

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY PERMIT AND COMPLIANCE FEES

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1778.) The Governor's Office authorized the notice to proceed through the rulemaking process on November 27, 2013.

[R14-89]

PREAMBLE

- | <u>1. Article, Part, or Sections Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|--------------------------|
| Article 3 | New Article |
| R18-14-301 | New Section |
| R18-14-302 | New Section |
| R18-14-303 | New Section |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
Authorizing statutes: A.R.S. §§ 49-202, 49-203
Implementing statute: A.R.S. §§ 49-352(A), 49-361
- 3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
Notice of Rulemaking Docket Opening: 20 A.A.R. 136, January 17, 2014
- 4. The agency's contact person who can answer questions about the rulemaking:**
- | | |
|------------|--|
| Name: | Wendy LeStarge |
| Address: | Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007 |
| Telephone: | (602) 771-4836 (Toll-free number in Arizona: (800) 234-5677) |
| Fax: | (602) 771-4834 |
| E-mail: | lestarge.wendy@azdeq.gov |
| | Or |
| Name: | Steve Vevang |
| Address: | Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007 |
| Telephone: | (602) 771-4836 (Toll-free number in Arizona: (800) 234-5677) |
| Fax: | (602) 771-4834 |
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5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Arizona Department of Environmental Quality (ADEQ) seeks to establish new and reasonable fees for the certification of drinking water and wastewater operators. In advance of this Notice of Proposed Rulemaking, ADEQ met with a broad spectrum of stakeholders to discuss funding issues and to create a preliminary draft of the proposed rules for stakeholders' consideration. As a result, ADEQ considered and incorporated stakeholders' comments into this proposed rule.

Operators of water treatment plants and water distribution systems, and wastewater collection systems and wastewater treatment plants are responsible for all decisions about process control or system integrity that affects public health and the environment. Once a treatment plant or collection/distribution system has been designed and constructed, it is imperative that the system be operated correctly, as improper operation can result in public health threats and environmental degradation. The operator certification rules (18 A.A.C. 5, Article 1, Classification of Water and Wastewater Facilities and Certification of Operators) classify water and wastewater systems into one of four grades by facility type, size, complexity and population served. The grade corresponds with the level of system complexity, with Grade 1 being the most simple and Grade 4 being the most complex. Water and wastewater systems are required to retain the services of properly (i.e., appropriately) graded certified operators.

The operator certification rules also establish the requirements for experience and education, certification and classification, examinations, renewal of certificates, expired certificates, reciprocity for out-of-state applicants, and revocation. Operators are required to maintain their certification through participation in continuing professional education workshops and must renew their certification every three years.

ADEQ's Operator Certification Program has three major components: initial certification, renewal of certification, and training. A potential operator has a couple of options in seeking initial certification:

- An applicant can take and pass a written examination for the applicable class and grade. Contracted third parties provide, administer and grade the operator certification examinations. Currently, Gateway Community College (GWCC) proctors the Association of Boards of Certification (ABC) operator certification exams for all operator classifications and grade levels. Potential applicants contact GWCC directly for exam dates, times, and exam fees. GWCC notifies ADEQ as to the results of applicants who successfully pass the examinations. ADEQ then creates a record of the operator's pertinent information and issues the appropriate certificate. ADEQ maintains a database of certified operators and this information, in part, is linked to and populates ADEQ's primary drinking water database (Safe Drinking Information System – SDWIS/State).
- At an applicant's request, ADEQ evaluates the experience and education of an out-of-state operator to determine if the operator can be certified without taking the Arizona examinations.
- Also at an operator's request, ADEQ determines if an operator has the necessary experience and education required to be admitted for a higher grade certification examination without having the requisite time at a lower grade.

Operator certification is valid for three years. During the three year period, an operator is required to complete at least 30 professional development hours, defined as an "organized educational activity related to engineering, biological or chemical sciences, a closely related technical or scientific discipline, or operations management." A.A.C. R18-5-101. An operator must submit a request to renew certification to ADEQ every three years, along with documentation on the required professional development hours. A.A.C. R18-5-107.

Lastly, a function of the Operator Certification Program is to provide training opportunities. ADEQ's training is open to all operators but is particularly geared toward smaller drinking water and wastewater systems which may be unable to afford required training for their operators. ADEQ anticipates it will sponsor six to eight workshops for the next fiscal year. ADEQ also assists in the coordination of other events sponsored by such groups as the Environmental Finance Center, Texas A&M Engineering Extension Service, and the Rural Water Association. These organizations receive grant funding from the U.S. Environmental Protection Agency to conduct outreach to small drinking water systems.

ADEQ's Operator Certification Program has been funded by state general fund, federal grants and federal set-asides through the Water Infrastructure Finance Authority. Beginning in 2007, ADEQ's portion of general fund was decreased and ultimately eliminated in 2010. The future level of funding through federal sources is uncertain, but will most likely be subject to continuing cuts.

ADEQ previously assessed fees associated with exams, certification, and renewals, under a regulatory framework where ADEQ administered the operator certification examinations. In 2001, ADEQ repealed the fees as part of larger amendments, which established the current framework of a third party administering the operator certification examinations. Prior to the repeal of fees in 2001, the fees assessed for the certification examinations, certification by reciprocity, and certification renewals, ranged from \$10 to \$25. In the 2001 rulemaking, ADEQ estimated that the repeal of fees would result in a revenue loss of not more than \$65,000 annually to the state General Fund.

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Operator certification fees will be deposited in the state General Fund, as required by A.R.S. §§ 49-352(A) and 49-361. ADEQ's long-term goal is to seek a legislative change that operator certification fees will be deposited in the water quality fee fund, established under A.R.S. § 49-210. In the short-term, ADEQ has conveyed to members of the Legislature that the operator certifications program is not general or fee-funded and requires a source of steady, permanent funding.

In response to preliminary comments from stakeholders, ADEQ will not begin to assess fees until the beginning of the state fiscal year for 2016. This delayed implementation date will allow stakeholders time for budget planning, particularly municipalities who have already set budgets for fiscal year 2015.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

A.R.S. §§ 49-352(A) and 49-361(2) require ADEQ to adopt, establish, and enforce rules for the certification of operating personnel according to the skill, knowledge, and experience required for the applicable classification, and include authority for ADEQ to assess fees for water and wastewater operator certifications.

An operator can be certified for any or all of the four classes of facilities: water treatment plants, water distribution systems, wastewater treatment plants, or wastewater collection systems. Each of the four classes of facilities (and corresponding certifications) are also categorized into one of four grades, by facility type, size, complexity and population served. An operator certified at a higher grade is automatically certified for any lower grades of the same facility class. The operator needs 30 professional development hours every three years, whether for one certificate or four.

Under the current model of no fees, a potential operator is responsible for any fees associated with taking the examination. The current cost to sit for an exam at GWCC is \$87, which is paid to GWCC. The exam fee covers costs for GWCC and ABC operator certification exams; ADEQ does not receive any part of this exam fee.

Under the proposed rule, applicants who pass their exams will be assessed the \$65 fee per certification. An operator who becomes certified in all of the four classes of facilities would pay no more than \$260 for initial certification. For renewing certification every three years, an operator certified in all of the four classes of facilities would pay no more than \$300 every three years.

The proposed fees are based on the costs associated with the minimum level of staffing that ADEQ believes is necessary to effectively and efficiently implement the Operator Certification Program, which consists of three and one-half FTEs. In recent fee rulemakings, ADEQ calculated the hourly rate necessary to support the total costs of a full-time project manager or technical review staff in the water permitting program. The Water Quality Division developed the \$122 per hour rate as the foundation for developing the fees for drafting, issuing, and administering individual and general permits. ADEQ has used \$122 as the hourly rate necessary to support the total costs of the Operator Certification Program staff in providing regulatory services. Because the certification and renewal reviews have predictable average times, ADEQ has established flat rate fees, based on an estimate of hours required to review and process certification applications and renewals.

ADEQ's fees are based on the costs of staff review time and for maintenance of the database system. The initial certification fee of \$65 covers ADEQ staff time to create a record of an applicant in SDWIS/State and also for maintaining SDWIS/State. The renewal fee is set at \$150 as staff expends more time in processing renewals. However, because ADEQ's amount of work does not increase much with each additional certification renewal from the same operator, the proposed rule offers a reduced renewal fee for each additional certificate, and consequently does not penalize operators with multiple certificates.

In advance of this Notice of Proposed Rulemaking, ADEQ met with a broad spectrum of stakeholders; ADEQ considered and incorporated stakeholders' comments into this proposed rule. ADEQ originally presented an initial certification fee of \$75 and a certificate based on reciprocity review fee of \$300. ADEQ reconsidered its costs and stakeholders' concerns about burdening new applicants, who usually enter at the lower end of the pay scale. This proposed rule has reduced the initial certification fee to \$65 and the reciprocity review fee to \$250.

It was suggested to base the fee amount on the certification grade level, so that higher grade operators would pay more in fees than lower grade operators. However, ADEQ's amount of work, and costs, remain the same, regardless of the level of certification. ADEQ did not adopt this suggestion.

In Arizona, there are approximately 6,500 certified operators who hold approximately 13,500 certificates. Some operators are certified in multiple classes of facilities. ADEQ anticipates that approximately twenty percent of the 13,500 certificates will not be renewed either because the operator is not employed in the type of business or does not require

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multiple certificates. The estimated annual revenue from new fees would be \$400,000 to \$475,000 based on approximate numbers of:

- 3,600 certificate renewals per year,
- 2,000 proctored exams with a 50% passing rate,
- 250 reciprocity reviews, and
- 100 early exam reviews.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Wendy LeStarge
Address: Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 771-4836 (Toll-free number in Arizona: (800) 234-5677)
Fax: (602) 771-4834
E-mail: lestarge.wendy@azdeq.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

ADEQ has scheduled oral proceedings to receive oral comments on the rules, in accordance with A.R.S. § 41-1023; the time, place, and location of the hearings are listed below:

Date: August 11, 2014
Time: 1:00 p.m. to 4:00 p.m.
Location: Department of Environmental Quality
1110 W. Washington, Room 3175 A & B
Phoenix, AZ 85007
Nature: Oral Proceeding

Written, faxed, or e-mailed comments may be made with the contact person listed in item #4. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 5:00 p.m. Tuesday, August 26, 2014. Persons with a disability may request a reasonable accommodation by contacting the Department's coordinator, Trisha Garland, at (602) 771-4794 (voice) or 1-800-367-3839 (TDD Relay). Requests should at least 72 hours before the hearing. This rulemaking's public record will close at 5:00 p.m. Tuesday, August 26, 2014.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The proposed rules require a new fee for a certification. A.R.S. §§ 49-352 and 49-361 require ADEQ to certify operating personnel according to their skill, knowledge and experience. However, the operator certification rules are similar to the definition of a general permit; the applicant is issued the certification if the applicant meets the applicable requirements of the certification, there is no individual or traditional certification, and no public hearing is required.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

There is no federal law applicable to fees for certified operators.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY
PERMIT AND COMPLIANCE FEES

ARTICLE 3. CERTIFIED OPERATOR FEES

Section:

- R18-14-301. Certified Operator Fees
R18-14-302. Fee Assessment and Collection
R18-14-303. Implementation

ARTICLE 3. CERTIFIED OPERATOR FEES

R18-14-301. Certified Operator Fees

- A.** Definition terms from A.A.C. R18-5-101 apply to this Article.
B. The Department shall assess and collect a flat rate fee for a certification or renewal under the operator certification program.
C. A person shall submit the applicable fee when requesting a certification or renewal under 18 A.A.C. 5, Article 1, as described below:
1. An applicant that seeks new certification shall submit a \$65 fee per certification.
2. An operator that has not held a lower grade level for the required amount of time requests that the Department's determination on experience and education in order to be admitted to a higher grade certification examination shall submit a fee of \$150 per application.
3. An applicant that requests a certificate based on reciprocity with another jurisdiction shall submit a fee of \$250 per application.
4. An operator submitting a certificate renewal shall submit a \$150 fee for each certificate. If the operator has multiple certificates, the first certificate is \$150, and each additional certificate with the same expiration date is \$50.

R18-14-302. Fee Assessment and Collection

- A.** Fees for certification or renewal shall be paid in U.S. dollars by cash, check, cashier's check, money order, or any other method acceptable to the Department.
B. The Department shall not accept a request for a certification or renewal without the appropriate fee.
C. If the Department does not accept an operator certificate renewal form, required according to A.A.C. R18-5-107(B), the certificate expires for failure to renew according to A.A.C. R18-5-108.

R18-14-303. Implementation

The fees in this Article apply to any application for a certification or renewal that is submitted on or after July 1, 2015.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1778.) The Governor's Office authorized the notice to proceed through the rulemaking process on June 24, 2011.

[R14-88]

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R17-5-601	Amend
R17-5-602	Amend
R17-5-603	Amend
R17-5-604	Amend
R17-5-605	Amend
R17-5-606	Amend
R17-5-607	Amend
R17-5-608	Amend

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R17-5-609	Amend
R17-5-610	Amend
R17-5-611	Amend
R17-5-612	Amend
R17-5-613	Amend
R17-5-701	Amend
R17-5-702	Amend
R17-5-703	Amend
R17-5-704	Amend
R17-5-705	Amend
R17-5-706	Amend
R17-5-707	Amend
R17-5-708	Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statutes: A.R.S. §§ 28-366, 28-1462 and 28-1465

Implementing statutes: A.R.S. §§ 28-1301, 28-1461 through 28-1467, 41-1009, and A.R.S. Title 41, Chapter 6, Article 6

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rules:

Notice of Docket Opening: 19 A.A.R. 2858, September 20, 2013

4. The agency's contact person who can answer questions about the rulemaking:

Name: Jane McVay
Address: Department of Transportation
Government Relations and Policy Development Office
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-4279
Fax: (602) 712-3232
E-mail: jmcvay@azdot.gov
Web site: Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at [http://www.azdot.gov/docs/Government Relations/adotrules/](http://www.azdot.gov/docs/Government%20Relations/adotrules/)

5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Arizona Department of Transportation initiates this rulemaking to amend existing rules relating to ignition interlock device manufacturers and installers. The rules define violations, program reporting requirements, and improper reporting by reporting manufacturers and authorized reporting installers. The rules also require authorized ignition interlock installers to undergo annual recertification. The rules incorporate by reference the 2013 Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIID's) from the National Highway Transportation Safety Administration (NHTSA). Manufacturers will be required to submit a new application and a new laboratory test on or before April 1, 2015, showing that each ignition interlock device meets these NHTSA requirements. Beginning April 1, 2015, for new ignition interlock installations, a manufacturer or its authorized installer will only install certified ignition interlock devices that meet these new specifications. In addition, the rules also provide that the Department will extend a participant's interlock period for six months after a participant has a set of four valid and substantiated missed rolling retests during an ignition interlock period.

In anticipation of this rulemaking, the Department has worked closely with all certified ignition interlock device manufacturers and installers to redesign and streamline existing reporting processes and procedures. The Department has held three stakeholder meetings with manufacturers and installers to discuss these rule changes. The Department requested that all installers work closely with their respective device manufacturers to ensure successful implementation of the electronic reporting system. The Department has designed system enhancements to improve and streamline the reporting of certified ignition interlock device data, eliminate erroneous violation reporting that may extend a participant's required ignition interlock period, and facilitate improved communication between manufacturers, installers, and the Department.

The rule revision process included a review of the ignition interlock statutes and rules, and an internal audit of ignition interlock device cases and reporting data. The Department determined that of the total ignition interlock cases in which a participant requested a hearing from July to September 2013, 96% of possible interlock extensions were voided by the Department's Executive Hearing Office. The most common reasons for the Executive Hearing Office

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voiding an ignition interlock extension were failure of the manufacturer or installer to provide a data logger, or insufficient evidence of tampering, such as vehicle voltage issues or arrival tests. The Department has begun to manually review all tampering cases before issuing an extension. Reporting manufacturers and reporting installers are required to provide data loggers within 10 days before the Department extends a participant's ignition interlock period. The proposed rules provide further clarification about activities that a reporting manufacturer or an authorized reporting installer shall report and the valid and substantiated proof that a manufacturer or its authorized installer is required to provide to the Department. The rules list activities that are a violation, including tampering, failing to provide proof of compliance or inspection of the interlock device, attempting to operate a vehicle when a driver who is at least 21 has an alcohol concentration over 0.08, or attempting to operate a vehicle when the driver is under 21 and has an alcohol concentration over the set point, and removing the device. In addition, the rules allow the Director to issue a cease and desist order for improper reporting and allow at least 5 business days for a manufacturer, an authorized installer, or a service center to take action as specified in the order, or cease and desist from engaging in any further activity. On failure of the manufacturer, authorized installer, or a service center to comply with the cease and desist order, the Director may decertify a manufacturer's device or cause an installer or service center to lose its certification. The rules also reduce the time period for a manufacturer or its authorized reporting installer to retain participant records from five to three years. Minor changes were made to modernize the rule drafting style, and improve the clarity, conciseness, and understandability of the rules.

6. A reference to any study relevant to the rules that the agency reviewed and proposes to either rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The agency did not review or rely on any study relevant to the rules.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The rules incorporate best practice guidelines developed by the ignition interlock industry and currently used by device manufacturers conducting business in other states. The current rules require ignition interlock device manufacturers to oversee the device related activities of their authorized installers. The Department anticipates that manufacturers and installers will experience some cost increases for programming and implementing electronic reporting changes. The rules require a manufacturer to submit a new application and related information for each ignition interlock device, and a new laboratory test to the Department on or before April 1, 2015, indicating that each ignition interlock device meets or exceeds the 2013 NHTSA Model Specifications for BAIID's. Testing devices to these new standards is expected to ensure greater accuracy of the devices. Manufacturers will be required to pay for a new laboratory test to test each ignition interlock device model, which is estimated at approximately \$50,000. Ignition interlock manufacturers operate in multiple states, many of which are adopting these specifications, so a manufacturer can spread the lab test cost over multiple state programs.

The Department anticipates that ignition interlock device manufacturers and installers will reduce their computer processing costs as a result of the rule changes through a decrease in communications costs between the responsible reporting entity and the Department. The electronic reporting system records all certified ignition interlock device related information needed for the Department and law enforcement personnel to promptly verify a participant's compliance with the program. Program participants should benefit significantly by the clarification of the rule provisions on reporting, the definition of violation, and the immediate recording of updates and corrections to their driving records to comply with the Department's ignition interlock program. Ignition interlock program participants will experience an un-quantifiable benefit from the additional controls and protections the proposed rules will provide. The rules should ensure that a participant's requirement to maintain a functioning certified ignition interlock device is not inadvertently extended by the Department as a result of improper reporting by a certified ignition interlock device manufacturer or installer. A participant who fails to take the prescribed rolling retests will pay additional device-related costs imposed by the manufacturer on the participant, however, a participant has control over these costs. The device costs are established in contract between the participant and the manufacturer, and not through these rules.

The anticipated economic impact to the Department is moderate, consisting of system programming costs, and providing the resources necessary for the rulemaking. The Department expects that the rules will reduce the Department's administrative costs to correct driver records, send notices, and conduct administrative hearings due to the failure of a certified ignition interlock reporting manufacturer or authorized reporting installer to properly report device information to the Department as prescribed by rules.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Jane McVay

Address: Department of Transportation
Government Relations and Policy Development Office
206 S. 17th Ave., Mail Drop 140A

Notices of Proposed Rulemaking

Phoenix, AZ 85007
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10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

The Department has scheduled the following oral proceeding on the proposed rules:

Date: August 12, 2014
Time: 10:30 a.m.
Location: Department of Transportation
206 S. 17th Ave.
Phoenix, AZ 85007
Nature: Oral Proceeding/Public Hearing

Written comments on the proposed rulemaking should be directed to the person listed under item 4 and may be submitted for 30 days after the publication of the proposed rules until the close of record at 5 p.m. on August 12, 2014.

Pursuant to Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act (ADA), ADOT does not discriminate on the basis of race, color, national origin, age, gender or disability. Persons that require a reasonable accommodation based on language or disability should contact ADOT Civil Rights at (602) 712-7761 or civilrightsoffice@azdot.gov. Requests should be made as early as possible to ensure the state has an opportunity to address the accommodation.

Personas que requieren asistencia o una adaptación razonable por habilidad limitada en inglés o discapacidad deben ponerse en contacto con la Oficina de Derechos Civiles de ADOT al (602) 712-7761 or civilrightsoffice@azdot.gov. Las solicitudes deben hacerse tan pronto como sea posible para asegurar que el estado tiene la oportunidad de abordar el alojamiento.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

a. Whether the rules require a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The Department certifies ignition interlock installers to install interlock devices and certifies service representatives to inspect, calibrate, and install these devices. An ignition interlock manufacturer must also obtain Department certification of their ignition interlock device to allow installation of the device. These certifications are an agency authorization for a manufacturer, an installer, or service representative to conduct activities in a class that are substantially similar in nature and that are granted to a qualified applicant to conduct identified activities if the applicant meets the applicable requirements of the general permit under A.R.S. § 41-1001.

b. Whether a federal law is applicable to the subject of the rules, whether the rules are more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

A federal law is not applicable to these rules.

c. Whether a person submitted an analysis to the agency that compares a rule's impact of the competitiveness of business in this state to the impact on business in other states:

A competitive business analysis was not submitted to the Department.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

R17-5-604(C) incorporates by reference the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), Appendix A-Quality Assurance Plan Template, and Appendix B-Sample Format For Downloaded Data From The Interlock Data Logger, NHTSA, published at 78 FR 26862 to 26867, May 8, 2013.

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

ARTICLE 6. IGNITION INTERLOCK DEVICE MANUFACTURERS

Section

- R17-5-601. Definitions
- R17-5-602. Ignition Interlock Device Manufacturer Certification; Expiration; Cease and Desist; Denial or Cancellation of Certification
- R17-5-603. Device Requirements, Technical Specifications, and Standards for Setup and Calibration
- R17-5-604. Ignition Interlock Device Certification; Application Requirements
- R17-5-605. Application Processing; Time-frames; Exception
- R17-5-606. Application Completeness; Denial of Ignition Interlock Device Certification; Hearing
- R17-5-607. Cancellation of Certification; Hearing
- R17-5-608. Modification of a Certified Ignition Interlock Device Model
- R17-5-609. Manufacturer Referral to ~~Division-certified~~ Department-certified Installers; Manufacturer Oversight of its Authorized Installers
- R17-5-610. Installation Verification; Accuracy Check; Noncompliance and Removal Reporting; Report Review
- R17-5-611. Emergency Assistance by Manufacturers and Authorized Installers; Continuity of Service to Participants
- R17-5-612. Records Retention; Submission of Copies and Quarterly Reports; ~~Periodic Inspections~~
- R17-5-613. ~~Ignition Interlock Investigator~~ Inspections

ARTICLE 7. IGNITION INTERLOCK DEVICE INSTALLERS

Section

- R17-5-701. Definitions
- R17-5-702. Ignition Interlock Device Installer Certification; Application Requirements; Recertification
- R17-5-703. Ignition Interlock Device Installer Bond Requirements; Recertification
- R17-5-704. ~~Division-certified~~ Department-certified Installer Responsibilities
- R17-5-705. Installer-certified Service Representatives
- R17-5-706. Accuracy and Compliance Check; Requirements
- R17-5-707. Certification and Inspection of Service Centers; Application
- R17-5-708. Cease and Desist; Denial or Cancellation of Certification; Appeal; Hearing

ARTICLE 6. IGNITION INTERLOCK DEVICE MANUFACTURERS

R17-5-601. Definitions

In addition to the definitions provided under A.R.S. §§ 28-101 and 28-1301, in this Article and A.A.C. R17-4-408, unless the context otherwise requires, the following terms apply:

“Alcohol” means ethyl alcohol, also called ethanol.

“Alcohol concentration” means the weight amount of alcohol contained in a unit volume of breath or air, measured in grams of ethanol/210 liters of breath or air and expressed as grams/210 liters.

“Alveolar breath sample” means the last portion of a prolonged, uninterrupted exhalation from which breath alcohol concentrations can be determined.

“Anticircumvention feature” means any feature or circuitry incorporated into the ignition interlock device that is designed to prevent human activity that would cause the device not to operate as intended.

“Authorized installer” means a person or entity appointed by a manufacturer, and certified by the ~~Division~~ Department, to install and service a certified ignition interlock device model provided by the manufacturer.

“Breath alcohol test” means analysis of a sample of the ~~person’s~~ participant’s expired alveolar breath to determine alcohol concentration.

“Business day” means a day other than a Saturday, Sunday, or state holiday.

“Calibration” means the testing, adjustment, or systematic standardization of an ignition interlock device to determine and verify its accuracy.

“Cancellation” means the withdrawal of a certification granted by the ~~Division~~ Department under this Article, which prohibits a previously certified ignition interlock device manufacturer, its authorized installer, or the authorized

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installer's service center from offering, installing, or servicing an ignition interlock device under Arizona law.

"Certification" means a status granted by the ~~Division~~ Department under this Article, which permits a certified ignition interlock device manufacturer, an authorized installer, or an authorized installer's service center to offer, install, or service an ignition interlock device under Arizona law.

"Corrective action" means an action that the Department takes in relation to a participant's driving privilege and the usage or discontinuation of usage of a certified ignition interlock device, or an action that the Department takes to correct a deficiency of a manufacturer, installer, or service center regarding the performance of duties in Articles 6 or 7 of this Chapter.

"Customer number" means the system-generated, or other distinguishing number, assigned by the ~~Division~~ Department to each person conducting business with the ~~Division~~ Department. The customer number of a private individual is generally the person's driver license or non-operating identification license number.

"Data storage system" means a computerized recording of all events monitored by an installed ignition interlock device, which may be reproduced in the form of specific reports.

~~"Director" means the Assistant Director for the Motor Vehicle Division of the Arizona Department of Transportation or the Assistant Director's designee.~~

~~"Division" means the Arizona Department of Transportation's Motor Vehicle Division.~~

"Emergency bypass" means an event that permits a vehicle equipped with an ignition interlock device to be started without requiring successful completion of a required breath alcohol test.

"Emergency situation" means a circumstance ~~where in which~~ the participant declares to a ~~Division-certified~~ the installer that the vehicle needs to be moved as a condition of law or the participant has a valid and urgent need to operate the vehicle.

"Established place of business" means a business location that is:

Approved by the Department;

Located in Arizona;

Not used as a residence; and

Where a manufacturer's authorized installer performs authorized activities.

"False sample" means any sample other than the unaltered, undiluted, or unfiltered alveolar breath sample coming from the participant.

"Filtered breath sample" means any mechanism by which there is an attempt to remove alcohol from the human breath sample.

"Fixed-site service center" means a permanent location operated by an installer for conducting business and providing services related to a certified ignition interlock device.

"Free restart" means a function of a certified ignition interlock device that will allow a participant to restart the vehicle, under the conditions provided in R17-5-603, without having to complete another breath alcohol test.

~~"Ignition interlock investigator" means a Division representative authorized under R17-5-613 to inspect and monitor ignition interlock device manufacturers, installers, and service centers for continuous compliance with Articles 6 and 7 of this Chapter and A.R.S. Title 28, Chapter 4, Article 5.~~

~~"Illegal start" means the starting of a vehicle equipped with an ignition interlock device without successfully completing the required breath alcohol test.~~

"Ignition interlock period" means the period in which a participant is required to use a certified ignition interlock device that is installed on a vehicle.

"Improper reporting" means any of the following:

Failure of a manufacturer or its authorized reporting installer to report any violations to the Department within 24 hours and to send participant ignition interlock reporting records, including records relating to a violation, to the Department as required in R17-5-610;

Failure of a manufacturer or its authorized reporting installer to provide copies of participant certified ignition interlock device records to the Department within 10 days after the Department's request as prescribed in R17-5-612(B);

Failure of a manufacturer or its authorized reporting installer to provide quarterly reports as required in accordance with the schedule prescribed in R17-5-612(B);

Failure of a manufacturer or its authorized reporting installer to screen and remove invalid or unsubstantiated reporting data from a participant's ignition interlock reporting records prior to submitting these reporting records to the Department as required in R17-5-610;

Failure of a manufacturer or its authorized reporting installer to electronically send each Certified Ignition Interlock Summarized Reporting Record to the Department within 24 hours, after performing an accuracy and compliance check, that results in the Department mailing a license suspension to a noncompliant driver;

Electronic reporting by a manufacturer or its authorized reporting installer to the Department of the same violation by a participant on multiple occasions;

An incident that occurs when a participant's vehicle has high or low voltage;

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An incident that occurs when a participant has a free restart test to start the participant's vehicle;

An incident that occurs in which an installer downloads data from the device during an accuracy check and tampers with a certified ignition interlock device; or

An incident that occurs after the participant's vehicle is turned off.

"Independent laboratory" means a testing facility, not owned or operated by a manufacturer, that can test an ignition interlock device according to ~~Sections 1 and 2 of the National Highway Traffic Safety Administration (NHTSA) Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIDs), 57 FR 11772 to 11787, April 7, 1992. Appendix A-Quality Assurance Plan Template, and Appendix B-Sample Format For Downloaded Data From The Interlock Data Logger, NHTSA, published at 78 FR 26862 to 26867, May 8, 2013.~~

"Installer" means a manufacturer, a manufacturer's authorized representative, or a person or entity responsible for the day-to-day operations of a service center, ~~who that~~ is certified by the ~~Division~~ Department to install a certified ignition interlock device and to provide certified ignition interlock device related services to the public.

"Installer-certified service representative" means any individual who has successfully completed all requirements under R17-5-705, and has received certification from an installer to install, inspect, download, calibrate, repair, monitor, maintain, service, or remove a specific certified ignition interlock device.

~~"Interlock" means the mechanism which prevents a motor vehicle from starting when the breath alcohol concentration of a participant meets or exceeds a preset value.~~

"Lock-out condition" means the operational status of a certified ignition interlock device, which after recording any violation of A.R.S. Title 28, Chapter 4, Article 5, immobilizes a participant's vehicle by disallowing further operation of the device. The lock-out feature is built into ~~an~~ a certified ignition interlock device through manufacturer software or firmware, and once activated, the device must be re-set by the manufacturer's authorized installer.

"Manufacturer" means a person or entity that produces a certified ignition interlock device and is certified by the ~~Division~~ Department to offer the device for installation under Arizona law.

"Manufacturer's authorized representative" means an individual or entity designated by a manufacturer to represent or act on behalf of the manufacturer of a certified ignition interlock device.

"Material modification" means a change to a certified ignition interlock device that affects the functionality of the device.

"Missed rolling retest" means the participant refuses or fails to provide a valid and substantiated breath sample in response to a requested rolling retest if not followed by the participant providing a valid and substantiated breath sample within 45 minutes.

"Mobile service center" means the portable operation of an installer, whether contained within a vehicle or temporarily erected ~~on location, at a publicly accessible commercial location, including a kiosk,~~ which includes all personnel and equipment necessary for an installer to conduct certified ignition interlock device related business and services, separately and simultaneously, with its parent fixed-site service center.

~~"Negative result" means a test result indicating that the alcohol concentration is less than the startup set point value.~~

"NHTSA" means the United States Department of Transportation's National Highway Traffic Safety Administration. "NHTSA specifications" means the specifications for breath alcohol ignition interlock devices ~~published at 57 FR 11772 to 11787, April 7, 1992. published at 78 FR 26862 to 26867, May 8, 2013.~~

"Participant" means a person who is ordered by an Arizona court or the ~~Division~~ Department to equip each motor vehicle operated by the person with a functioning certified ignition interlock device and who becomes ~~an authorized installer's a~~ a customer of an installer for installation and servicing of the certified ignition interlock device.

"Positive result" means a test result indicating that the alcohol concentration meets or exceeds the startup set point value.

"Principal place of business" means a manufacturer's administrative headquarters that is located in Arizona and is not used as a residence.

"Purge" means any mechanism ~~which that~~ cleanses or removes a previous breath or reference sample from the device and specifically removes alcohol.

"Reference sample device" means a device containing a sample of known alcohol concentration.

"Retest set point" has the same meaning as startup set point.

"Rolling retest" means an additional breath alcohol test required of the participant at random intervals- after the start of the vehicle ~~This test that~~ is in addition to the initial test required to start the vehicle.

"Service center" means a certified ignition interlock device service center operated by an installer who meets and maintains all Department certification and inspection requirements ~~of the Division~~ under R17-5-707, whether operated on a fixed-site or mobile.

"Startup set point" means the alcohol concentration value, established by the ~~Division~~ Department under R17-5-603, which is determined by the ~~Division~~ Department to be the point at which, or above, ~~an~~ a certified ignition interlock device shall disable the ignition of a motor vehicle.

~~"Violation" means any of several events including, but not limited to, high alcohol concentrations, illegal starts, and failures to perform rolling retests. the following reportable activities performed by a participant for whom the Depart-~~

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ment shall take corrective action against the participant's driving privilege:

Tampering with the certified ignition interlock device as defined in A.R.S. § 28-1301;

Failing to provide proof of compliance or inspection of the certified ignition interlock device under A.R.S. § 28-1461(E)(4);

Attempting to operate the vehicle with an alcohol concentration of 0.08 or more as prescribed in A.R.S. § 28-1461(E) if the participant is at least 21 years of age;

Attempting to operate the vehicle with an alcohol concentration value in excess of the startup set point if the participant is under 21 years of age;

Beginning on April 1, 2015, refusing or failing to provide any set of four valid and substantiated breath samples in response to a requested rolling retest during a participant's ignition interlock period; or

Disconnecting or removing a certified ignition interlock device, except:

a. On receipt of Department authorization to remove the device;

b. On repair of the vehicle, if the participant provided to the manufacturer, installer, or service center advanced notice of the repair and the anticipated completion date; or

c. On replacement of one vehicle with another vehicle if replacement of the device is accomplished within 72 hours of device removal.

“Violation reset” means the unplanned servicing of a certified ignition interlock device and the downloading of information from its data storage system by a service center when required as a result of an over-accumulation of violations.

R17-5-602. Ignition Interlock Device Manufacturer Certification; Expiration; Cease and Desist; Denial or Cancellation of Certification

- A. An ignition interlock device manufacturer shall obtain certification by the ~~Division~~ Department under this Article before offering an ignition interlock device model for installation under Arizona law.
- B. After receiving ~~Division~~ Department certification for an ignition interlock device model and meeting all the requirements under R17-5-604, the ignition interlock device manufacturer is effectively certified by the ~~Division~~ Department to offer its certified ignition interlock device model for installation under Arizona law.
- C. An ignition interlock device manufacturer shall submit a new application to the ~~Division~~ Department under R17-5-604 for the certification of each new ignition interlock device model the manufacturer intends to offer for installation.
- D. Manufacturer certification issued by the ~~Division~~ Department under this Article shall automatically expire if:
1. The manufacturer no longer provides at least one currently certified ignition interlock device model for installation under Arizona law; and
 2. The manufacturer has no pending application on file with the ~~Division~~ Department for the certification of a device under R17-5-604.
- E. If the Director has reason to believe that a manufacturer with at least one certified ignition interlock device in this state, who is responsible for reporting ignition interlock information to the Department, is operating in violation of the provisions of this Article on improper reporting or Title 28, Chapter 4, Article 5, the Director may immediately issue a cease and desist order on the manufacturer's principal place of business in this state by personal delivery or by mail to the manufacturer's last known address. The Director's order shall allow at least five business days for the reporting manufacturer to take action as specified in the order, or cease and desist from engaging in any further activity.
1. On receipt of a cease and desist order, a manufacturer shall take action as specified in the order, or cease and desist from engaging in any further activity authorized under this Article or A.R.S. Title 28, Chapter 4, Article 5.
 2. On failure of a manufacturer to comply with a cease and desist order, the Director may immediately cancel the manufacturer device certification.
- F. If the Department cancels the manufacturer device certification, the manufacturer may appeal the action as follows:
1. Within 15 days after receipt of a notice of cancellation of manufacturer device certification, the manufacturer may file a written request for a hearing on the issue of the cancellation of manufacturer device certification with the Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5.
 2. If a hearing on the issue of the cancellation of manufacturer device certification is timely requested, the Department's Executive Hearing Office shall conduct the hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5. The request for a hearing stays the summary cancellation of manufacturer device certification.
 3. Within 10 days after a hearing, the hearing officer shall issue to the manufacturer a written decision, which shall:
 - a. Provide findings of fact and conclusions of law; and
 - b. Grant the application, deny the application, or cancel the certification.
 4. If the hearing officer affirms the cancellation of certification, the manufacturer may seek judicial review under A.R.S. Title 12, Chapter 7, Article 6, within 30 days from the date of the decision and order. The cancellation of certification shall not be suspended during pendency of an appeal.
 5. During the period of cancellation of certification, the Department shall notify the manufacturers' authorized installers and service representatives that they are prohibited from installing, servicing, and maintaining any certified ignition

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interlock devices, and performing any other activities authorized in these rules.

- G.** If the Director cancels a manufacturer's device certification, the Director shall notify each participant with the manufacturer's certified ignition interlock device that the participant has 30 days to obtain another installer.
- H.** Decertification of a manufacturer's device prohibits the manufacturer from performing its duties, operating under these rules, and making the device available for installation for a period of one year from the latest of the following dates when:
1. The Department cancels a manufacturer's device certification, or
 2. The Department's Executive Hearing Office cancels the manufacturer's device certification.
- I.** After the one-year decertification period ends, a manufacturer may reapply to the Department for certification by completing a new application for the certification of a device and meeting all certification requirements under this Article.
- ~~E.~~ Once If a manufacturer's certification expires, as a result of subsections (D)(1) and (D)(2), the manufacturer may reapply for certification by submitting a new application to the ~~Division~~ Department for the certification of a device under R17-5-604.

R17-5-603. Device Requirements, Technical Specifications, and Standards for Setup and Calibration

- A. Accuracy standards.** ~~The startup set point value for an a certified ignition interlock device shall be an alcohol concentration of 0.030 g/210 liters of breath. The accuracy of a device shall be 0.030 g/210 liters plus or minus 0.010 g/210 liters. The accuracy shall be determined by analysis of an external standard generated by a reference sample device. Beginning on April 1, 2015, to conform to the adoption of the NHTSA specifications in R17-5-604(C), the startup set point value for a certified ignition interlock device shall be an alcohol concentration of 0.020 g/210 liters of breath. The accuracy of a device shall be 0.020 g/210 liters plus or minus 0.010 g/210 liters as determined by analysis of an external standard generated by a reference sample device.~~
- B. Alveolar breath sample.** A device shall have a demonstrable feature designed to assure that a breath sample measured is essentially alveolar.
- C. Specificity.** A test of alcohol-free samples shall not yield a positive result. Endogenously produced substances capable of being present in the breath shall not yield or significantly contribute to a positive result.
- D. Temperature.** ~~A device~~ All devices, including those with cameras, shall meet the requirements of subsection (A) when used at ambient temperatures of -20° Celsius to 83° Celsius.
- E. Anticircumvention standards.** A device shall be designed so that anticircumvention features will be difficult to bypass.
1. Anticircumvention provisions shall include, but are not limited to, prevention or preservation of any evidence of cheating by attempting to use a false or filtered breath sample or electronically bypassing the breath sampling requirements of a device.
 2. A device shall use special seals or other methods that reveal attempts to bypass lawful device operation.
- F. Operational features.** A device shall:
- ~~1. A device shall allow~~ Allow a free restart of a motor vehicle's ignition, within three minutes after the ignition is switched off, without requiring another breath alcohol test.
 - ~~2. A device shall automatically~~ Automatically purge alcohol before allowing analysis.
 - ~~3. A device shall have~~ Have a data storage system with the capacity to sufficiently record and maintain a record of the participant's daily driving activities that occur between each regularly scheduled accuracy and compliance check referenced under R17-5-610 and R17-5-706. ~~All daily driving activity records in the device's data storage system shall be maintained by the installer and the service center and made available to the Division upon request as provided under R17-5-612. A manufacturer or its authorized installer shall download any digital images taken during a participant's accuracy and compliance check. A manufacturer or its authorized installer shall make these digital images available to the Department on request.~~
 4. ~~A device shall use~~ Use the most current version of the manufacturer's software and firmware to ensure compliance with this Article and any other applicable rule or statute; ~~and The the~~ the manufacturer's software and firmware:
 - a. Shall require device settings and operational features to include, but are not limited to, sample delivery requirements, startup and retest set points, free restart, rolling retest requirements, violation settings and lock-out conditions; and
 - b. Shall not allow modification of the device settings or operational features by a service center or service representative unless the ~~Division~~ Department approves the modification under subsection (G).
 5. ~~A device shall record~~ Record all emergency bypasses in its data storage system.
 6. ~~A device shall require~~ Require a participant to perform a rolling retest within five to 15 minutes after the initial test required to start an engine; ~~and The the~~ the device shall continuously require additional rolling retests at random intervals of up to 45 minutes after each previously requested retest; as follows:
 - a. A device shall emit a warning light, tone, or both, to alert a participant that a rolling retest is required.
 - b. A device shall allow a period of six minutes after the warning light, tone, or both, to allow a participant to take a rolling retest.
 - ~~b.c.~~ A device shall require a participant to perform a new test to restart an engine if it is inadvertently switched off during or after a rolling retest warning.

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- e.d. A device shall use the startup set point value as its retest set point value.
- ~~e.e.~~ A device shall record, in its data storage system, the result of each rolling retest; performed by a participant during the participant's ignition interlock period and any valid and substantiated missed rolling retests; and
- e.f. A device shall immediately require another rolling retest each time a participant refuses to perform a requested rolling retest.-
- 7. Until a participant successfully performs a rolling retest, or the engine is switched off, a device shall record in its data storage system, each subsequent refusal or failure of the participant to perform the requested rolling retest.
- 8. ~~Upon~~ On recording a violation of A.R.S. Title 28, Chapter 4, Article 5, ~~the device shall~~ emit a unique cue, either auditory, visual, or both, to warn a participant that the device will enter into a lock-out condition in 72 hours unless reset by the installer.
- 9. When a violation results in a lock-out condition, the device shall:
 - a. Immobilize the participant's vehicle;
 - b. Uniquely record the event in the data storage system; and
 - c. Require a violation reset by the installer.
- G. ~~Modification.~~ No modification shall be made to the design or operational concept of a device model after the ~~Division~~ Department has certified the device for installation under Arizona law, ~~except that:~~
 - 1. A software or firmware update required to maintain a device model is permissible if the update does not modify the design or operational concept of the device.
 - 2. Replacement, substitution, or repair of a part required to maintain a device model is permissible if the part does not modify the design or operational concept of the device.
 - 3. If a manufacturer determines that an existing ~~Division-certified~~ Department-certified ignition interlock device model requires a modification that may affect the operational concept of a device, the manufacturer shall immediately notify the ~~Division~~ Department.

R17-5-604. Ignition Interlock Device Certification; Application Requirements

- A. A manufacturer shall offer for installation only an ignition interlock device that is certified by the ~~Division~~ Department under this Section.
- B. For certification of an ignition interlock device model, a manufacturer shall submit to the ~~Division~~ Department a properly completed application form that provides:
 - 1. The manufacturer's name;
 - 2. The manufacturer's principal place of business address in this state, established places of business in this state, and telephone number; telephone numbers;
 - 3. The manufacturer's status as a sole proprietorship, partnership, limited liability company, or corporation;
 - 4. The name of the sole proprietor or of each partner, officer, director, manager, member, agent, or 20% or more stockholder;
 - 5. The name and model number of the ignition interlock device and the name under which the ignition interlock device will be marketed; and
 - 6. The following statements, signed by ~~an authorized representative of the manufacturer~~ the manufacturer's authorized representative and acknowledged by a notary public or ~~Division~~ Department agent:
 - a. A statement that all information provided on the application form, including all information provided on any attachment to the application form, is complete, true, and correct;
 - b. A statement that the manufacturer agrees to indemnify and hold harmless the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona from all liability for:
 - i. Damage to property or injury to people arising, directly or indirectly, out of any act or omission by the manufacturer or its authorized installer relating to the installation and operation of the ignition interlock device; and
 - ii. All court costs, expenses of litigation, and reasonable attorneys' fees;
 - c. A statement that the manufacturer agrees to comply with all requirements under this Article; and
 - d. A statement that the manufacturer agrees to immediately notify the ~~Division~~ Department of any change to the information provided on the application form.
- C. A manufacturer shall submit the following additional items with the application form:
 - 1. A document that provides a detailed description of the ignition interlock device and a photograph, drawing, or other graphic depiction of the device;
 - 2. A document that contains the complete technical specifications for the accuracy, reliability, security, data collection, recording, and tamper detection capabilities of the ignition interlock device;
 - 3. An independent laboratory's report that:
 - a. Presents supporting data to demonstrate that the ignition interlock device meets or exceeds the test-results required by ~~Sections 1 and 2 of the NHTSA specifications published at 57 FR 11772 to 11787, April 7, 1992; the~~ Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), Appendix A-Quality Assurance

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Plan Template, and Appendix B-Sample Format For Downloaded Data From The Interlock Data Logger, NHTSA, published at 78 FR 26862 to 26867, May 8, 2013. The NHTSA specifications are incorporated by reference and are on file with the ~~Division Department~~ and the NHTSA Office of Research & Technology (NTS-131), 400 7th St. S.W., Washington, D.C. 20590. This incorporation by reference contains no future editions or amendments;

- b. Provides the independent laboratory's name, address, and telephone number; and
- c. Provides the name and model number of the ignition interlock device tested;
4. A laboratory certification form, signed by an authorized representative of the independent laboratory that prepared the report required under subsection (C)(3) of this Section, and acknowledged by a notary public or ~~Division Department~~ agent, that states:
 - a. The laboratory is not owned or operated by a manufacturer and no other conflict of interest exists;
 - b. The laboratory tested the ignition interlock device in accordance with ~~Sections 1 and 2 of the NHTSA specifications; the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIDs), Appendix A-Quality Assurance Plan Template, and Appendix B-Sample Format For Downloaded Data From The Interlock Data Logger, NHTSA, published at 78 FR 26862 to 26867, May 8, 2013.~~
 - c. The laboratory confirms that the ignition interlock device meets or exceeds the test results required under ~~Sections 1 and 2 of the NHTSA specifications; the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIDs), Appendix A-Quality Assurance Plan Template, and Appendix B-Sample Format for Downloaded Data From The Interlock Data Logger, NHTSA, published at 78 FR 26862 to 26867, May 8, 2013;~~
 - d. The laboratory used properly maintained equipment and trained personnel to test the ignition interlock device; and
 - e. The laboratory presented accurate test results to the ~~Division Department~~;
5. A list of all authorized installers of the ignition interlock device, including the name, location, telephone number, contact person, and hours of operation of each authorized installer;
6. A copy of the complete written instructions the manufacturer will provide to its authorized installers under R17-5-609 for installation and operation of the ignition interlock device for which the manufacturer seeks certification. The written instructions shall include a requirement for the installer to affix, to each certified ignition interlock device installed, a warning label that conforms to the criteria prescribed under R17-5-609, as illustrated on the application form provided by the ~~Division Department~~;
7. A copy of the complete written instructions the ~~Manufacturer~~ manufacturer shall provide to its authorized installers under R17-5-609 for distribution under R17-5-704 to participants and other operators of a vehicle equipped with the ignition interlock device for which the manufacturer seeks certification; and
8. A certificate of insurance, issued by an insurance company authorized to transact business in Arizona, specifying:
 - a. A product liability policy with a current effective date;
 - b. The name and model number of the ignition interlock device model covered by the policy;
 - c. Policy coverage of at least \$1,000,000;
 - d. The manufacturer as the insured and the state of Arizona as an additional insured;
 - e. Product liability coverage for defects in manufacture, materials, design, calibration, installation, and operation of the ignition interlock device; and
 - f. The insurance company ~~will~~ shall notify the ~~Division Department~~ at least 30 days before canceling the product liability policy.

D. On or before April 1, 2015, a manufacturer shall submit a new application form and all the information required in this Section to the Department to certify any new ignition interlock device, or recertify an existing ignition interlock device, to the NHTSA specifications in subsection (E) of this Section. For each ignition interlock device, a manufacturer shall submit a new laboratory report from an independent laboratory to the Department on or before April 1, 2015, that presents supporting data to demonstrate that the ignition interlock device meets or exceeds the test results required by the NHTSA specifications.

E. Beginning on April 1, 2015, for any new ignition interlock device installation or replacement of a device on a participant's vehicle, a manufacturer or its authorized installer shall install only a certified ignition interlock device that meets or exceeds the test results required by the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIDs), Appendix A - Quality Assurance Plan Template, and Appendix B - Sample Format For Downloaded Data from the Interlock Data Logger, NHTSA, published 78 FR 26862 to 26868, May 8, 2013.

R17-5-605. Application Processing; Time-frames; Exception

- A.** The ~~Division Department~~ shall process an application for certification or recertification under this Article, and Article 7, only if an applicant meets all applicable application requirements.
- B.** The ~~Division Department~~ shall, within 10 days of receiving an application for certification; or recertification provide notice to the applicant that the application is either complete or incomplete.
 1. The date of receipt is the date the ~~Division Department~~ stamps on the application when received.

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2. If an application is incomplete, the notice shall specifically identify what required information is missing.
- C. An applicant with an incomplete application shall provide all missing information to the ~~Division~~ Department within 15 days of the date indicated on the notice provided by the ~~Division~~ Department under subsection (B).
 1. After receiving all of the required information, the ~~Division~~ Department shall notify the applicant that the application is complete.
 2. The ~~Division~~ Department may deny certification or recertification if the applicant fails to provide the required information within ~~10~~ 15 days of the date indicated on the notice.
- D. Except as provided under subsection (F), the Director shall render a decision on an application for certification or recertification under this Article or Article 7, within ~~45~~ 40 days of the date indicated on the notice acknowledging receipt of a complete application, provided to the applicant under ~~subsections~~ subsection (B) or (C).
- E. For the purpose of A.R.S. § 41-1073, the ~~Division~~ Department establishes the following time-frames for processing an application for certification or recertification under this Article or Article 7:
 1. Administrative completeness review time-frame: ~~15~~ 10 days.
 2. Substantive review time-frame: 30 days.
 3. Overall time-frame: ~~45~~ 40 days.
- F. Established time-frames may be adjusted by the ~~Division~~ Department as needed to obtain all external agency approvals required for certifying a new ignition interlock device model submitted by a manufacturer under R17-5-604.

R17-5-606. Application Completeness; Denial of Ignition Interlock Device Certification; Hearing

- A. An application for certification of an ignition interlock device model is complete when the ~~Division~~ Department receives:
 1. From the manufacturer, a properly prepared application form;
 2. From the manufacturer, all additional items required under R17-5-604(C); and
 3. From the Arizona Department of Public Safety, under A.R.S. § 28-1462, written confirmation or disapproval of the independent laboratory's report that the ignition interlock device meets the NHTSA specifications; ~~in R17-5-604(C).~~
- B. The Director shall deny an application for certification of an ignition interlock device model if all requirements of subsection (A) are not met, or ~~upon~~ on finding any of the following:
 1. The design, materials, or workmanship contains a defect that causes the ignition interlock device model to fail to function as intended;
 2. The manufacturer's liability insurance coverage is terminated or canceled;
 3. The manufacturer no longer offers the ignition interlock device model for installation under Arizona law;
 4. The manufacturer or independent laboratory provided false or inaccurate information to the ~~Division~~ Department relating to the performance of the ignition interlock device model;
 5. The components, design, or installation and operating instructions have undergone a modification that causes the ignition interlock device model to be out of compliance with the NHTSA specifications; ~~in R17-5-604(C);~~ or
 6. The ~~Division~~ Department receives a report of device disapproval from an independent laboratory or other external reviewer.
- C. The ~~Division~~ Department shall mail to the manufacturer, written notification of the certification or denial of certification of an ignition interlock device model. A notice denying certification of an ignition interlock device model shall specify the basis for the denial and indicate that the applicant may, within 15 days of the date on the notice, request a hearing on the Director's decision to deny certification by filing a written request with the ~~Division's~~ Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5.
- D. If a manufacturer timely requests a hearing on the Director's decision to deny certification; ~~of an ignition interlock device model,~~ the ~~Division's~~ Department's Executive Hearing Office shall conduct the hearing as provided under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5.

R17-5-607. Cancellation of Certification; Hearing

- A. The Director shall cancel an ignition interlock device model certification and remove the device from its list of certified ignition interlock devices ~~upon~~ on finding any of the following:
 1. The design, materials, or workmanship contains a defect that causes the ignition interlock device model to fail to function as intended;
 2. The manufacturer's liability insurance coverage is terminated or canceled;
 3. The manufacturer no longer offers the ignition interlock device model for installation under Arizona law;
 4. The manufacturer or independent laboratory provided false or inaccurate information to the ~~Division~~ Department relating to the performance of the ignition interlock device model;
 5. The components, design, or installation and operating instructions have undergone a modification that causes the ignition interlock device model to be out of compliance with the NHTSA specifications in R17-5-604(C);
 6. The manufacturer instructs the ~~Division~~ Department to cancel its certification of the ignition interlock device model; or
 7. The manufacturer, its authorized installer, or the device does not comply with this Article or any other applicable rule

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or statute.

- B. The ~~Division Department~~, ~~upon~~ on finding any of the conditions described under subsection (A), shall mail to the manufacturer a notice and order of cancellation of certification for the specific ignition interlock device model. The notice and order of cancellation shall:
 - 1. Specify the basis for the action; ~~and~~
 - 2. Specify the date when the one-year decertification begins and ends; and
 - ~~2.3.~~ State that the manufacturer may, within 15 days of the date on the notice, file a written request for a hearing with the ~~Division's Department's~~ Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5, to show cause as to why the ignition interlock device certification should not be cancelled.
- C. If a hearing to show cause is timely requested, the ~~Division's Department's~~ Executive Hearing Office shall conduct the hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5.
- D. Within 60 days after the effective date of an order of cancellation, the manufacturer shall, at the manufacturer's own expense, ensure the removal of all decertified ignition interlock devices and facilitate the replacement of each device with a certified ignition interlock device.
- E. The manufacturer of a previously decertified ignition interlock device model may reapply to the ~~Division Department~~ for certification of the ignition interlock device model under R17-5-604- after the one-year device decertification period ends.
- F. Decertification of a manufacturer's device prohibits the manufacturer from performing its duties and making the device available for installation in the state for a period of one year from the latest date when:
 - 1. The Department denies or cancels a manufacturer's device certification, or
 - 2. The Department's Executive Hearing Office denies the application, or cancels an application for certification of the device.

R17-5-608. Modification of a Certified Ignition Interlock Device Model

- A. A manufacturer shall notify the ~~Division Department~~ in writing at least 10 days before a material modification is made to a certified ignition interlock device model.
- B. Before providing a previously certified but materially modified ignition interlock device model for installation in a motor vehicle under an order of an Arizona court or the ~~Division Department~~, a manufacturer shall:
 - 1. Submit to the ~~Division Department~~ a completed application form and all additional items required under R17-5-604(C), and
 - 2. Obtain certification of the materially modified ignition interlock device from the ~~Division Department~~.
- C. The ~~Division's Department's~~ certification of a materially modified ignition interlock device model does not affect the original certification of the unmodified model.

R17-5-609. Manufacturer Referral to ~~Division-certified~~ Department-certified Installers; Manufacturer Oversight of its Authorized Installers

- ~~A.~~ A manufacturer shall perform a background records check on a manufacturer's authorized installer to determine:
 - 1. That each authorized installer is of good moral character and repute.
 - 2. Each authorized installer's past employment history.
 - 3. That each authorized installer provides good customer service and adequately serves the public interest.
 - 4. That each authorized installer has certified that the authorized installer has not had a felony conviction in the five years preceding the individual's request for certification, and
 - 5. The authorized installer's motor vehicle record, the driver license status, and the existence of any driving under the influence convictions.
- ~~B.~~ In this Section, conviction means that a court of competent jurisdiction adjudicated the individual guilty.
- ~~A.C.~~ A manufacturer shall refer a participant only to a ~~Division-certified~~ Department-certified installer.
- ~~B.D.~~ A manufacturer shall provide the ~~Division Department~~ with a toll-free telephone number for a participant to call to obtain names, locations, telephone numbers, contact ~~people,~~ persons, and hours of operation for its authorized installers.
- ~~E.~~ A manufacturer shall notify the Department within 10 days of a change of address of its principal or established place of business in this state.
- ~~C.F.~~ A manufacturer shall ensure that its authorized installer follows the installation and operation procedures established by the manufacturer.
- ~~D.G.~~ A manufacturer shall ensure that its authorized installer receives and maintains all necessary training and skills required to install, troubleshoot, examine, and verify proper operation of the certified ignition interlock device.
- ~~E.H.~~ A manufacturer shall ensure that its authorized installer:
 - 1. Complies with the manufacturer's procedures for removing a certified ignition interlock device from a vehicle, and
 - 2. Electronically notifies the ~~Division Department~~ within 24 hours after removing a certified ignition interlock device.
- ~~F.I.~~ A manufacturer shall ensure that its authorized installer distributes ~~to every participant,~~ and makes available for every ~~per-~~ son participant operating a motor vehicle equipped with a certified ignition interlock device, the manufacturer's written instructions for the following:

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1. Operating a motor vehicle equipped with the certified ignition interlock device,
2. Cleaning and caring for the certified ignition interlock device, and
3. Identifying and addressing any vehicle malfunctions or repairs that may affect the certified ignition interlock device.

G.J. A manufacturer shall ensure that its authorized installer provides to every participant, and makes available for any ~~person~~ participant operating a motor vehicle equipped with a certified ignition interlock device, the manufacturer's specified training ~~in~~ on how to operate a motor vehicle equipped with the device.

H.K. A manufacturer or installer shall provide a warning label, for each certified ignition interlock device installed, which shall:

1. Be of a size appropriate to each device model;
2. Have an orange background; and
3. Contain the following language in black lettering: "Warning! Any person tampering with, circumventing, or otherwise misusing this Ignition Interlock Device, is guilty of a Class 1 misdemeanor."

H.L. A manufacturer shall ensure that its authorized installer affixes conspicuously to each installed certified ignition interlock device the warning label described under subsection (H).

R17-5-610. Installation Verification; Accuracy Check; Noncompliance and Removal Reporting; Report Review

A. A participant shall have installed in a motor vehicle, only an ignition interlock device certified by the ~~Division~~ Department under R17-5-604.

B. A manufacturer shall comply, and ensure that its authorized installer complies, with its written procedures for the installation of a certified ignition interlock device.

C. Certified ignition interlock device installation verification.

1. A manufacturer shall electronically transmit, or ensure that its authorized installer electronically transmits, a Certified Ignition Interlock Device Summarized Reporting Record to the ~~Division~~ Department within 24-hours of installing a certified ignition interlock device.
2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for installation verification shall contain all of the following information:
 - a. Installer ID;
 - b. Participant's full name (first, middle, last and suffix);
 - c. Date of birth;
 - d. Driver license or customer number;
 - e. Report date;
 - f. Install date;
 - g. Removal date; and
 - h. Report ~~Type~~ type.

D. Certified ignition interlock device accuracy and compliance check.

1. A manufacturer shall ensure that its authorized installer schedules a participant for accuracy and compliance checks as follows:
 - a. 30 days, 60 days, and 90 days after installation of a certified ignition interlock device; and
 - b. At least once every ~~60~~ 90 days after the first 90-day accuracy and compliance check-until the participant is eligible for device removal.
2. A manufacturer shall electronically transmit, or ensure that its authorized reporting installer electronically transmits, a Certified Ignition Interlock Device Summarized Reporting Record to the ~~Division~~ Department within 24 hours after performing an accuracy and compliance check on an installed certified ignition interlock device.
3. A manufacturer or its authorized reporting installer shall submit the following valid and substantiated proof or evidence of a reportable activity as prescribed in subsection (F) related to a violation to the Department within 10 days by electronic means or by regular mail, which shall include:
 - a. A report summarizing why the data logger or any other evidence confirms the occurrence of a violation; and
 - b. A data logger that shows at least 12 hours of data before and after the violation.
4. A manufacturer or its authorized reporting installer may submit the following additional valid and substantiated proof or evidence of a reportable activity as prescribed in subsection (F) related to a violation, if available, to the Department within 10 days by electronic means or by regular mail, which may include:
 - a. Photographs;
 - b. Video recordings;
 - c. Written statements; and
 - d. Any other evidence relevant to a violation.

~~3-5.~~ The electronic Certified Ignition Interlock Device Summarized Reporting Record for the accuracy and compliance check shall contain all of the following information:

- a. Installer ID;
- b. Participant's full name (first, middle, last and suffix);

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- c. Date of birth;
 - d. Driver license or customer number;
 - e. Report date;
 - f. Install date;
 - g. Removal date;
 - h. Report ~~Type~~ type; and
 - i. Missed rolling retest count and dates;
 - j. ~~Noncompliance code and breath alcohol concentration violation count as applicable;~~
 - k. Alcohol concentration violation count and dates;
 - l. Tampering violation date;
 - m. Device download date; and
 - n. Device download time.
- E.** ~~Certified ignition interlock device noncompliance report.~~
- 1. ~~A manufacturer shall electronically transmit, or ensure that its authorized installer electronically transmits, a Certified Ignition Interlock Device Summarized Reporting Record to the Division, within 24 hours after conducting an accuracy and compliance check, when an installed certified ignition interlock device displays evidence of tampering, circumvention, or misuse.~~
 - 2. ~~The electronic Certified Ignition Interlock Device Summarized Reporting Record for noncompliance shall indicate the condition of noncompliance and contain all of the following information:~~
 - a. ~~Installer ID;~~
 - b. ~~Participant's full name (first, middle, last and suffix);~~
 - e. ~~Date of birth;~~
 - d. ~~Driver license or customer number;~~
 - e. ~~Report date;~~
 - f. ~~Install date;~~
 - g. ~~Removal date;~~
 - h. ~~Report Type; and~~
 - i. ~~Noncompliance code and breath alcohol concentration violation count as applicable.~~
- ~~F.~~E.** ~~Certified ignition interlock device removal report.~~
- 1. ~~A manufacturer shall electronically transmit, or ensure that its authorized installer electronically transmits, a Certified Ignition Interlock Device Summarized Reporting Record to the ~~Division~~ Department within 24 hours if a certified ignition interlock device is removed before the end of a participant's certified ignition interlock device ~~requirement~~ period.~~
 - 2. ~~The electronic Certified Ignition Interlock Device Summarized Reporting Record for removal of a device shall indicate the condition of noncompliance and contain all of the following information:~~
 - a. ~~Installer ID;~~
 - b. ~~Participant's full name (first, middle, last and suffix);~~
 - c. ~~Date of birth;~~
 - d. ~~Driver license or customer number;~~
 - e. ~~Report date;~~
 - f. ~~Install date;~~
 - g. ~~Removal date;~~
 - h. ~~Report Type type; and~~
 - i. ~~Noncompliance code and breath alcohol concentration violation count as applicable.~~
- F.** Reportable activity for a participant's noncompliance with these rules and A.R.S. Title 28, Chapter 4, Article 5, shall be limited to valid and substantiated instances by a participant of any of the following:
- 1. Tampering with a certified ignition interlock device as defined in A.R.S. § 28-1301;
 - 2. Beginning on April 1, 2015, a missed rolling retest as defined in R17-5-601;
 - 3. Failing to provide proof of compliance or inspection of the certified ignition interlock device as required under A.R.S. § 28-1461(E)(4);
 - 4. Attempting to operate the vehicle with an alcohol concentration of 0.08 or more as prescribed in A.R.S. § 28-1381(A) if the participant is at least 21 years of age;
 - 5. Attempting to operate the vehicle with an alcohol concentration in excess of the startup set point if the participant is under 21 years of age; or
 - 6. Disconnecting or removing a certified ignition interlock device, except:
 - a. On receipt of Department authorization to remove the device;
 - b. On repair of the vehicle, if the participant provided to the manufacturer, installer, or service center advance notice of the repair and the anticipated completion date; or
 - c. On replacement of one vehicle with another vehicle if replacement of the device is accomplished within 72 hours

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of device removal.

- G.** Beginning on April 1, 2015, the Department shall extend the ignition interlock period for six months for a participant's refusal or failure to provide a valid and substantiated breath sample for any set of four missed rolling retests that occur during the ignition interlock period, as provided in A.R.S. § 28-1461(E)(4).
- H.** A manufacturer or its authorized reporting installer shall screen a participant's data loggers to ensure that there is no improper reporting. A manufacturer or its authorized reporting installer shall report to the Department any valid and substantiated missed rolling retests, as defined in R17-5-601, that occur during a participant's ignition interlock period.
- I.** A manufacturer shall provide written notice, as requested, to the Department of each certified, authorized reporting installer who is authorized to send data loggers, reports, and other participant records to the Department.
- J.** A manufacturer or its authorized installer shall ensure that a certified ignition interlock device has the necessary programming to identify each participant's ignition interlock period and to report and send data and violations to the Department as required by these rules.
- K.** A manufacturer or its authorized reporting installer shall review within 10 days all reports generated by the Department and returned to the manufacturer or installer for verification of accurate reporting. If a manufacturer or its authorized installer finds that the reported information does not indicate valid evidence of a violation, the manufacturer or its authorized installer shall immediately contact the Department to correct the participant's record before corrective action is initiated against a participant as a result of misreported ignition interlock data.
- L.** A manufacturer or its authorized reporting installer shall immediately contact the Department if the manufacturer or its authorized reporting installer finds that the reported information indicates:
 - 1. An obvious mechanical failure of a certified ignition interlock device;
 - 2. Obvious errors in the recorded, certified ignition interlock device data that cannot be attributed to a participant's actions; or
 - 3. Obvious errors in the transmission of certified ignition interlock device data to the Department, including misreported instances of tampering.

R17-5-611. Emergency Assistance by Manufacturers and Authorized Installers; Continuity of Service to Participants

- A.** A manufacturer shall ensure that its authorized installer provides to each participant a 24-hour emergency phone number for assistance in the event a certified ignition interlock device fails to operate properly or a vehicle experiences a problem relating to the installation, operation, or failure of a certified ignition interlock device.
 - 1. Within two hours after receiving a participant's call for emergency assistance, if the authorized installer determines that a vehicle is experiencing a problem relating to the installation, operation, or failure of a certified ignition interlock device, the authorized installer shall either:
 - a. Provide telephonically, the technical information required for the participant to resolve the issue; or
 - b. Provide or arrange for appropriate towing or roadside assistance services if unable to resolve the issue telephonically.
 - 2. Within 48 hours after receiving a participant's call for emergency assistance, the authorized installer shall either:
 - a. Make the certified ignition interlock device functional, or
 - b. Replace the certified ignition interlock device.
- B.** A manufacturer shall ensure uninterrupted service to a participant for the duration of the participant's certified ignition interlock ~~device requirement, period,~~ which shall include facilitating the immediate replacement of an authorized installer if the installer goes out of business or its certification or recertification is cancelled by the ~~Division~~ Department under R17-5-708.
 - 1. If a manufacturer terminates its authorized installer's appointment, or the ~~Division~~ Department cancels the installer's certification or recertification under R17-5-708, the manufacturer shall:
 - a. Obtain participant records from its formerly authorized installer; and
 - b. Provide the participant records to a new authorized installer for retention according to R17-5-612; or
 - c. Retain the participant records according to R17-5-612, if a new authorized installer is not appointed.
 - 2. If a manufacturer appoints a new authorized installer, the manufacturer shall:
 - a. Ensure that the new authorized installer operates either:
 - i. A mobile service center that is located within 75 miles of the Arizona residence of each participant with an installed certified ignition interlock device provided by the manufacturer; or
 - ii. A service center that is a permanent facility located within 125 miles of the Arizona residence of each participant with an installed certified ignition interlock device provided by the manufacturer; and
 - b. Notify each participant affected by the appointment of the new authorized installer at least 30 days before the appointment becomes effective.
 - 3. If a manufacturer does not appoint a new authorized installer, or its new authorized installer cannot provide service as prescribed under subsection ~~(2)(B)~~, the manufacturer, at no cost to the participant, shall:
 - a. Provide written notification to all participants affected by the change of authorized installers at least 30 days

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before the authorized installer is to discontinue service. The written notification shall inform the participant of the manufacturer's responsibility to facilitate removal and replacement of the certified ignition interlock device and shall provide all of the instructions necessary for the participant to successfully exchange the device;

- b. Remove the device from the vehicle of each affected participant; and
 - c. Facilitate the replacement of each device through a manufacturer with an authorized installer that can provide service as prescribed under subsection ~~(2)~~(B).
4. A manufacturer shall notify the ~~Division~~ Department within 72 hours of replacing its authorized installer.
 5. A manufacturer shall submit to the ~~Division~~ Department an updated list of its authorized installers within 10 days after making a change to the list provided to the ~~Division~~ Department under R17-5-604.
- C. Except in an emergency situation, a manufacturer or its authorized installer shall not remove another manufacturer's certified ignition interlock device without the express permission of that manufacturer.
1. If in an emergency situation a manufacturer or its authorized installer removes another manufacturer's certified ignition interlock device, that manufacturer or authorized installer shall return the device to the original installer within 72 hours of the emergency removal; and
 2. The original installer, ~~upon~~ on receipt of the device, shall provide to the ~~Division~~ Department an electronic report of the device removal under R17-5-610, which shall include the transmission of all data stored in its data storage system.
- D. A manufacturer shall facilitate the immediate replacement of its authorized installer's service center if the service center goes out of business or ~~its~~ the ~~Division~~ the ~~Department's~~ certification or recertification of the service center is cancelled under R17-5-708. The manufacturer shall notify the ~~Division~~ Department within 72 hours of replacing a service center.
1. If an out-of-business or cancelled service center is replaced, the manufacturer shall make all reasonable efforts to obtain, from the service center being replaced, all participant records and data required to be retained under R17-5-612. The records shall be provided to, and maintained by, the new service center.
 2. If an out-of-business or cancelled service center is not replaced, the manufacturer shall retain the records and data as required under R17-5-612. The ~~Division~~ Department shall be notified of this event within 72 hours.
 - a. The manufacturer shall facilitate removal of all installed certified ignition interlock devices no longer serviced by the out-of-business or cancelled service center, and shall bear the cost of replacing each device with a serviceable certified ignition interlock device, even if the replacement device must be provided through an alternate manufacturer.
 - b. The manufacturer shall, within 30 days, make a reasonable effort to notify its customers of the change of service center or replacement of a device.
 3. ~~If neither subsection (1) nor (2) can be accomplished, the manufacturer shall, cannot comply with subsection (D)(1) or subsection (D)(2) within 60 days, the manufacturer shall:~~
 - a. Notify its customers and the ~~Division~~ Department that service will be terminated; and
 - b. Remove each device at no cost to the customer.

R17-5-612. Records Retention; Submission of Copies and Quarterly Reports; ~~Periodic Inspections~~

- A. Records retention. A manufacturer shall retain, or ensure that its authorized installer retains, a participant's records in an electronic or a paper format for ~~five~~ three years after the removal of a certified ignition interlock device. The retained records shall consist of every document relating to installation and operation of the certified ignition interlock device. The installer and the service center shall maintain all daily participant driving activity records in the device's data storage system, and shall make participant records available to the Department on request at the manufacturer's principal place of business.
- B. Copies of records and quarterly reports.
1. A manufacturer shall ensure that its authorized reporting installer or the manufacturer provides copies of participants' records to the ~~Division~~ Department within 10 days after ~~Division~~ Department personnel make a request for copies of records, including records relating to installation and operation of the certified ignition interlock device.
 2. A manufacturer shall ensure that its authorized installer mails, ~~faxes,~~ or e-mails to the ~~Division~~ Department, by the 10th day of January, April, July, and October, a quarterly report containing the following information for the previous three months:
 - a. The number of certified ignition interlock devices the authorized installer currently has in service;
 - b. The number of certified ignition interlock devices installed since the previous quarterly report; and
 - c. The number of certified ignition interlock devices removed by the authorized installer since the previous quarterly report.
- ~~C. Periodic inspections. The Division shall periodically conduct an inspection at the premises of a manufacturer or its authorized installer, under A.R.S. § 41-1009 and R17-5-613. The inspection shall determine whether the manufacturer, its authorized installer, the service center of the authorized installer, and the installer-certified service representatives are in compliance with this Article and Article 7.~~

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R17-5-613. Ignition Interlock Investigator Inspections

- A. The ~~Division's~~ ignition interlock investigator Department shall investigate any complaint or report of misconduct brought against a certified ignition interlock device manufacturer, installer, service center, or installer-certified service representative for noncompliance with a provision of ~~Articles~~ Article 6 or 7 of this Chapter or A.R.S. Title 28, Chapter 4, Article 5.
- ~~B. Inspection of a manufacturer, installer, or service center under Articles 6 or 7 of this Chapter shall be conducted in accordance with A.R.S. § 41-1009. The inspection shall include an examination of participant records and verification of an adequate supply of the warning labels and written instructions required to be made available under A.R.S. § 28-1462, R17-5-609, and R17-5-704.~~
- ~~C.B.~~ The Division's ignition interlock investigator shall perform Department may periodically conduct onsite inspections at the established place of business of a manufacturer, a manufacturer's authorized installer, or a service center as needed to verify continuous to determine whether a manufacturer, a manufacturer's authorized installer, or a service center is in compliance with the ~~Division's~~ Department's ignition interlock program requirements established under Articles 6 and 7 of this Chapter and A.R.S. Title 28, Chapter 4, Article 5.
- C. The provisions of A.R.S. § 41-1009 apply to Department inspections of a manufacturer, an installer, or a service center. The inspection shall include an examination of participant records and verification of an adequate supply of the warning labels that meet the requirements of A.R.S. § 28-1462, R17-5-609, and R17-5-704.

ARTICLE 7. IGNITION INTERLOCK DEVICE INSTALLERS

R17-5-701. Definitions

In addition to the definitions provided under ~~A.R.S. § 28-1301, A.R.S. §§ 28-101 and 28-1301, and unless the context otherwise requires,~~ the definitions provided under ~~A.A.C. R17-4-408 and R17-5-601~~ apply to this Article unless the context otherwise requires.

R17-5-702. Ignition Interlock Device Installer Certification; Application Requirements; Recertification

- A. A manufacturer's authorized installer shall be certified by the ~~Division~~ Department before installing a certified ignition interlock device, under Arizona law, and shall be recertified annually by the Department to continue to install a certified ignition interlock device under Arizona law.
- B. Beginning April 1, 2015, the Department may establish a system of staggered recertification for authorized installers throughout the twelve months of the year. If the Department approves an installer's certification or recertification, the certification or recertification shall extend for one year from the date of Department approval. A manufacturer's authorized installer shall submit to the Department the information required in subsection D of this Section on an annual basis for recertification. The Department may accept documents submitted with the initial application for certification, subject to Department approval.
- ~~B.C.~~ A manufacturer's authorized installer shall obtain from the manufacturer, as provided under R17-5-609, all necessary training and skills required to install, troubleshoot, examine, and verify proper operation of the manufacturer's certified ignition interlock device.
- ~~C.D.~~ A manufacturer's authorized installer shall submit to the ~~Division~~ Department a properly completed application for installer certification or recertification. The application for installer certification or recertification shall provide:
1. The authorized installer's name;
 2. The authorized installer's business address and telephone number;
 3. The authorized installer's status as a sole proprietorship, partnership, limited liability company, or corporation;
 4. The name of the sole proprietor or of each partner, officer, director, manager, member, agent, or 20% or more stockholder;
 5. The name and model number of each certified ignition interlock device the authorized installer intends to install; and
 6. The following statements, signed by the authorized installer and acknowledged by a notary public or ~~Division~~ Department agent:
 - a. A statement that all information provided on the application form, including all information provided on any attachment to the application form, is complete, true, and correct;
 - b. A statement that the authorized installer agrees to indemnify and hold harmless from all liability the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona;
 - c. A statement that the authorized installer agrees to comply with all requirements under this Article; and
 - d. A statement that the authorized installer agrees to immediately notify the ~~Division~~ Department of any change to the information provided on the application form.
- ~~D.E.~~ The ~~Division~~ Department shall process an application for installer certification or recertification as provided under R17-5-605.
- ~~E.F.~~ Division Department certification issued to an authorized installer under this Article shall not expire as long as the installer remains authorized by a manufacturer to install its certified ignition interlock device model under Arizona law, and the installer completes all requirements for annual recertification in the time period prescribed in this Section
1. If a ~~Division-certified~~ Department-certified installer is no longer authorized by a manufacturer to install its certified

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ignition interlock device, ~~a manufacturer shall notify the Department within 24 hours that the installer's certification is immediately expired.~~ expires.

2. If the installer again becomes authorized by a manufacturer to install its certified ignition interlock device, the installer may reapply to the ~~Division~~ Department for certification under this Article by submitting a new application.

~~F.G.~~ A ~~Division-certified~~ Department-certified ignition interlock device installer shall notify the ~~Division~~ Department within 24 hours of making a decision to relocate a fixed-site service center.

~~G.H.~~ A ~~Division-certified~~ Department-certified ignition interlock device installer shall train and certify each of its service representatives on the proper installation of a certified ignition interlock device before allowing the service representative to install the certified ignition interlock device.

~~H.I.~~ A ~~Division-certified~~ Department-certified ignition interlock device installer shall provide to the ~~Division~~ Department a current list of the names of each of its certified service representatives on a quarterly basis. The installer shall electronically notify the ~~Division~~ Department within 24 hours ~~of~~ after making a change to its list.

R17-5-703. Ignition Interlock Device Installer Bond Requirements; Recertification

A. Before installing, servicing, or removing a certified ignition interlock device, an installer shall:

1. Be appointed by a manufacturer as an authorized installer of its certified ignition interlock device;
2. Obtain an ignition interlock installer bond from a surety company authorized by the Arizona Department of Insurance to conduct general surety business in Arizona. The ignition interlock installer bond shall be:
 - a. In the amount of \$25,000;
 - b. On the approved form provided by the ~~Division~~ Department; and
 - c. Maintained for as long as the installer intends to install, service, or remove ~~Division-certified~~ Department-certified ignition interlock devices under Arizona law;
3. Submit the original completed ignition interlock installer bond to the Arizona Department of Transportation, Motor Vehicle Division, Ignition Interlock Program, 1801 W. Jefferson St. MD530M, Phoenix, AZ 85007; and
4. Receive ~~Division~~ Department certification or recertification under R17-5-702.

B. An installer authorized by a manufacturer and certified or recertified by the ~~Division~~ Department to install, service, or remove more than one certified ignition interlock device model needs only one bond, which shall extend as long as the installer is certified or recertified.

R17-5-704. ~~Division-certified~~ Department-certified Installer Responsibilities

A. An authorized installer certified by the ~~Division~~ Department to install a certified ignition interlock device shall:

1. Follow the installation and operating procedures established; and provided; by the manufacturer;
2. Acquire and maintain all necessary training and skills specified by the manufacturer for installing, troubleshooting, examining, and verifying the proper operation of its certified ignition interlock device;
3. Comply with all of the manufacturer's procedures for removing the certified ignition interlock device from a vehicle;
4. Electronically notify the ~~Division~~ Department within 24 hours after removing a certified ignition interlock device under R17-5-610;
5. Provide to the manufacturer, or to the ~~Division~~ Department if delegated by the manufacturer, an accurate electronic reporting of all applicable information required of the manufacturer under R17-5-610; and R17-5-612;
6. Provide to every participant, and make available for every person operating a motor vehicle equipped with the certified ignition interlock device, a copy of the manufacturer's written instructions for the following:
 - a. Operating a motor vehicle equipped with the certified ignition interlock device;
 - b. Cleaning and caring for the certified ignition interlock device; and
 - c. Identifying and addressing vehicle malfunctions or repairs that may affect the certified ignition interlock device;
7. Ensure that each participant receives an operator's manual and is further instructed regarding all of the following:
 - a. How to use the system;
 - b. How to obtain service for the system;
 - c. How to find answers to any additional questions;
 - d. How the alcohol retest feature works;
 - e. How drinking alcohol before a test may result in a reading of sensitive or fail;
 - f. How the ~~handset of the~~ device shall not be removed, except by an installer-certified service representative;
 - g. How missing an appointment for a regularly scheduled accuracy check will cause the certified ignition interlock device to enter into a lock-out condition that will emit a unique cue, either auditory, visual, or both, to warn the driver that after 72 hours the vehicle will not start. It shall be the responsibility of each participant to have the car towed to the service center if a lock-out condition occurs;
 - h. How noncompliance with a regularly scheduled accuracy check shall result in suspension of the participant's driver license until proof of compliance is submitted to the ~~Division~~ Department under A.R.S. § 28-1463; and the duration of the participant's certified ignition interlock device requirement shall be extended under A.R.S. § 28-1464 and A.A.C. R17-4-408;

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- i. What the penalties are for tampering with, ~~circumventing~~, or misusing the system;
 - j. What will happen after failing a start-up breath alcohol test; ~~and~~
 - k. What will happen after ~~failing a rolling retest~~; a participant has a set of four valid and substantiated missed rolling retests during the participant's ignition interlock period; and
 - l. What events or actions will result in a lock-out of the certified ignition interlock device.
8. Ensure that each participant demonstrates:
 - a. A properly delivered alveolar breath sample; and
 - b. An understanding of how the abort test feature works.
 9. Affix conspicuously, the warning label provided by the ~~Manufacturer~~ manufacturer under R17-5-609.
 10. Check each device for evidence of tampering at least once every ~~60~~ 90 days or more frequently if needed. This anti-circumvention check shall be conducted at each participant's regularly scheduled accuracy and compliance check required under R17-5-610.
 11. Notify the ~~Division~~ Department electronically under R17-5-610 if any evidence of tampering is discovered; ~~and submit valid and substantiated proof or evidence of a reportable activity as required by R17-5-610(D)(2).~~
- B.** An installer shall not permit a service representative whose driving privilege is limited pursuant to A.R.S. § 28-1381, 28-1382, 28-1383, or 28-3319, or restricted under § 28-1402 to install, inspect, download, calibrate, repair, monitor, maintain, service, or remove a certified ignition interlock device until the restrictive period of the service representative's driving privilege ends. An installer whose driving privilege is limited pursuant to A.R.S. § 28-1381, 28-1382, 28-1383, or 28-3319, or restricted under § 28-1402 shall not install, inspect, download, calibrate, repair, monitor, maintain, service, or remove a certified ignition interlock device until the restrictive period of the installer's driving privilege ends.

R17-5-705. Installer-certified Service Representatives

- A.** ~~Initial certification~~ Certification requirements.
1. To achieve certification as a service representative, an individual shall obtain written documentation from a ~~Division-certified~~ Department-certified ignition interlock device installer documenting that the individual is currently trained in each aspect involved with the specific certified ignition interlock device for which the individual seeks certification to install or service.
 2. An installer shall not certify as a service representative, any individual with a felony conviction in the five years preceding the individual's request for certification. In this Section, conviction means that a court of competent jurisdiction adjudicated the individual guilty.
 3. The ~~Division~~ Department, with advance notice to the installers, may require additional standards for installer certification of its service representatives when needed to ensure compliance with the ~~Division's~~ Department's ignition interlock program.
- B.** Proficiency requirements.
1. It is the responsibility of the installer to ensure that its certified service representatives maintain proficiency in each aspect involved with each specific certified ignition interlock device model the individual is certified to install or service.
 2. The ~~Division's~~ Department may at any time require an installer-certified service representative to demonstrate competency in the installation, inspection, downloading, calibrating, repairing, monitoring, maintaining, servicing or removal of a specific certified ignition interlock device. ~~A failure~~ Failure of the installer-certified service representative to demonstrate proficiency to the ~~Division's~~ Department ~~ignition interlock investigator~~ may result in disciplinary action against the installer as provided under R17-5-613 and R17-5-707.

R17-5-706. Accuracy and Compliance Check; Requirements

- A.** An installer-certified service representative shall inspect, maintain, and check each certified ignition interlock device for calibration accuracy and operational performance before the device is placed into, or returned to, service.
- B.** The installer-certified service representative shall perform each accuracy and compliance check in accordance with NHTSA specifications as referenced in R17-5-604(C) at a service center authorized by the installer and certified by the ~~Division~~ Department under R17-5-707.
- C.** The accuracy and compliance check performed under R17-5-610 shall include an inspection of the device to verify that it is properly functioning in accordance with all of the following criteria:
1. Accuracy standards as prescribed under R17-5-603;
 - a. The device shall be calibrated before placed into, or returned to, service.
 - b. ~~The device shall be subjected to a calibration test before returning it to service. This~~ The calibration test shall consist of introducing to the device a known alcohol concentration from a reference sample device, the analysis of which indicates the device's agreement with the known concentration. The installer's software shall be capable of performing, documenting, and reporting the result of this calibration test. The calibration test result ~~described herein~~ shall verify the accuracy of the ignition interlock device according to the standards prescribed under R17-5-603; and

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2. Anticircumvention standards and operational features as prescribed under R17-5-603.
- D.** The calibration test referenced under subsection (C)(~~H~~) shall be performed when the information uploaded from a device indicates that the device has experienced an interruption in service or was completely disconnected. Additionally, the complete device shall be examined for evidence of tampering ~~and circumvention~~ while it is still attached to the vehicle.
- E.** If calibration confirmation test results reveal that the device is not properly calibrated, the device shall be recalibrated to restore the accuracy standards prescribed under R17-5-603 before the device is returned to service.
- E.** At least once every 90 days, an installer-certified service representative shall perform a physical inspection of the ignition interlock device while it is still attached to the vehicle.
- G.** An installer-certified service representative shall perform a physical inspection of the ignition interlock device at other times when the data logger indicates that tampering has occurred and shall maintain a log showing the findings.
- ~~F.H.~~** If at any time an individual device fails to meet the provisions of this Section, the manufacturer, installer, service center, or installer-certified service representative shall either:
1. Repair, recalibrate, and retest the device to ensure that it does meet all applicable standards; or
 2. Remove the device from service.

R17-5-707. Certification and Inspection of Service Centers; Application

- A.** A service center, whether located on a fixed site or mobile, shall be approved and certified by the ~~Division~~ Department under this Article before it is used by an installer to conduct certified ignition interlock device related business in this state.
- B.** For ~~Division~~ Department approval and certification of a service center, an installer shall submit to the ~~Division~~ Department a separate application for each individual service center the installer intends to use for conducting certified ignition interlock device related business in this state.
- C.** On an application for the approval and certification of a service center, available from the ~~Division~~ Department, an installer shall identify:
1. The physical location of the service center;
 2. The certified ignition interlock device, or devices, to be merchandised and serviced at the location; and
 3. The reference sample device, or devices, that will be used at the location.
- D.** An installer shall attach, to the application submitted to the ~~Division~~ Department under subsection (B), a statement from the manufacturer acknowledging that the installer is authorized to install the certified ignition interlock device, or devices, described on the application.
- E.** An installer applying for ~~Division~~ Department approval and certification of a service center shall agree to:
1. Allow the ~~Division~~ Department access to the service center for inspection under subsection (G); and
 2. Comply with all provisions under this Article and A.R.S. Title 28, Chapter 4, Article 5.
- F.** For ~~Division~~ Department approval and certification of a service center, the installer's ignition interlock device testing facilities, equipment, and the procedures used in the service center shall meet the following conditions:
1. A fixed-site service center shall be located in a facility that properly and successfully accommodates installing, inspecting, downloading, calibrating, repairing, monitoring, maintaining, servicing, and removing a specific ignition interlock device. The installer shall:
 - a. Provide a designated waiting area for the participant that is separate from the installation area; and
 - b. Ensure that no participant witnesses installation of the certified ignition interlock device.
 2. A mobile service center shall be equipped with the same materials and capacities prescribed under subsection ~~(H)~~(F)(1) of this Section. An installer or service representative operating a mobile service center shall:
 - a. Provide a designated waiting area for the participant that is separate from the area used for the installation area; and
 - b. Ensure that no participant witnesses installation of the certified ignition interlock device.
 3. The installer, whether operating a fixed-site service center, or mobile, shall ensure that its certified service representatives utilize all of the following:
 - a. The analysis of a reference sample such as headspace gas from a mixture of water and alcohol, the results of which shall agree with the reference sample predicted value, or other methodologies approved by the ~~Division~~ Department. The preparatory documentation on the reference sample solution, such as a certificate of analysis, shall be made available to the ~~Division~~ Department on request.
 - b. The startup set point value established under R17-5-603~~(H)~~(H). All analytical results shall be expressed in grams of alcohol per 210 liters of breath (g/210L).
 - c. The most current versions of manufacturer software and firmware to ensure continuous compliance under this Article and A.R.S. Title 28, Chapter 4, Article 5.
 4. Only a properly trained installer-certified service representative shall perform certified ignition interlock device related services rendered through a service center.
 - a. The installer shall maintain sufficient staff at each service center to ensure an acceptable level of service. The service center shall always be staffed with at least one certified service representative.

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- b. The installer shall schedule accuracy and compliance checks at each service center in a manner that will not deprive a participant of an acceptable level of service.
 - c. The installer's software shall document the certified service representative performing each accuracy and compliance check and shall record the date each service is performed.
 - d. ~~Division-certified~~ Department-certified installers may train potential certified service representatives in the service center only under the direct supervision of a currently certified service representative.
5. The installer shall agree to:
 - a. Submit a violation for a participant's noncompliance to the ~~Division~~ Department as prescribed under R17-5-610 by providing valid and substantiated proof or evidence of a reportable activity as required in R17-5-610(D) no later than 24 hours after the installer discovers the violation;
 - b. Maintain complete records in an electronic or paper format of each device installation for ~~five~~ three years from the date of its removal;
 - c. Require each applicant seeking installer certification as a service representative to certify that ~~he or she~~ the applicant has not been convicted of a felony within the five years preceding the date of application;
 - d. Retain the five-year felony certification required of each installer-certified service representative under subsection ~~(e)(F)(5)~~ for five years after the date of the employee's separation from employment; and
 - e. Make available to the ~~Division upon~~ Department on request, either by inspection or in hard copy form, all records relating to the installer's ignition interlock device operations.
 6. The installer shall ensure that all anticircumvention features are activated on each installed certified ignition interlock device.
 7. The installer shall install and inspect each certified ignition interlock device as provided under this Article.
 - a. Each time an installer uploads the information from a participant's certified ignition interlock device, the installer-certified service representative shall perform a visual inspection of the vehicle, the device, and the device's wiring to ensure that no tampering or circumvention has occurred during the monitoring period.
 - b. The calibration test referenced under R17-5-706 shall be performed if the downloaded device information indicates that the device has experienced an interruption in service or was completely disconnected.
 8. The installer shall agree to abide by conditions for the removal of ~~an a certified~~ ignition interlock device, including but not limited to the following:
 - a. ~~No ignition interlock device shall be removed without notifying~~ Provide electronic notification to the ~~Division~~ Department of the device removal under ~~R17-5-610~~ R17-5-610(E) within 24 hours and electronically submit the required reporting record.
 - b. A service representative or service center shall not remove the ~~certified-ignition~~ certified ignition interlock device of another manufacturer, except in an emergency, or other special circumstance authorized by the ~~Division~~ Department. All ~~such~~ removals shall be documented and reported to the ~~Division~~ Department. All device removal records shall be retained as prescribed under R17-5-612.
 - c. When a participant requests to exchange one manufacturer's device for the device of another manufacturer, the installer of the original device shall notify the ~~Division~~ Department of the device removal under ~~R17-5-610~~ R17-5-610(E).
- G.** The ~~Division~~ Department may cancel the certification of an installer or its service center if the installer or service center is found to be operating in violation of any provision under this Article, provisions regarding improper reporting in R17-5-601 and reporting provisions in R17-5-610, or A.R.S. Title 28, Chapter 4, Article 5. To ensure continuous compliance with all provisions under this Article and A.R.S. Title 28, Chapter 4, Article 5, the Department's certified ignition interlock program requirements, the ~~Division's ignition interlock investigator~~ Department may inspect an installer's service center and take appropriate corrective action against the installer or service center as provided under A.R.S. § 41-1009 R17-5-613 if a deficiency is identified during an inspection.
- H.** An installer shall designate a custodian of records who shall, if required in an administrative hearing or court proceeding, provide testimony concerning the interpretation of data storage system records and answer questions concerning the installer's certification and compliance with the ~~Division's~~ Department's ignition interlock program requirements.
- I.** Before issuing certification, the ~~Division~~ Department may perform an onsite evaluation of a service center to verify compliance with this Article.
- J.** After verifying compliance with subsections (A) through (F), the ~~Division~~ Department shall issue a certificate to the installer and each service center that shall remain valid until cancelled by the ~~Division~~ Department or terminated by the installer or service center. Issuance of a certificate to an installer or service center under this Section shall be evidence that the installer's service center has met all of the criteria necessary for approval and certification by the ~~Division~~ Department.
- K.** Certification of the installer's service center is contingent ~~upon~~ on the installer's agreement to conform with and abide by all directives, orders, and policies issued by the ~~Division~~ Department regarding any service center activities regulated by the ~~Division~~ Department under this Article and A.R.S. Title 28, Chapter 4, Article 5, which may include:
1. Program administration,

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2. Reports,
 3. Records and forms,
 4. Inspections,
 5. Methods of operations and testing protocol,
 6. Personnel training and qualifications,
 7. Criminal history considerations for installer-certified service representatives, and
 8. Records custodian.
- L. Certification issued under this Section may be cancelled by the ~~Division~~ Department if the installer, service center, or installer-certified service representative violates or is not in compliance with a provision of this Article, provisions regarding reporting in R17-5-610 and R17-5-601, or A.R.S. Title 28, Chapter 4, Article 5, or the certified ignition interlock device equipment it is authorized by the manufacturer to install no longer meets the requirements provided under Article 6 of this Chapter.

R17-5-708. Cease and Desist; Denial or Cancellation of Certification; Appeal; Hearing

- A. If the Director has reason to believe that a ~~Division-certified~~ Department-certified installer or service center is operating in violation of a provision under this Article, the provisions of Article 6 on improper reporting, or A.R.S. Title 28, Chapter 4, Article 5, the Director ~~shall~~ may immediately issue and serve a cease and desist order on the installer or service center by personal delivery or by mail to its last known address. The Director's order shall allow at least five business days for the reporting installer or service center to take action as specified in the order or cease and desist from engaging in any further activity.
1. On receipt of a cease and desist order, an installer or service center shall immediately take action as specified in the order, or cease and desist from engaging in any further activity authorized under this Article or A.R.S. Title 28, Chapter 4, Article 5.
 2. On failure of an installer or service center to comply with a cease and desist order, the Director ~~shall~~ may issue an immediate cancellation of ~~immediately cancel~~ its installer or service center certification.
- B. ~~Appeal of a denial of application or cancellation of certification.~~ If the ~~Division~~ Department denies a pending application for certification; ~~or recertification of an installer~~, or cancels a certification previously issued to an installer, or its service center, the installer or service center may appeal the action as follows:
1. Within 15 days after receipt of a notice of denial of application or a notice of cancellation of certification; ~~or recertification of an installer~~, the installer or service center may file a written request for a hearing on the issue of the denial or cancellation with ~~Division's~~ the Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5.
 2. If a hearing on the issue of the denial or cancellation is timely requested, the ~~Division's~~ Department's Executive Hearing Office shall conduct the hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5. The request for a hearing stays the summary cancellation of an installer or service center's certified activities.
 3. Within 10 days after a hearing, the ~~Hearing Officer~~ hearing officer shall issue to the installer or service center a written decision, which shall:
 - a. Provide findings of fact and conclusions of law; and
 - b. Grant the application, deny the application, or cancel the certification; or recertification.
 4. If the ~~Hearing Officer~~ hearing officer affirms the denial of application or cancellation of certification; ~~or recertification~~, the installer or service center may seek judicial review under A.R.S. Title 12, Chapter 7, Article 6, within 30 days from the date of the decision and order. The denial of application or order of cancellation shall not be suspended during pendency of an appeal.
- ~~C.~~ After denial of an application, or cancellation of a certification, an installer or service center may reapply to the Division for a new certification by completing a new application and meeting all certification requirements under this Article. A cancellation does not prohibit a manufacturer, installer, or service center from submitting a subsequent application for certification if all certification requirements are met.
- ~~C.~~ An installer or service center is decertified and is prohibited from performing its duties and operating under these rules for a period of one year from the latest of the following dates when:
1. The Department denies or cancels an application for certification or recertification of an installer.
 2. The Department cancels a certification of a service center, or
 3. The Department's Executive Hearing Office denies the application, or cancels an application for certification or recertification of the installer, or certification of the service center.
- ~~C.D.~~ After the one-year decertification period ends, an installer or service center may reapply to the Department for certification by completing a new application and meeting all certification requirements under this Article.