIDERS QUALIFICATIONS AND YEARLY RECERTIFICATION

005.01 Installers are Agents. The provider may designate representatives to install ignition interlock devices. The installers are direct agents of the provider, and the provider is responsible for the actions of the installers. The installers must adhere to these rules and regulations in the same manner as the provider, and the provider is responsible for training and instructing the installers in the requirements of these rules and regulations. A provider may be removed from the list of approved ignition interlock devices for the action or inaction of the provider's installer.

005.02 Required Locations of Ignition Interlock Device Installation Facilities. The provider must have at least one designated representative installer physical location in each of the 12 probation districts in Nebraska. Each physical location must be a full service facility that can install, calibrate, service and remove ignition interlock devices. Although mobile service may be offered in Nebraska, it shall not be a substitute for the 12 physical locations.

005.03 Addresses and Contact Information for Installation Facilities. The provider shall provide a list of addresses and contact information of the provider's installers to the Department and to the Nebraska Supreme Court Office of Probation Administration, P.O. Box 98910, Lincoln, NE 68509 by January 15 of each year. The addresses and/or contact information may be changed as necessary but notice of any change or changes shall be sent to the Department and Office of Probation Administration prior to the effective date of the change or changes.

005.04 Fee Schedule. The provider shall provide a schedule of fees for services to the Department. Such fee information shall be sent to the Department by January 15 of each year or upon any changes. This schedule will be used to calculate reimbursements from the indigent fund.

005.05 Insurance. The provider shall have and maintain general business insurance and product liability insurance for the ignition interlock device for which approval is sought. The provider shall require each of its installers to have and maintain general liability insurance, and may require other insurance.

005.06 Indemnification. The provider shall agree to indemnify the State of Nebraska, its employees, agents, assignees, and legal representative with respect to any liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments and expenses related thereto which may in any manner accrue or be asserted against the State, the Department, its employees, agents, assignees and legal representatives that arise in connection with installation and/or use of an ignition interlock device and shall hold the State harmless.

005.07 Inspection. Representatives of the Department shall have the right to inspect the premises of any location within the State of Nebraska where the provider installs ignition interlock devices, to test devices, and to audit drivers' records.

005.08 Cooperation with State and Subdivisions of Government. Every provider shall cooperate with and report to the Department, the courts, district probation offices, and the Board in this state in the manner as may be required by such agencies. Whenever it comes to the attention of the Director that a provider has failed to cooperate with authorities or to comply with any rule or requirement of the Department, the courts, district probation offices, or Board, such failure will be grounds for removing the provider from the list of approved ignition interlock devices. Receipt of timely information by the Department that the issue has been resolved may avoid removal of the provider from the approved list.

005.09 Electronic Report. The provider shall electronically report to the Department hourly. The Department's electronic database of these reports will be accessible to the court, district probation office, and the Board. The following occurrences shall be reported:

005.09A Lockouts. A lockout as provided in 008.01 above; except, for a circumvention attempt or tampering attempt the report is unnecessary if the driver provides receipts from a licensed automotive facility, including the date, which indicates that mechanical service was performed on the motor vehicle.

005.09B Installation. Installation of an ignition interlock device, including the ~~s~~specific vehicle and driver.

005.09C Removal. Removal of the ignition interlock device.

005.10 Verify Motorists Eligibility for Interlock Permit. Prior to installation of an interlock device, the provider shall verify that the motorist is eligible for an IIP by using the Department's internet site *Click DMV, Driver License Services, Check Ignition Interlock Eligibility*. If the motorist is ineligible, no interlock device will be installed.

005.10A Anyone with a valid license, even if not required to have an IIP, may voluntarily put an ignition interlock device on his vehicle.

005.11 Provide Reports upon Request. The provider shall provide copies of all records for any driver/client to law enforcement officers or representatives of the Department, a court, district probation office, or the Board, upon request. This shall include, but is not limited to, records of installation, calibration, maintenance checks, usage records, disclaimer forms, images, and incident reports of any driver or drivers or any or all of their ignition interlock devices placed in service in Nebraska. A provider shall retain all of a driver's ignition interlock records for at least one year after the ignition interlock device has been removed from the driver's motor vehicle or motor vehicles.

005.12 Permit access to Provider's Nebraska Database. The provider shall provide continuing access to its own database of Nebraska drivers to law enforcement, the

Department, a court, district probation office, or the Board, upon request by the Department.

005.13 Digital Image.

005.13A At installation the provider must take a digital reference image of the driver with the camera. The image shall capture a wide-angle view of the area around the steering wheel and front cabin. The reference image shall be retained by the provider for identification of the person receiving the equipment.

005.13B The ignition interlock device camera shall have sufficient storage for all digital images taken until the date of the next calibration at which point images may be downloaded and stored by the provider.

005.13B1 Images shall be retained by the provider in electronic format sufficient to allow the provider to find, select, and provide specific images of events upon request by the DMV, a court, a probation office or the Board of Pardons.

005.13B2 Images recorded pursuant to this section may be disposed of one year after the ignition interlock has been removed from the motor vehicle.

005.13C At minimum an image shall be taken when there is a test fail, a failure to take a test when required, a rolling retest failure, or a failure to complete a rolling retest.

005.14 Department Notice. The Department shall give written notice to the provider if the Department identifies any action or inaction that violates 005.01, 005.02, or 005.08, supra. The provider shall have 30 days from the mailing of the notice to comply or cure the defect. The provider will provide written notification to the Department specifying the course of corrective action.

0064.04 Ignition Interlock Device Approval and Removal of Approval by the Department.

006.014.04A Certificate of Approval. Upon the demonstration by the provider manufacturer of a breath alcohol ignition interlock device that said that a device meets the criteria outlined in subrules 004.01 and 004.02 of these rules and regulations, the Department may issue a certificate of approval for use of the ignition interlock device in Nebraska.

006.024.04B Removal of Approval. The Department shall maintain a list of approved ignition interlock devices, providers, and their manufacturers. The Department has the sole discretion to approve ignition interlock devices for use in this state or remove such devices from the approved list for failure to comply with these regulations or other good cause shown. If an ignition interlock device is removed from NHTSA's Conforming Product's List, that shall also be grounds for the Department to remove ignition interlock devices from the list of approved interlock devices in this state.

006.034.04C **Webpage.** A randomly ordered list of providers manufacturers with approved ignition interlock devices for use in Nebraska will be posted on the Department's webpage. It shall be the responsibility of the manufacturers provider to notify the Department with updated contact information for the webpage.

006.044.05 **Independent Checks on Ignition Interlock Devices.** The Department may conduct, or have conducted, independent checks on any of the approved ignition interlock devices to determine if the devices are operating within these rules and regulations. If the independent check indicates that the rules and regulations are not being followed, the Department shall require the provider manufacturer or his or her designated representative installer to correct any abnormality found in the installation, calibration, maintenance checks, or usage records of the device. The providermanufacturer or his or her designated representative installer shall report in writing to the Department within 30 days after receiving notification of the abnormality. The Department has the authority to remove any provider or device not found to be in compliance with these rules and regulations from the list of approved ignition interlock devices, any device not found to be in compliance with these rules and regulations.

004.06 Cooperation with State and Subdivisions of Government. Every manufacturer of approved ignition interlock devices and such manufacturers' designated representative installers shall cooperate with and report to the Department, the courts, district probation offices, and the Board in this state in the manner as may be required by such agencies. Whenever it comes to the attention of the Director that a manufacturer or the manufacturer's designated representative installer has failed to cooperate with authorities or to comply with any rule or requirement of the Department, the courts, district probation offices, or Board, such failure will be grounds for removing the manufacturer's equipment from the list of approved ignition interlock devices. Receipt of timely information by the Department that the issue has been resolved may avoid removal of the manufacturer's equipment from the approved list.

004.07 Required Locations of Ignition Interlock Device Installation Facilities. Manufacturers must have at least one designated representative installer physical location in each of the 12 probation districts in Nebraska to achieve statewide service to the public, EXCEPT that if no location in a probation district is more than 30 miles to the physical location of a designated representative installer in an adjacent district, that probation district may be served by a physical location or locations in an adjacent probation district(s). Manufacturers with approved ignition interlock devices on September 1, 2011, shall have until January 1, 2013, to provide a designated representative installer physical locations throughout the state as provided in this section and shall provide that list of locations to the Department by January 15, 2013, to retain approval for service in Nebraska. Any manufacturer applying for original approval on January 1, 2013, or after shall show they have statewide distribution as provided in this section. Mobile service shall not be a substitute for physical locations required by this section. Information about locations of district probation offices and a map of probation districts is available on the Nebraska Supreme Court webpage at:

http://www.supremecourt.ne.gov/probation/

004.08 Addresses and Contact Information for Installation Facilities. Upon receipt of approval from the Department of an ignition interlock device for use in Nebraska, a manufacturer shall provide a list of addresses of the manufacturer's designated representative installers and contact information for use on the ignition interlock device to the Department, the courts, the district probation offices, and the Board. A list of addresses of the manufacturer's designated representative installers, contact information shall be sent to such agencies by January 15 of each year. The addresses and/or contact information may be changed as necessary but notice of any change or changes shall be sent to the Department, the courts, district probation offices, and the Board prior to the effective date of the change or changes.

004.09 Fee Schedule. Upon receipt of approval from the Department of an ignition interlock device for use in Nebraska, a manufacturer shall provide a schedule of fees for services to the Department. Such fee information shall be sent to the Department by January 15 of each year or upon any changes. Such fee information provided by approved providers shall be proprietary information.

004.10 Insurance. A manufacturer shall have and maintain general business insurance and product liability insurance for the ignition interlock device(s) for which approval is sought. The manufacturer shall require each of his or her designated representatives to have and maintain general liability insurance. A manufacturer may require his or her designated representative to have other insurance.

004.11 Indemnification. A manufacturer seeking approval of an ignition interlock device shall agree to indemnify the State of Nebraska, its employees, agents, assignees, and legal representative with respect to any liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments and expenses related thereto which may in any manner accrue or be asserted against the State, the Department, its employees, agents, assignees and legal representatives that arise in connection with installation and/or use of an ignition interlock device and shall hold the State harmless.

004.12 Inspection. Representatives of the Department shall have the right to inspect the premises of any location within the State of Nebraska where manufacturer or manufacturer's designated representative provide and install ignition interlock devices approved for use in this state, to test devices, and to audit drivers' records.

0075 INSTALLATION, CALIBRATION, AND REMOVAL.

0075.01 An ignition interlock device, required by an administrative license revocation, probation order, sentence, or Board order, shall be a device approved by the Department and installed by the provider in conformance with the directions of the manufacturer. A device must be installed by an installer at the provider's physical location or by a provider's mobile installation service.shall be installed as provided below:

005.01A Installation and Documentation of Installation. An ignition interlock device installed for use in Nebraska under these rules shall be a device approved pursuant to

~~this regulation and installed by the manufacturer or by the manufacturer's designated representative installer in conformance with the directions of the manufacturer. A device must be installed at the manufacturer's or his or her designated representative installer's physical location or a manufacturer or manufacturer's designated representative may provide onsite mobile installation service.~~

~~**005.01B Required installation Records and Ignition Interlock Disclaimer Form.** Prior to installing an ignition interlock device for any driver, the manufacturer or manufacturer's designated representative shall have the driver complete and sign an **Ignition Interlock Information and Disclaimer** form or equivalent in addition to any documentation required for the provider's business purposes. The driver shall be provided with a copy of the completed and signed Ignition Interlock Information and Disclaimer form. The disclaimer shall contain a statement that the driver having the ignition interlock device installed has contacted the Department to determine when he or she is eligible to have the IIP issued and that he or she is eligible to have the device installed. The manufacturer or manufacturer's representative shall keep the driver's signed original copy on file as provided in 006 of these rules and regulations. A copy of the driver's signed Ignition Interlock Information and Disclaimer form shall be made available to representatives of the Department, the courts, probation offices, the Board, or law enforcement officers upon request. A provider of approved ignition interlock devices in this State shall download the form from the Department's webpage at: www.dmv.ne.gov to provide to drivers who have ignition interlock devices installed.~~

007.02~~5.01C~~ Instruction. ~~The manufacturer or manufacturer's representative shall provide instruction to a driver who is having an ignition interlock device installed on his or her motor vehicle. The driver shall be instructed~~ The provider shall instruct the driver in the operation of the ignition interlock device, safe operation of a motor vehicle while the ignition interlock device is installed, and compliance with required procedures, including but not limited to responding to a signal from the device to report to the ~~manufacturer~~ provider for service. These procedures shall include a minimum 15-minute waiting period between the last drink of an alcoholic beverage and time of blowing into the ignition interlock device. The driver shall be instructed that he or she must contact the provider ~~device's manufacturer or report to a manufacturer's designated representative~~ to have the interlock data logger downloaded within five days of receipt of a~~the~~ message for service. The driver shall be instructed that failure to arrange and complete such download or service within five days will result in a lockout requiring towing ~~condition~~ of the motor vehicle. ~~If there is a failure to report for calibration service, the manufacturer or designated representative must then send the resulting report to the appropriate district probation office, court, or Board, or the Department before the close of business the next business day as provided in 006 of these rules and regulations.~~

007.03~~5.02~~ Required Calibration. ~~An ignition interlock device~~ The ignition interlock device shall signal a need for calibration to the set point (.03 BrAC) at 30 days. If the calibration is not checked by the provider prior to the 36th day, on the 36th day the ignition interlock device shall prevent the motor vehicle from being started.~~installed and used under these rules shall be calibrated as provided in section 003.08 of these rules and regulations using~~ The ignition interlock device may be calibrated using either a wet

alcohol standard or a compressed gas standard. The ignition interlock ~~(minimum five cubic foot volume) at the site of installation by the dealer or agent who installed the ignition interlock device or~~ may be calibrated by the provider ~~manufacturer~~ using a mailing service. ~~The calibration requirements of the ignition interlock device shall be designed so that the motor vehicle will be placed in a lockout condition if the driver fails to have the calibration as required.~~ The calibration record shall be maintained by the provider and a copy shall be given to the driver. ~~designated representative installer or manufacturer and the record~~ The calibration record shall include:

007.03~~5.02~~A The name of the person performing the calibration;

007.03~~5.02~~B The date;

007.03~~5.02~~C The value and type of standard used;

007.03~~5.02~~D The unit type and identification number(s) of the ignition interlock device checked; and

007.03~~5.02~~E The description of the motor vehicle in which the ignition interlock device is installed, including plate number and state, make, model, year, and color.

~~**005.03 Documentation of Calibration.** The driver shall be provided a copy of current documentation of calibration to keep in his or her motor vehicle as proof of compliance. Calibration shall be consistent with the requirements of 004.02 and 005.02 of this rule. Completed Ignition Interlock Device Calibration forms shall be retained in the installer's records as provided in 006 of these rules and regulations. Calibration records shall be provided upon request for inspection by a law enforcement officer, officer of the court, district probation office representative, Department representative, or representative of the Board. Providers may use a Nebraska Ignition Interlock Device Calibration form which shall be available for downloading on the Department's webpage at www.dmv.ne.gov. Results of ignition interlock device calibrations shall be reported as provided in 006 of these rules and regulations on the Ignition Interlock Incident Report form as may be necessary.~~

00~~7~~5.04 Removal of Ignition Interlock Device.

~~**005.04A Removal.** An ignition interlock device may be removed upon the expiration date of a driver's IIP or Class O interlock license. Removal shall be reported as provided in 006.04 of these rules and regulations.~~

00~~7~~5.04B Removal of Ignition Interlock Device Prior and Legal Requirement for Ignition Interlock Device. An ignition interlock device may be removed by the provider ~~manufacturer or his or her designated representative installer~~ upon a driver's request. A driver who has an ignition interlock device removed prior to the expiration date of the IIP or Class O interlock shall be cautioned that he or she cannot legally operate a motor vehicle ~~which is not equipped with an approved ignition interlock device~~ until his or her period of revocation has passed and he or she has been issued a new driver license. An ignition interlock device may also be

removed for any reason specified in the contract between the with the driver and for installation and service of the ignition interlock device by the providermanufacturer and his or her designated representative.

0075.04C Electronic Removal Report. Removal of an ignition interlock device shall be electronically reported to the Department as provided in 006.04 of these regulations.

0057.04D Transfer of Title. If a motor vehicle equipped with an ignition interlock device is sold or otherwise transferred as provided in Neb. Rev. Stat. § 60-395, the ignition interlock device must be removed from the motor vehicle before transfer of title or payment of any refund of registration fees, motor vehicle fees, or motor vehicle taxes. An owner may be required to present evidence of removal of the ignition interlock device prior to payment of any refund.

005.04E Location. An ignition interlock device may be removed at the manufacturer's or his or her designated representative installer's physical location or a manufacturer or his or her designated representative may provide mobile onsite service for removal of the ignition interlock device from a motor vehicle.

006 MANUFACTURER'S OR INSTALLER'S REPORTING REQUIREMENTS. The manufacturer, or his or her designated representative installer, shall report to the Department, the court, district probation office, or the Board according to the information provided on the driver's signed Ignition Interlock Disclaimer form completed and signed prior to installation of the device on a driver's motor vehicle(s) and kept on record. Any suspected violation shall be reported to the appropriate office using the **Ignition Interlock Incident Report** form or equivalent. A form may be downloaded from the Department's webpage at www.dmv.ne.gov. The following occurrences shall be reported:

006.01 Test Failures (BAC Results of 0.03 or Above).

006.01A Failures recorded; fail pattern, in our opinion, does not indicate consumption of beer, wine, or spirits.

006.01B Failures recorded; fail pattern, in our opinion, indicates consumption of beer, wine, or spirits.

006.02 Tampering or Circumvention.

006.02A Suspected attempts to tamper with or circumvent the ignition interlock device were observed or recorded.

006.02B Suspected disconnection(s) of the ignition interlock device from the motor vehicle's electrical system were recorded (power disconnects) and if the driver credibly indicated that mechanical service was performed on the motor vehicle or did not provide a credible reason why the power supply to the ignition interlock device was interrupted.

006.03 Violation Reset (Failed or "Not Taken") Random (While Driving) Retest as Shown by Data Logger.

006.03A Failures recorded; fail pattern, indicates consumption of beer, wine, or spirits.

006.03B Test not taken or other failure to respond to or comply with visual or audible signals from the ignition interlock device.

006.04 Removal. Removal of the ignition interlock device prior to the expiration of the IIP and driver's period of revocation.

006.05 The manner of reporting shall be as required by the Department, court, a probation office, or the Board and may be done by electronic means in a format prescribed by the agency.

006.05A District probation office's telephone numbers and e-mail addresses will be available at http://www.supremecourt.ne.gov/probation/.

006.05B Telephone numbers and e-mail addresses for the Department shall be found on the Department's webpage at www.dmv.ne.gov. A downloadable copy of the Nebraska Ignition Interlock Incident Report form shall be available on the Department webpage at www.dmv.ne.gov for reporting to the Department and may be mailed, e-mailed or faxed to the Department.

006.06 Requirements to Provide Reports upon Request. The manufacturer, or his or her designated representative installer, shall provide copies of all records for any driver/client to law enforcement officers or representatives of the Department, a court, district probation office, or the Board, upon request. This shall include, but is not limited to, records of installation, calibration, maintenance checks, usage records, disclaimer forms, images, and incident reports of any driver or drivers or any or all of their ignition interlock devices placed in service in Nebraska. A manufacturer or his or her designated representative shall retain all of a driver's ignition interlock records for at least one year after the ignition interlock device has been removed from the driver's motor vehicle or motor vehicles.

008~~7~~ ISSUANCE OF THE IGNITION INTERLOCK PERMIT (IIP).

007.01 Ignition Interlock Permit (IIP) Issuance and Renewal. Any driver subject to an order of administrative license revocation from the Department or who has an order for an IIP and ignition interlock device from a court or the Board may apply for an IIP.

008.01 Eligibility. The Applicant will verify eligibility for an ignition interlock device through Click DMV, Driver License Services, Check Ignition Interlock Eligibility or by calling the Financial Responsibility Division at 402-471-3985.

008.027.01A **Application.** The Department will provide an online application form for issuance of an IIP which shall be available online on the Department webpage at www.dmv.ne.gov. A paper application form will and also available upon request. The application shall contain a statement from the applicant for an IIP that he or she acknowledges that he or she understands that he or she will have his or her license administratively revoked pursuant to Neb. Rev. Stat. §§ 60-498.01 and 60-493.02, that he or she waives his or her right to a hearing to contest the revocation, and that he or she understands that he or she is required to have an ignition interlock permit to legally operate a motor vehicle for the period of the revocation and may be subject to no-driving periods as specified in statute before the IIP may be issued.

008.03 Authorization for IIP. The Department of Motor Vehicles will authorize issuance of an IIP to a driver who, after he or she has submitted an order for an IIP from a court or the Board of Pardons or submitted an application for an IIP while subject to an administrative license revocation, has met all requirements, and is not ineligible for an IIP for any reason. After authorization, as set forth below, the IIP applicant shall apply for the IIP.

007.01B Authorization for IIP.

008.03A7.0 1B1 **IIP Order from Court or Board of Pardons.** On or after January 1, 2012, any driver arrested on or after that date who wishes to have an IIP must obtain authorization from the Department to be issued an IIP. Prior to authorization, tThe Department must have received 1) an application for an IIP, sufficient evidence of installation of the ignition interlock device, 2) a certified abstract of a court order for an IIP, or an order from the Board allowing the driver to operate a motor vehicle with an ignition interlock device, before authorizing the issuance of the IIP. The driver must serve any required no-drive period and be determined to be eligible prior to authorization for an IIP. The Department must have evidence that the driver must has surrendered his or her driver license to the Department. Drivers shall be subject to the law in place on the date of arrest.

008.03B7.01B2 **Administrative License Revocation.** To obtain an IIP for use during a period of administrative license revocation, an arrested driver shall complete the IIP application, install an ignition interlock device, and surrender his operator's license. process, and T the Department shall allow the driver to be issued an IIP for use during a period of administrative license revocation if the driver is determined to be eligible and the driver has served any required no-drive period. The Department must have evidence that the driver has surrendered his or her driver license to the Department Drivers are subject to the law in place on the date of arrest.

007.01B3 After authorization, an IIP may be obtained at a Department licensing station in Nebraska or through an online issuance process when such service becomes available.

008.047.01C **Determination of IIP Eligibility.** Prior to issuance of an IIP, the Department shall review its records of any driver who applies for an IIP allowing operation of a motor

vehicle equipped with an ignition interlock device to determine (a) the applicant's eligibility for an IIP; (b) the applicant's previous convictions under Neb. Rev. Stat. § 60-6,196, 60-6,197, or 60-6,197.06 or any previous administrative license revocation within any preceding 15 years, if any; (c) if the applicant is subject to any required no-drive periods before the IIP may be issued; and (d) the permitted driving uses to be allowed to that driver on his or her IIP. The Department will determine the eligibility of the driver, and apply any credit the driver may have for revocation dates served or no-driving days served before issuing the IIP to the driver. A driver shall contact the Department to determine their eligibility for an ignition interlock device prior to having a device installed.

008.05 Obtaining an IIP. After authorization, an IIP may be obtained at a Department licensing station in Nebraska or through an online issuance process.

008.06~~7.02~~ Applicable No-Driving Periods~~ and Limitations on Driving Privileges~~.

008.06A~~7.02A~~ ~~Required No-Drive Periods Prior to IIP Issuance.~~

~~007.02A1~~ No Priors. Any driver who is subject to an administrative license revocation and who has no such prior revocations within the preceding 15-year period who has not petitioned for an administrative hearing may immediately apply for an IIP to use for operation of a motor vehicle during the 180-day period of revocation so long as he or she is otherwise eligible for such permit.

008.06B~~7.02A2~~ Prior Revocations. Any driver who is subject to an administrative license revocation and has one or more prior such revocations within the preceding 15 years, who submitted to a chemical test pursuant to Neb. Rev. Stat. § 60-6,197, and who has not petitioned for an administrative hearing may apply for an IIP to use during the one-year period of revocation after serving a 45-day period with no driving so long as he or she is otherwise eligible for such permit.

008.06C~~7.02A3~~ Refusal. Any driver subject to an administrative license revocation for refusal of a chemical test, and who has not petitioned for an administrative hearing may apply for an IIP to use during the one year after serving a 90-day period with no driving so long as he or she is otherwise eligible.

008.06D~~7.02A4~~ Reprieve from Board of Pardons. Any driver subject to an order from the Board requiring use of an ignition interlock device for operation of a motor vehicle must use the device and comply with the requirement of the IIP for the time period designated by the Board in its order, subject to any conditions which may be ordered by the Board as soon as the driver completes the application process.

008.06E~~7.02A5~~Alcohol-Related Offenses. A court may only issue an order for an IIP to a driver subject to a driver license revocation and sentenced pursuant to Neb. Rev. Stat. § 28-306(3)(b) or (c), 28-394(3)(b) or (c), 60-6,196, 60-6,197, 60-6,197.06, or 28-1254. The Department will determine the eligibility of the driver,

and apply any credit the driver may have for revocation days served or no-driving days served pursuant to Neb. Rev. Stat. §§ 60-498.01 through 60-498.02 before issuing the IIP to the driver. If the driver does not have sufficient credit, he or she will have to serve any remaining no-driving days and period of revocation as may be required by the court and applicable statutes.

008.07~~7.03~~ Limitations on Driving Privileges. Ignition interlock driving privileges with an IIP for new or repeat offenders shall be subject to driving restrictions as required by Nebraska statute at the time the permit was issued. Any applicable driving restrictions will be printed on the reverse of the IIP.

008.08~~7.04~~ Legal Operation of a Motor Vehicle Equipped with an Ignition Interlock Device. A person who is subject to a revocation of his or her driver license may not legally operate a motor vehicle equipped with an ignition interlock device until he or she has been issued an IIP. The IIP may be renewed if the permit expires prior to the end of any revocation period the driver has been ordered to serve. The fees for such license or permit shall be as provided in Neb. Rev. Stat. § 60-4,115 and shall be paid at the time the IIP is issued.

008.09~~7.05~~ Extension of Requirement for IIP. Whenever it comes to the attention of the Director that a person has tampered with or circumvented an ignition interlock device installed pursuant to Neb. Rev. Stat. §§ 60-498.01 through 60-498.04 or operated a motor vehicle not equipped with a functioning ignition interlock device required pursuant to such sections or otherwise violated allowed purposes for operation indicated on the IIP under such sections shall, in addition to any possible criminal charges, have his or her revocation period and IIP extended for six months beyond the end of the original revocation period.

008.10~~7.06~~ Commercial Motor Vehicles. An IIP shall not be issued for the operation of a commercial motor vehicle.

008.11~~7.07~~ Applicability of Law. IIPs shall be available to drivers according to Nebraska statutes in place on the date of the driver's arrest.

008.12~~7.08~~ Reinstatement or Renewal Requirement. A driver who has completed his or her period of revocation cannot drive legally until he or she completes the reinstatement process with the Department and has been issued a new driver license. A driver subject to a period of revocation may need to renew the IIP if his or her period of driver license revocation exceeds five years.

008.13~~9.13~~ Lockouts and Driver's Responsibilities A driver required to have an IIP and ignition interlock device must contact the device's provider to have the interlock data logger downloaded within five days of an occurrence listed below. Failure of the driver to arrange and complete such download or service within five days shall cause the motor vehicle to permanently lockout.

008.13A A test fail after three invalid samples in 15 minutes;

008.13B A failure to take a retest after an initial invalid sample;

008.13C A running retest failure after three invalid samples in 10 minutes;

008.13D A failure to complete a running retest after an invalid sample.

008.13E After a circumvention attempt or tampering attempt.

010~~008~~ IGNITION INTERLOCK COSTS.

~~008.01~~ ~~Driver Responsibilities.~~ The costs associated with ignition interlock device requirements shall be paid by the driver directly to the provider of the ignition interlock device. Such costs shall include, but are not limited to, refundable deposit, installation, maintenance, and removal of an ignition interlock device. ~~The costs associated with ignition interlock device requirements for an indigent driver are set forth in 009.03 below.~~

~~008.02 Refundable Deposit.~~

010.01~~008.02A~~ Refundable Deposit Fee. ~~:~~ A provider may charge a driver a deposit fee prior to the installation of an ignition interlock device. If a provider requires payment of a deposit prior to installation, such fee must be required of all drivers and shall not be charged selectively. The amount of the deposit fee charged shall be uniform for all drivers and may not exceed the amount of the installation fee charged for an ignition interlock device.

~~008.02B~~ ~~Uniform Application of Deposit Fee and Amount.~~ ~~If a provider requires payment of a deposit prior to installation, such fee must be required of all drivers and shall not be charged selectively. The amount of the deposit fee charged shall be uniform for all drivers and may not exceed the amount of the installation fee charged for an ignition interlock device.~~

010.01A~~008.02C~~ Deposit and Refund.

~~008.02C1~~ The deposit amount may be used by the provider to offset unpaid costs owed to the provider by the driver, including damages to the ignition interlock device. The provider shall give the driver an itemized statement of any costs that were deducted from the refund amount. The provider shall keep a copy of that itemized statement ~~as provided in 006 of this rule~~.

010.01B~~008.02C2~~ Indigent Deposit. A provider may require payment of a refundable deposit for the installation of an ignition interlock device for a driver who has been determined to be indigent ~~under this rule~~. The ~~Department of Motor Vehicles~~ Ignition Interlock Fund shall not be used to pay the cost of any deposit. The refundable deposit fee shall be paid for by the indigent driver and shall be refunded to the indigent driver when the device is removed by the provider. A provider who receives reimbursement for installation, maintenance, and removal of an iginition interlock device from the Department of Motor Vehicles Ignition Interlock Fund shall not offset any installation, maintenance, or removal costs from the refund

of deposit fee to an indigent driver upon return of the device, but may deduct other unpaid or damages from the refund. The provider shall give the driver an itemized statement of any deductions from the refund amount. The provider shall keep a copy of that itemized statement as provided in 006 of this rule.

010.0208.03 Indigent Drivers.

010.02A08.03A Application. The Department shall post an affidavit application for determination of indigency online on the Department's webpage at www.dmv.ne.gov or make such affidavit application available to individuals upon request. A driver claiming indigence shall send a completed, notarized affidavit application or provide equivalent information to the Department for review.

010.02B08.03B Approval and Denial. Upon receipt of an affidavit application for determination of indigency, the Department will review the affidavit application to determine the applicant driver's indigency status and verify the applicant's eligibility for an IIP. The Department may deny a driver's affidavit application if the information is incomplete, or if it does not show the applicant is indigent.

010.02C08.03C Determination of Indigency. An applicant applying for assistance from the Department of Motor Vehicles Ignition Interlock Fund shall meet 150 percent or less of the federal poverty guidelines published in the Federal Register pursuant to 45 CFR Part 1611.3 setting out Income Level for Individuals Eligible for Assistance to qualify as indigent. The Department may also consider the income, expenses, and assets as reported by the driver in his or her affidavitapplication. Applicants shall provide documentation of current income with a pay stub, most recent W2, most recent tax return, or statement from an employer with the application. The Department will document its decision and provide a copy to the driver.

010.02D08.03D Installation. An applicant determined to be indigent may apply for installation of an approved ignition interlock device. at any location of a manufacturer or manufactuer's representative installer offering approved ignition interlock devices. Contact information for such manufacturers shall be posted on the Department of Motor Vehicles webpage. The driver shall show the provider the provide the manufacturer or manufacturer's representative installer with documentation showing approval for assistance by the Department of Motor Vehicles Ignition Interlock Fund as part of the process for installing the ignition interlock device.

010.038.04 Provider Reimbursement.

010.038.04A Monthly Statement. Providers who wish to receive reimbursement for installation, maintenance, or removal of ignition interlock devices for drivers qualified as indigent shall enter into a written contract with the Department. Providers shall present a monthly bill to the Department listing the drivers served and itemizing the services for which reimbursement is claimed. during the billing

~~period.~~ Reimbursable costs are limited to fees for installation, maintenance, and removal of an ignition interlock device.

010.03B~~8.04B~~ Final Bill Due. When an ignition interlock device is removed from the motor vehicle of a driver qualified as indigent, within 30 days the provider shall send a final itemized statement to the Department which documents the removal of the device for that driver and return of any deposit fee, if applicable.

0108.034C Statement Form. A reimbursement form shall be available on the Department webpage for use by providers. The reimbursable fees charged by a provider to an indigent driver for use of an ignition interlock device shall not exceed the fees for such services charged to other customers for an ignition interlock device.

0108.034D Payment. Upon review of the statement for accuracy, such costs shall be paid to the provider on a monthly basis by the Department out of the Department of Motor Vehicles Ignition Interlock Fund, to the extent such funds are available. There shall be no provider reimbursement if there are no monies in the Fund. The Department reserves the right to deny payment for insufficient or incomplete statements, untimely statements, or any claims submitted that are not supported by the records of the Department upon review of the statement.