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APPENDIX II-K

COVER SHEET FOR EMERGENCY RULE

ADOPTED RULE	
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Document Number 13322

Rule Number Saf-C 9900

1. Agency Name & Address:

New Hampshire Department of Safety
33 Hazen Drive
Concord, NH 03305

2. RSA Authority:

RSA 265-A:36, V and VI

3. Federal Authority:

N/A

4. Type of Action:

Adoption

X

Amendment

Repeal

5. Date of Filing: December 30, 2021

6. Short Title: Emergency Enhanced Technology Ignition Interlock Device Implementation Rules

7. Contact person for copies and questions:

Name: David M. Hiltz, Esq.
Address: 33 Hazen Drive
Concord, NH 03305

Title: Senior Staff Counsel
Phone #: (603) 227-4032

****PLEASE ATTACH THE FOLLOWING**, numbered to correspond to the numbers on this sheet (a separate sheet is not required for every item):

8. An explanation of the nature of (a) the imminent peril to public health or safety, demonstrating that the emergency rule is necessary to prevent the imminent peril, or (b) the substantial fiscal harm to the state or its citizens which could otherwise occur if the rule were not adopted as an emergency rule.

9. A summary of the effect if the rule were not adopted.

10. A description of those affected.

***PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET** and all attachments along with 2 copies of the emergency rule to the Office of Legislative Services, Administrative Rules.

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* hereby certify that the attached is an accurate statement explaining why an emergency rule is necessary.

Date: December 30, 2021

Signature: 

Name: Robert L. Quinn

Title: Commissioner

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

8. An explanation of the nature of (a) the imminent peril to public health or safety, demonstrating that the emergency rule is necessary to prevent the imminent peril, or (b) the substantial fiscal harm to the state or its citizens which could otherwise occur if the rule were not adopted as an emergency rule.

The Department asserts that an imminent peril to the public health or safety requires adoption of the proposed rules with less notice than is required under RSA 541-A:6. The Department also asserts that substantial fiscal harm to the state or its citizens could occur if the proposed rules are not adopted with less notice than is required under RSA 541-A:6. The proposed rules pertain to the implementation of the statutory mandate in RSA 265-A:36, IV-a, effective January 1, 2022, that enhanced technology ignition interlock devices be utilized whenever the requirement to use an alcohol ignition interlock device is imposed.

Background

Generally, an alcohol ignition interlock device is a system or device that connects a breath analyzer to a motor vehicle's ignition system, which measures the concentration of alcohol in the breath of any person who attempts to start the motor vehicle by using the ignition system. The device prevents the vehicle from starting unless the person provides a breath sample with a concentration of alcohol that is below a preset level.

Effective January 1, 2002, the Legislature established an alcohol ignition interlock program in New Hampshire and granted the Department the authority to "establish rules . . . for the approval of ignition interlock devices and for the licensing of approved interlock service providers." The Department promulgated rules effective December 1, 2003 to implement the program. However, the Department returned to the Committee in 2004 with a proposal summarized as follows:

This rulemaking repeals PART Saf-C 6503, which is the approval process for providers of alcohol ignition interlock devices, since it has been decided to bid for only a single provider for carrying out the requirements of RSA 265:93-a, thereby negating the necessity for an approval process. The remaining proposed amendments remove all references to multiple providers.

The Department's readoption of the Saf-C 6500 rules in 2012 maintained the same structure of foregoing rule-based licensure of interlock service providers in favor of contractually establishing interlock service providers, ultimately resulting in contracts with two such providers to date. Recently, at least one other interlock service provider has expressed interest in becoming an approved provider.

The concept of "enhanced technology ignition interlock device" was introduced by the Legislature in 2013, almost a year after the Saf-C 6500 rules were last readopted in 2012. Enhanced devices are equipped with a camera and transmit data as events occur and is capable of capturing an image of the driver including the time, date, and breath alcohol level of all breath attempts.

2018 Laws, ch. 122 amended RSA 265-A:36, in part, to provide that, effective January 1, 2022, "[w]herever the term 'alcohol ignition interlock device' or 'ignition interlock device' is referred to in this chapter or in department administrative rules, it shall mean an enhanced technology ignition interlock device, as defined in RSA 259:28-b." The 2018 legislation also amended RSA 265-A:36 to provide that "A device installed on or before January 1, 2019 that is not an enhanced technology ignition interlock device may, if it is recalibrated within 30 days of installation and every 60 days thereafter, continue to be operated in the vehicle in which it was installed until January 1, 2022 or such time as the vehicle is replaced with a different vehicle, whichever occurs first, at which time it shall be replaced with an enhanced technology ignition interlock device."

Justification

The imminent peril to the public health and safety is that, on the current state of the rules, there are no approval criteria for enhanced devices, even though beginning January 1, 2022, all ignition interlock devices in use must be enhanced devices, and RSA 265-A:36, IV makes it a violation "for an ignition interlock device to be sold or distributed in this state without the device being approved by the commissioner or the department of safety." This situation would also require the removal of all currently-installed non-enhanced devices, leaving those vehicles without an approved device, even though the driver is under criminal or administrative orders to maintain an ignition interlock device. Although 2018 Laws, ch. 122 provided that all references to ignition interlock devices in statute and administrative rule after January 1, 2022 would refer to enhanced devices by operation of law, the Department asserts that merely applying the approval criteria for non-enhanced devices to enhanced devices would not most effectively and safely implement the interlock program to employ only enhanced devices. Amendment to the device approval criteria is necessary, among other things, to reflect an update to the applicable Federal alcohol ignition interlock device specifications as published in Vol. 78, No. 89 of the Federal Register (May 18, 2013), to implement criteria for low-volume breath samples attributed to qualifying medical conditions, and to require the device to record and store data for a 3-year period as required by RSA 259:28-b. Although the Department had the ability to engage in rulemaking prior to the May 2018 legislation that enacted the 2022 enhanced device mandate, the Department's implementation of approval criteria for enhanced devices, has been delayed by intervening emergent situations such as the 2019 Randolph fatal accident and COVID.

Substantial fiscal harm to the state or its citizens could occur if rules are not adopted to implement licensure of approved interlock service providers at this point in time. As the current rules do not provide for the licensure of approved providers, there are currently no mechanisms in the rules to hold providers accountable to adhere to program standards and to provide good customer service to drivers requiring interlock devices. Without a licensure scheme that could allow more entrants into the field, competition among potential interlock service providers is likely currently lower than is otherwise possible, with drivers requiring interlock devices not seeing the potential benefits of such competition in the fees that interlock service providers have been charging drivers. Especially at a time when drivers are under the gun to comply with the 2022 enhanced device mandate, it is crucial that the licensure of approved providers be implemented at this time in order to keep the transactional playing field level and fees competitive. Although the Department had the ability to engage in rulemaking prior to the May 2018 legislation that enacted the 2022 enhanced device mandate, the Department's implementation of licensure of approved interlock service providers has been delayed by intervening emergent situations such as the 2019 Randolph fatal accident and COVID.

Other non-editorial amendments to the rules have been proposed that are attendant to the effective and diligent administration of the licensure mechanism that is being reintroduced into the rules.

9. A summary of the effect if the rule were not adopted.

If the proposed rules were not adopted, drivers using non-enhanced devices would need to remove those devices by January 1, 2022, and interlock service providers would only be able to replace the devices with enhanced devices that only meet the inadequate standards for non-enhanced devices. Without approval criteria for enhanced devices, interlock service providers would risk committing a violation by selling or distributing enhanced devices that meet the updated criteria that the Department asserts would better implement the interlock program.

If the proposed rules were not adopted, as drivers attempt to comply with the 2022 enhanced device mandate, drivers' choice of interlock service provider would be artificially limited to the two providers with whom the Department has had a contract to provide such services, preventing market competition which would likely help to keep fees reasonable. Further, if the proposed rules were not adopted, there would be no recourse through regulatory oversight of providers if such providers were to not adhere to program requirements or to provide the services expected by the Legislature.

10. A description of those affected.

The proposed rules affect interlock service providers, individuals who are ordered by the Court or by the Department to have an alcohol ignition interlock device on any motor vehicle registered to the individual or used by the individual on a regular basis, and the Bureau of Hearings and the Division of Motor Vehicles of the Department of Safety.

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

Adopt Saf-C 9900, to read as follows:

CHAPTER Saf-C 9900 IGNITION INTERLOCK PROGRAM

Statutory Authority: RSA 265-A:36

PART Saf-C 9901 GENERAL PURPOSE

Saf-C 9901.01 Purpose. The purpose of these rules is to adopt rules for the ignition interlock program, including but not limited to the approval of ignition interlock devices and for the licensing of approved interlock service providers.

Saf-C 9901.02 Scope. These rules shall apply to all individuals who are court- or department-ordered to install ignition interlock devices and to interlock service providers for use in the state.

Saf-C 9901.03 Applicability.

(a) The requirements of these rules to ignition interlock service providers shall also apply to its third party providers, unless the context clearly indicates otherwise.

(b) Any conflict between these rules and the Saf-C 6500 rules shall be resolved in favor of these rules.

PART Saf-C 9902 DEFINITIONS

Saf-C 9902.01 “Alcohol setpoint” means the minimum alcohol concentration at which an alcohol ignition interlock device will detect and log the alcohol concentration of a user’s breath sample.

Saf-C 9902.02 “BrAC” means breath alcohol concentration.

Saf-C 9902.03 “Commissioner” means “commissioner” as defined in RSA 259:13, or his designee.

Saf-C 9902.04 “Department” means “department” as defined in RSA 259:19.

Saf-C 9902.05 “Director” means “director” as defined in RSA 259:20.

Saf-C 9902.06 “Division” means “division” as defined in RSA 259:22.

Saf-C 9902.07 “Enhanced technology ignition interlock device” or “device” means “enhanced technology interlock device” as defined in RSA 259:28-b.

Saf-C 9902.08 “Interlock service provider” or “provider” means “interlock service provider” as defined in RSA 259:43-b.

Saf-C 9902.09 “Rolling re-test” means a test or tests taken randomly after the first test that allows the starting of a motor vehicle.

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

Saf-C 9902.10 “Tampering” means an unlawful act or attempt to disable or circumvent the legal operation of the device, to include providing samples other than the natural breath of the user, starting the motor vehicle via unconventional means without first taking and passing a breath test, or physically circumventing the device to disable or otherwise disconnect the device from its power source, or the manipulation of the camera.

Saf-C 9902.11 “Third-Party Provider” means any entity under contract with an interlock service provider to perform one or more of the provider’s responsibilities under statute and these rules.

Saf-C 9902.12 “User” means the individual who is court- or department-ordered to install an ignition interlock device on any motor vehicle registered to that individual or used by that individual on a regular basis.

Saf-C 9902.13 “Violation setpoint” means the minimum alcohol concentration at which a device is set to lock a motor vehicle’s ignition.

PART Saf-C 9903 APPROVAL OF INTERLOCK SERVICE PROVIDERS

Saf-C 9903.01 Application for Licensing as an Approved Interlock Service Provider.

(a) Any person wishing to become an approved interlock service provider shall complete and submit form FRMV 100, “Interlock Service Provider Application”, revised 12/21.

(b) The applicant shall certify knowledge of the ignition interlock program and device requirements listed on the application and, if an initial applicant, the applicant’s intent to comply prior to commencing operations, or, if a renewal applicant, the applicant’s present compliance with those requirements, by indicating ‘Yes’ or ‘No’ on the Form FRMV 100, revised 12/21.

(c) FRMV 100, “Interlock Service Provider Application”, revised 12/21 forms may be obtained in person, by mail, or electronically at <https://www.nh.gov/safety/divisions/dmv/forms/index.htm> from the division.

(d) Completed application forms shall be submitted to the:

Department of Safety
Division of Motor Vehicles
Financial Responsibility Bureau
23 Hazen Drive
Concord, NH 03305.

(e) All applications shall be reviewed by the division in accordance with RSA 541-A:29.

(f) Applicants shall be notified of any apparent errors omissions and allowed to resubmit the form to the division.

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

(g) In the event an applicant fails to comply with applicable laws or rules, the application shall not be processed and the applicant shall be notified of the reason(s) for the rejection.

(h) If the applicant is not a sole proprietorship, the person submitting the application shall provide along with the completed FRMV 100, "Interlock Service Provider Application" revised 12/21, a notarized certificate of authority evidencing authority to bind the applicant, as well as a current certificate of good standing issued by the New Hampshire secretary of state.

(i) The applicant shall sign and date FRMV 100 "Interlock Service Provider Application" revised 12/21 under the penalties of unsworn falsification pursuant to RSA 641:3.

(j) By signing the form, the applicant is certifying that:

(1) The information provided on the form is true and correct to the best of the applicant's knowledge and belief;

(2) The applicant is familiar with, and will abide by, all applicable laws and rules; and

(3) The applicant understands that a violation of law or rules shall be deemed sufficient cause for an administrative hearing and may result in sanctions imposed.

Saf-C 9903.02 Responsibilities of the Interlock Service Providers.

(a) An interlock service provider shall maintain a presence throughout the state sufficient to perform all installation, calibration, maintenance, monitoring, and removal services for any and all users accepted by such providers as customers via fixed locations, mobile locations, or a combination of both. For the purposes of this paragraph, "sufficient to perform" means that any customer shall not be required to travel more than 100 miles or 2 hours, whichever is less, in order to obtain such services.

(b) An interlock service provider shall provide periodic reports as determined by these rules, the court or department, to the division's interlock coordinator and the court of jurisdiction.

(c) An interlock service provider shall have the ability to provide a certificate of installation to the division's interlock coordinator and the vehicle's owner immediately upon installation of the device.

(d) An interlock service provider shall furnish the user a copy of the agreement between the user and provider, including but not limited to:

(1) A statement of all fees and charges;

(2) Any warranty details;

(3) Schedule of payments;

(4) Any additional charges that may be incurred by the user; and

(5) A list of items or services that may be available by the provider at no charge.

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

(e) An interlock service provider shall have a standard agreement with any third-party providers, which shall include the following requirements:

- (1) The interlock service provider shall be required to provide the third-party provider with all necessary tools, test equipment and manuals to perform the third-party provider's functions;
- (2) The third-party provider shall be required to perform any or all of the following functions:
 - a. Install devices;
 - b. Calibrate devices;
 - c. Perform maintenance on devices;
 - d. Removal of devices;
 - e. Provide users with installation certificates; and
 - f. Provide standardized training established by the interlock service provider to users regarding the proper use, cleaning, care, and maintenance of the device;
- (3) The interlock service provider shall furnish the third-party provider with standardized training materials to provide training to users;
- (4) The third-party provider shall be required to establish regular business hours during which a third-party provider shall be on site.

(f) An interlock service provider shall establish a standard policy to address complaints against the provider or third party providers, which shall include at a minimum, the requirement that customer complaints shall be addressed and reasonable attempts made to sufficiently resolve such complaints within 48 hours of receipt.

(g) The interlock service provider shall create an action plan, at the division's request, when the provider has been the subject of 5 or more complaints of a similar nature in a 3 month period, and the provider shall furnish a copy of the action plan to the division's interlock coordinator.

(h) An interlock service provider shall provide every user, and make available for every person operating a motor vehicle equipped with the ignition interlock device, a copy of the manufacturer's written instructions for the following:

- (1) Operating a motor vehicle equipped with the device;
- (2) Cleaning and caring for the device; and
- (3) Identifying and addressing vehicle malfunctions or repairs that may affect the device.

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

(i) An interlock service provider shall provide each user with an operator's manual that includes instruction on all of the following:

- (1) How to use the system;
- (2) How to obtain service for the system;
- (3) How the alcohol retest feature works;
- (4) How drinking alcohol before a test may result in a failure; and
- (5) How the device shall not be removed except by an interlock service provider.

(j) An interlock service provider shall be responsible for the collection of all fees from the user and any costs associated with the use of the device. Pursuant to RSA 265-A:36, V(e), the provider shall maintain a reserve of the equivalent of 2% of the provider's gross receipts, excluding the purchase or rental cost of the device, during the previous calendar year ending December 31.

(k) No interlock service provider shall install a device on any vehicle owned or operated by any of its employees or family members which is required to be installed by order of a court or the department.

(l) An interlock service provider shall provide a 24-hour telephone number for emergency assistance in the event of device failure or malfunctioning.

(m) The failure to meet the requirements of this paragraph shall subject the provider to an administrative hearing pursuant to Saf-C 203 to show cause as to why their approval should not be suspended or further installation certificates rejected by the division.

Saf-C 9903.03 Approval of Interlock Service Provider.

(a) Any approval of an interlock service provider shall be for a 2 year period, unless otherwise suspended or revoked for failure to comply with rules or law.

(b) An applicant who has been denied approval shall be provided an opportunity for an administrative hearing in accordance with Saf-C 203.

PART SAF-C 9904 USER RESPONSIBILITIES

Saf-C 9904.01 General Responsibilities. A user of an enhanced technology ignition interlock device shall:

- (a) Provide the division with a certificate of installation;
- (b) Comply with required device maintenance and calibrations;
- (c) Not engage in tampering with a device as defined per Saf-C 9902.10;

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

(d) Be deemed to understand that violations as defined in Saf-C 9909 may result in extension of participation in the program and extended installation of device;

(e) Notify the division of any of the following:

- (1) Change in interlock service provider;
- (2) Change of vehicle in which a device is installed;
- (3) If user has moved out of the state or has thereafter moved back into the state; or
- (4) Inability to operate a device; and

(f) Provide the division with medical documentation of the user's inability to provide 1.5 L sample, if user asserts inability to provide 1.5 L sample; and

(g) Provide the department a complete financial affidavit if the user requests a hearing per Saf-C 9912.03 for financial hardship credit.

Saf-C 9904.02 Removal Responsibilities. A user of a device shall not remove a device without:

- (a) Completing the required installation period per the ignition interlock order and any extensions; and
- (b) Submitting a request to the division for the removal of enhanced technology ignition interlock devices as provided in Saf-C 9911.

Saf-C 9904.03 Customer Service Concerns and Complaints.

- (a) Users shall raise all concerns and complaints with the interlock service provider for resolution in the first instance.
- (b) Concerns and complaints that have been unable to be resolved in collaboration with the interlock service provider can be reported to the division's interlock coordinator.

PART SAF-C 9905 MINIMUM STANDARDS FOR ENHANCED TECHNOLOGY IGNITION INTERLOCK DEVICES

Saf-C 9905.01 Prohibition. No device may be leased, sold, installed or used as part of the program pursuant to RSA 265-A:36 unless the model or type of device has been approved by the division in accordance with the following specifications and performance criteria:

- (a) All devices shall meet or exceed the following requirements for approval:
 - (1) The device shall not impede the safe operation of a vehicle;

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

- (2) The device shall be capable of capturing and encoding digital or photographic images of the driver as the events occur and transmit data as events occur to the interlock service provider;
- (3) The device shall meet or exceed the specifications for performance and testing of the National Highway Traffic Safety Administration as published in Volume 78, No. 89 of the *Federal Register*, May 8, 2013;
- (4) The device shall have a set point of .020 percent breath alcohol concentration;
- (5) The device shall prevent a driver from starting the vehicle when a breath test detects a BrAC of .026 or greater;
- (6) The device shall indicate by audible or visual means when a sufficient breath sample has been collected and indicate the result with only a pass or fail indication;
- (7) The device shall have a random retest feature requiring the driver to submit to random retest within random interval of time between 5 to 15 minutes after the driver has passed the initial breath test resulting in a successful start of a vehicle;
- (8) The device shall be capable of placing a vehicle in a lockout state 5 days after a missed calibration appointment or when a violation reset occurs;
- (9) The device shall operate properly at all temperatures between -40° and 85° Celsius;
- (10) The device shall activate the vehicle's lights and horn when a required random retest is missed or failed;
- (11) The device shall be capable of recording data in its memory in such a manner that data cannot be erased and a hard copy can be printed.
- (12) The data recorder of the device shall be incorporated into a module that cannot be detached and shall have a backup system to protect the security of all recorded data in the event the power supply to the device is interrupted or the sample head is disengaged or disconnected; and
- (13) The device shall have warning label affixed to the unit that states the following:

**“WARNING! ANY ACTUAL OR ATTEMPTED TAMPERING OR
CIRCUMVENTION OF THIS DEVICE
CAN SUBJECT YOU TO CRIMINAL AND CIVIL LIABILITY.”**

(b) All devices shall be calibrated for proper use and accuracy every 180 days, unless otherwise ordered by a court or the department, or required by these rules, or as required per manufacturer's specifications to maintain the proper use and operation of the device in compliance with the ignition interlock program.

(c) All devices shall indicate when a 1.5 L breath sample has been collected and shall indicate this by audible or visual means. The commissioner may authorize interlock service providers to adjust the breath

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

volume requirement to as low as 1.2 L upon receipt of documentation from a user's licensed medical care provider verifying the existence of an applicable medical condition that prevents the user from submitting a 1.5 L sample.

(d) The following information shall be stored in the data recorder of the device:

- (1) The date and time of any use or attempted use of a vehicle to include engine start and stops and the BrAC of the user during those attempts whether successful or unsuccessful;
- (2) The date and time of any attempt to tamper, circumvent or bypass the device;
- (3) The date and time of any malfunctions of the device, to include the loss of power;
- (4) The date and time of any failures to provide retest samples;
- (5) The date that a "service required" message is issued to the user;
- (6) The date and time when any service is performed; and
- (7) The number of events in the data recording system.

(e) No device shall be equipped with bypass features that will allow the starting of the motor vehicle without taking the alcohol breath test.

(f) Devices shall be equipped with adequate electronic anti-tampering features which include, at a minimum, the following:

- (1) The ability for the device to retain its tamper detection capabilities when disconnected from the vehicle's power supply, or record that it was disconnected.
- (2) The ability for the device to retain its data memory when disconnected from the vehicle's power supply; and
- (3) When the device detects a condition that would be considered tampering, the device shall activate the vehicle's lights and horn.

PART Saf-C 9906 FINANCIAL HARDSHIP CREDITFEES

Saf-C 9906.01 Financial Hardship Credit.

(a) Notwithstanding Saf-C 9903.02(j), the interlock service provider shall provide installation and service to those users determined by the court or the department to be unable to pay the full cost of an interlock program.

(b) For the purpose of providing hardship credit pursuant to RSA 265-A:36, VI (e), the interlock service provider shall reserve the equivalent of 2 percent of the provider's gross receipts, excluding the purchase or rental cost of the interlock device. Such credit and free service shall be reported, in writing and signed by the provider, annually to the department.

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

(c) For the purpose of (b) above, "annually" means no later than 30 days after the yearly anniversary date of the approval of the interlock service provider.

Saf-C 9906.02 Requesting a Financial Hardship Credit from the Department.

(a) If a user cannot afford to pay the full cost of the installation and services of the ignition interlock program, the user may request a hearing pursuant to Saf-C 203 to determine the user's eligibility for a credit of up to 75% of the cost of the installation and service, to be paid from the interlock service provider's dedicated fund described in RSA 265-A:36, VI(e).

(b) In order to be considered, the user shall complete and submit a financial affidavit on the form prescribed by the bureau of hearings within 10 days of the request for a hearing.

(c) In the event that the bureau of hearings determines the user to be eligible for a financial hardship credit, the user shall be responsible for paying the remaining balance of the cost of installation and service.

PART Saf-C 9907 INSTALLATION OF IGNITION INTERLOCK DEVICES

Saf-C 9907.01 Installation of Enhanced Technology Ignition Interlock Device.

(a) The interlock service provider shall not permit the user of the device to view the installation of the device.

(b) At the initial device installation, the user shall be required to pass at least three breath tests on a functioning device to demonstrate the user's proficiency in the normal operation of the device. No interlock service provider shall install a device in a vehicle of a user who is unable to pass the breath test.

(c) After installation of a device, the interlock service provider shall inspect the vehicle and device to ensure that the device is functioning properly, reliably and accurately and that the device does not interfere with the normal operation of the motor vehicle.

(d) The interlock service provider shall provide the user and the division with a certificate of installation that contains, at minimum, the following:

- (1) The date of the installation;
- (2) The name and address of the interlock service provider;
- (3) The name of the technician that installed the device;
- (4) The following motor vehicle information:
 - a. The registration number;
 - b. The year, make and model of the vehicle;
 - c. Vehicle identification number; and
 - d. The name of the vehicle owner(s); and

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

- (5) The serial number of the alcohol ignition interlock device;
- (6) Handwritten initials of the technician indicating the device is in calibration;
- (7) Handwritten initials of the technician indicating the device and vehicle are functioning properly;
- (8) The classification of camera type;
- (9) Initials of the user, acknowledging the following:
 - (a) Proper use of the device, maintenance and service resolutions
 - (b) An understanding of how to power on and off the device
 - (c) Delivered and passed 3 breath samples
 - (d) An understanding of violation causes & consequences
 - (e) An understanding of the rolling re-test feature; and
 - (f) An understanding of the lockout features and procedures.

Saf-C 9907.02 Certificate of Installation. Pursuant to RSA 265-A:36, I, and in addition to any other requirements for license reinstatement, a user shall provide the certificate of installation to the division prior to having the user's license restored.

Saf-C 9907.03 Driver License of Ignition Interlock Device User. Any driver license issued to a user shall be marked accordingly.

PART Saf-C 9908 RECORDKEEPING

Saf-C 9908.01 Records.

(a) The interlock service provider shall maintain records, as outlined in (b) below, during the installation period and for a period of 3 years after the removal of the device.

(b) The following reports shall be maintained by the interlock service provider:

- (1) Orders to install;
- (2) Service, repair and replace reports;
- (3) Noncompliance, tampering or attempts to circumvent; and
- (4) Monitoring reports from the device's data recording system.

PART Saf-C 9909 VIOLATIONS

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

Saf-C 9909.01 Ignition Interlock Program Extension Violations. It shall be a violation for a user subject to an ignition interlock order to engage in the following, which could result in the extension of the ignition interlock order pursuant to Saf-C 9912.04(a):

- (a) Operating a vehicle not equipped with an enhanced technology ignition interlock device;
- (b) Illegally tampering with the device in any way;
- (c) Attempting to circumvent the operation of the device, including but not limited to the ability of the camera to take a photo of the operator of the vehicle;
- (d) Operating any vehicle when the device has been circumvented or illegally tampered with;
- (e) Attempting to start a vehicle with an alcohol concentration of greater than .025;
- (f) Failing to take a retest; or
- (g) Taking a retest with an alcohol concentration greater than .025.

Saf-C 9909.02 Ignition Interlock Program Suspension Violations. It shall be a violation for a user subject to an ignition interlock order to engage in the following, which could result in the suspension of the user's operating privileges pursuant to Saf-C 9912.04(b):

- (a) Failure to comply with any requirement for maintenance calibration;
- (b) Showing a consistent pattern of failures to pass any breath test;
- (c) Evidence of tampering or circumvention of the device, including but not limited to any act that prevents the camera from capturing a photo of the operator;
- (d) Unauthorized engine start without a passed breath test; or
- (e) Power to the device is disconnected for more than 15 minutes.

PART Saf-C 9910 REPORTING REQUIREMENTS

Saf-C 9910.01 Availability of Reports. Interlock service providers shall make monitoring and violation reports available upon demand via internet portal at all times, upon calibration and as violations occur, respectively, within the following timeframes:

- (a) Violation reports shall also be provided to the division within 24 hours of a violation; and
- (b) Monitoring reports shall also be provided to the division within 24 hours of any calibration and every 60 days thereafter.

Saf-C 9910.02 Content of Violation Reports. Violation reports shall include at a minimum:

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

- (a) Photos supporting each breath test or attempt within the report;
- (b) The data captured from at least 5 breath attempts leading up to any violation and the data captured from the subsequent 5 events;
- (c) The date and time of each event listed;
- (d) The name, date of birth, and address of the user;
- (e) Driver license number and driver license state of the user;
- (f) The name, address, and telephone number of the interlock service provider;
- (g) The following vehicle information:
 - (1) Make, model, and year;
 - (2) Vehicle identification number;
 - (3) Registration number and state of registration; and
 - (4) Odometer reading; and
- (h) Calibration readings of the device;
- (i) Make, model and serial number of the device;
- (j) Dates of the monitoring period;
- (k) The name, location, and telephone number of the interlock service provider who performed the service or event that identified the violation;
- (l) Any comments from the interlock service provider; and
- (m) Jurisdiction(s) for which the user is being monitored.

Saf-C 9910.03 Content of Monitoring Reports. Monitoring reports shall include at minimum:

- (a) A statement that the device:
 - (1) Is calibrated;
 - (2) Has been inspected and is functioning properly; and
 - (3) Shows no evidence of tampering; and
- (b) The, date, time and location of the next monitoring check;

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

- (c) The name, location, and telephone number of the interlock service provider;
- (d) Photos supporting each breath test or attempt within the report;
- (e) The date and time of each event listed;
- (f) The name, date of birth and address of the user;
- (g) Driver license number and driver license state of the user;
- (h) The following vehicle information:
 - (1) Make, model, and year;
 - (2) Vehicle identification number;
 - (3) Registration number and state of registration; and
 - (4) Odometer reading; and
- (i) Calibration readings of the device;
- (j) Make, model, and serial number of the device;
- (k) Dates of the monitoring period;
- (l) Any comments from the interlock service provider; and
- (m) Jurisdiction(s) where the user is being monitored.

Saf-C 9910.04 Distribution of Violation and Monitor Reports.

(a) The interlock service provider shall provide the user with a copy of each violation report or monitor report, upon request, at the time of monitoring or installation.

(b) If a user is on probation, the interlock service provider shall submit a violation report to the user's probation officer and treatment provider, if applicable, upon request within 15 days. If a user is not on probation, the interlock service provider shall submit a violation report to the court of jurisdiction and the arresting agency, upon request within 15 days.

PART Saf-C 9911 REMOVAL OF ENHANCED TECHNOLOGY IGNITION INTERLOCK DEVICE

Saf-C 9911.01 Request for Removal of Enhanced Technology Ignition Interlock Device.

(a) A user who has successfully satisfied the conditions associated with the device may submit a request to the division for a removal certificate, pursuant to RSA 265-A:38.

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

(b) A user shall submit their written request to either IIDHELPDESK@DOS.NH.GOV or:

Department of Safety
Division of Motor Vehicles
Financial Responsibility Bureau
23 Hazen Drive
Concord, NH 03305.

(c) The written request shall include the user's:

- (1) Full name;
- (2) Date of birth;
- (3) Driver's license number; and
- (4) Name of current interlock service provider.

Saf-C 9911.02 Division's Review of Request for Removal.

(a) Upon receipt of a request for removal of a device, pursuant to Saf-C 9911.01, the division shall provide the user with a certificate of removal within 5 business days of the request if:

- (1) The expiration date of the ignition interlock order, as required by the court or department, including any extensions of time has elapsed;
- (2) The user does not qualify for an extension of the ignition interlock requirement pursuant to RSA 265-A:38-a;
- (3) The user does not have any court or administrative hearings pending regarding an allegation of having committed one or more ignition interlock device violations; and
- (4) The user does not have any alleged ignition interlock program violations for which a hearing has yet to be scheduled.

(b) If a user is denied a certificate of removal because the department has determined that the user has committed an ignition interlock program violation, the user shall be notified of:

- (1) The reason for the denial; and
- (2) The user's right to a hearing, pursuant to Saf-C 203.

(c) Pursuant to RSA 265-A:38-a, III, the device shall not be removed from the vehicle while such hearing is pending.

Saf-C 9911.03 Removal of Enhanced Technology Ignition Interlock Device By Interlock Service Provider.

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

(a) No interlock service provider shall remove a device without first obtaining a certificate of removal from the user.

(b) The interlock service provider shall not permit the user of the device to view the removal of the device.

(c) The interlock service provider shall restore the motor vehicle to a safe operating condition upon removal of the device.

(d) An interlock service provider shall provide a user with a minimum of 15-day grace period for contract renewal pending the user's request for device removal.

Saf-C 9911.04 Notification of Noncompliance after Removal. Notwithstanding any rule to the contrary, if the division learns of an ignition interlock program violation within the preceding 120-day period after removal of the device, the department's interlock coordinator shall submit such findings to the bureau of hearings, which may result in the reinstallation of the device.

PART SAF-C 9912 HEARINGS

Saf-C 9912.01 Hearings. All hearings shall be conducted in accordance with Saf-C 203.

Saf-C 9912.02 Interlock Service Provider Compliance Hearing.

(a) Any interlock service provider who fails to maintain compliance with these rules will be subject to an administrative hearing which may result in the suspension of the provider's approval or further installation certificates being rejected by the division until such noncompliance is remedied.

(b) The scope of the hearing shall be limited to whether the interlock service provider is in noncompliance with these rules.

(c) The interlock service provider shall have the burden of proving the provider is in compliance with these rules.

(d) The bureau of hearings shall provide its determination of the hearing to the division's interlock coordinator.

Saf-C 9912.03 Financial Hardship Credit Hearing.

(a) A user who is seeking a financial hardship credit pursuant to Saf-C 9906.03, may request a hearing on the matter before the bureau of hearings.

(b) The scope of the hearing shall be limited to whether or not the user can afford to pay the cost for the installation and service of the ignition interlock program.

(c) The user shall have the burden of proving that he or she is unable to pay the full cost of the ignition interlock program.

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

(d) The bureau of hearings shall provide its determinations of eligibility for financial hardship credit to the department's interlock coordinator.

(e) A user who is denied a financial hardship credit may appeal the decision pursuant to RSA 541.

Saf-C 9912.04 User Compliance Hearings.

(a) Any user who fails to maintain compliance with Saf-C 9909.01 will be subject to an administrative hearing, after which any user that is found to have violated any of the provisions therein, shall have their duration in the ignition interlock program extended for each occurrence by:

- (1) 30 days for the first occurrence of any violation;
- (2) 60 days for the second occurrence of any violation;
- (3) 90 days for the third occurrence of any violation; and
- (4) 120 days for any fourth or subsequent occurrence of any violation and shall have their operating privileges suspended for no less than 3 months.

(b) Any user who fails to maintain compliance with Saf-C 9909.02 will be subject to an administrative hearing, after which any user that is found to have violated any of the provisions therein, shall have their operating privilege suspended for each occurrence by:

- (1) 60 days for any first occurrence of any violation;
- (2) 120 days for any second occurrence of any violation;
- (3) 180 days for any third occurrence of any violation; and
- (4) 12 months for any fourth or subsequent occurrence of any violation.

(c) All operation privilege suspensions ordered pursuant to this section shall not run concurrent with any other ordered suspension.

(d) The scope of the hearing shall be limited to whether the user committed the alleged violation.

(e) The user shall have the burden of proving their compliance with the ignition interlock program requirements.

(f) The bureau of hearings shall provide its determination of the hearing to the division's interlock coordinator.

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

APPENDIX

RULE NUMBER	STATUTE IMPLEMENTED
Saf-C 9901	RSA 541-A:7
Saf-C 9902.01 and Saf-C 9902.02	RSA 541-A:7
Saf-C 9902.03	RSA 259:13
Saf-C 9902.04	RSA 259:19
Saf-C 9902.05	RSA 259:20
Saf-C 9902.06	RSA 259:22
Saf-C 9902.07	RSA 259:28-b

#13222, (eff 12-30-21)

Emergency Rule EXPIRES: 6-28-22

Saf-C 9902.08	RSA 259:43-b
Saf-C 9902.09 through Saf-C 9902.13	RSA 541-A:7
Saf-C 9903.01	RSA 541-A:19-b
Saf-C 9903.02	RSA 265-A:36, V and VI
Saf-C 9903.03(a)	RSA 265-A:36, V and VI
Saf-C 9903(b)	RSA 541-A:30
Saf-C 9904.01	RSA 265-A:36, VI
Saf-C 9904.02	RSA 265-A:38-a
Saf-C 9904.03	RSA 265-A:36, VI
Saf-C 9905	RSA 265-A:36, V
Saf-C 9906	RSA 265-A:36, VI (e)
Saf-C 9907.01	RSA 265-A:36, VI
Saf-C 9907.02 and Saf-C 9907.03	RSA 265-A:36, I
Saf-C 9908	RSA 265-A:36, VI
Saf-C 9909	RSA 265-A:37 and RSA 265-A:38
Saf-C 9910	RSA 265-A:36, VI
Saf-C 9911	RSA 265-A:38
Saf-C 9912	RSA 541-A:30