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State of Kansas
Department of Revenue
Notice of Hearing on Proposed Administrative Regulation

A public hearing will be conducted by the Department of Revenue at 9:00 a.m. on Thursday, March 27, 2014, in Room 230, Secretary's Conference Room on the second floor of the Docking State Office Building, 915 SW Harrison, Topeka to consider amendments to ignition interlock device regulations. Copies of these proposed regulations may be found at www.ksrevenue.org.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written comments from the public on the proposed regulations. All interested parties may submit written public comments on the proposed regulations prior to the hearing to Kathleen Smith, Tax Specialist, Office of Policy and Research, Room 230, Docking State Office Building, 915 SW Harrison, Topeka, Kansas 66612 or through e-mail at kathleen.smith@kdor.ks.gov.

All interested parties will be given a reasonable opportunity to present their views, either orally or in writing or both, concerning the adoption of the proposed regulations. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Kathleen Smith at (785) 296-3081 or TTY (785) 296-6461. Disabled parking is located in State Parking Lot No. 2, south of the Docking Building facing Harrison Street. The east entrance to the Docking Building is accessible.

These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and the economic impacts follows:

Kansas Department of Revenue
Article 56. Ignition Interlock Devices

Amendments to K.A.R. 92-56-1. The proposed K.A.R. 92-56-1 modifies and adds defined terms to Article 56 of Chapter 92 of the Kansas Administrative Regulations.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, or private businesses or individuals.

Amendments to K.A.R. 92-56-2. The proposed K.A.R. 92-56-2 modifies required technical specifications for State approved breath alcohol ignition interlock device (BAIID) installation and manages the BAIID manufacturer once it is approved to do business within the State.

Economic Impact:

The adoption of this regulation will have an economic impact upon the Department of Revenue. The Department anticipates that changes to these regulations will require approximately 10 hours of work a week for the first year. The additional work shall be absorbed through existing positions.

The Department anticipates that there will be substantial economic impact on some of the State's currently approved BAIID Manufacturers. The Department anticipates that two or three of the BAIID manufacturers are close to having physical locations in all 31 State judicial districts. Other BAIID manufacturers may have to bear additional expenses as they try to develop additional physical locations to satisfy the requirements. The Department is softening the requirement by giving a grace period to all BAIID manufacturers for regulatory compliance to the new State judicial district rule.

Amendments to K.A.R. 92-56-4. The proposed K.A.R. 92-56-4 modifies required installation, inspection, and calibration standards for BAIID service providers in the State. The modifications are described below:

a. Reduction of the set point from .04 to .03. The set point is the amount of alcohol that is observed in a driver's breath wherein an amount equal to or greater in the driver's breath sample will result in the vehicle's ignition system being disabled.

b. Provided instruction on when rolling BAIID retests of the driver are to occur.

c. Shorten the default calibration cycle from 60 days to 30 days.

d. Clarify the BAIID service providers' responsibility that the devices anti-circumvention features must be enabled unless the service provider has received approval from the Division of Vehicles.

e. Create authority for the Division of Vehicles to conduct spot checks of BAIID manufacturers and their service providers.

f. Creating standards for BAIID manufacturers when developing and maintaining the BAIID manufacturer's service providers.

g. Creates a prohibition on BAIID service providers working on their own vehicles to satisfy State license sanction requirements.

h. Prohibits BAIID manufacturers from compelling State customers to travel outside the State to receive BAIID services.

Economic Impact:

The adoption of this regulation will have an economic impact upon the Department of Revenue. The Department anticipates that changes to these regulations will require approximately 10 hours of work a week regarding the management and regulation of BAIID service providers. The Department anticipates that there will be little or slight economic impact to the Kansas Department of Revenue based on the other modifications to the regulation. The additional work shall be absorbed through existing positions.

The Department anticipates that there will be economic impact on some of the State's currently approved BAIID Manufacturers. The following describes those impacts:

a. Slight economic impact to BAIID industry. Because the set point is being reduced to .03 from .04 there will be a proportional increase in test failures and lockouts, and that will lead to an increase in customer visits to BAIID service providers to inspect and recalibrate the BAIID. The customer can avoid these visits by not attempting to start his or her vehicle while he or she has alcohol in his/her system.

b. No economic impact.

c. This shortening of the calibration period will have an economic impact on the BAIID service providers for it will require more work. Rather than a 10 to 30 minute calibration once every 60 days, the BAIID service provider will be required to perform the work more frequently. This cost is reduced somewhat by the new requirement that a BAIID manufacturer have a fixed location in the State's judicial districts. The cost to the consumer should remain about the same because some BAIID service providers were charging a greater amount for the 60 day calibration check.

d. No economic impact.

e. No economic impact.

f. No economic impact.

g. No economic impact.

h. No economic impact.

Amendments to K.A.R. 92-56-5. The proposed K.A.R. 92-56-5 modifies the Department of Revenue's revocation and suspension process for State approved BAIID manufacturers. The modifications are described below:

a. The insurance requirement contained in K.A.R. 92-56-3 remains a continuing requirement for State certification and does not need to be addressed in the regulation.

b. The regulation is modified to specifically incorporate the other ignition interlock regulations and to emphasis that the BAIID manufacturer is responsible for the actions of its representative and service providers.

c. The regulation is modified to specifically address failures of a BAIID manufacturer to maintain and support an indigency program.

d. The regulation is modified to specifically address the Department's authority to take action upon a BAIID manufacturer's failure to comply with the State wide coverage requirement of K.S.A. 8-1017.

e. Provides the Department with authority to suspend a BAIID manufacturer rather than revoke such manufacturer. The modification also gives the Department authority to compel a BAIID manufacturer to terminate its relationship with a problematic BAIID service provider.

Economic Impact:

The adoption of this regulation will have little economic impact upon the Department of Revenue.

The Department anticipates that the most significant economic impact from this regulation will concern the new State judicial district requirement for BAIID manufacturers that will require all manufacturers have a greater physical location foot print throughout the State. Some BAIID manufacturers that do not currently promote a State wide network of service will have to undertake some expense to comply with the statute and these regulations.

Adoption of K.A.R. 92-56-6. Service provider; relocation and replacement. The proposed K.A.R. 92-56-6 is a new regulation that clarifies a BAIID manufacturer's responsibilities when its service provider terminate its relationship with the BAIID manufacturer or when such manufacturer replaces a service provider with another service provider in the same

State judicial district. The regulation provides the customer and Department of Revenue with direction when dealing with a BAIID manufacturer that temporarily or permanently moves out of a geographic area.

Economic Impact:

The adoption of this regulation will have little economic impact upon the Department of Revenue.

The Department does not anticipate this regulation will have significant negative economic impact on BAIID manufacturers. A version of this regulation is found in many other states and the BAIID manufacturers are familiar with the requirement.

Adoption of K.A.R. 92-56-7. Security; tampering prohibitions; conflict of interest. The proposed K.A.R. 92-56-7 is a new regulation that increases the level of professionalism required of BAIID service providers and manufacturer's representatives. The first part of the regulation prohibits a service provider from tampering with or circumventing the BAIID to assist a customer in avoiding his or her BAIID restriction requirements. The regulation also requires a BAIID service provider to not permit a customer to directly observe the installation and/or service of the BAIID. The purpose of such prohibition is to avoid empowering the customer with knowledge to tamper with or circumvent security features contained in the BAIID. The second part of the regulation prohibits a service provider, service provider's employee, or manufacturer's representative from installing a BAIID in their own vehicle for purposes of satisfying Department of Revenue driver's license restriction requirements.

Economic Impact:

The adoption of this regulation will have no economic impact upon the Department of Revenue.

The Department does not anticipate this regulation will have significant economic impact on BAIID manufacturers. A version of this regulation is found in many other states and the BAIID manufacturers are familiar with the requirement.

Adoption of K.A.R. 92-56-8. Device removal. The proposed K.A.R. 92-56-8 is a new regulation that increases the level of professionalism required of BAIID service providers and manufacturer's representatives relating to the removal of the BAIID from the customer's vehicle.

In addition, the regulation creates explicit notification requirements for the BAIID service provider that will assist the customer and Division of Vehicles to transition the customer's driver's license status to regular driving privileges upon the completion of required license sanctions and controls.

Economic Impact:

The adoption of this regulation will have no economic impact upon the Department of Revenue.

The Department does not anticipate this regulation will have significant economic impact on BAIID manufacturers. A version of this regulation is found in many other states and the BAIID manufacturers are familiar with the requirement.

Adoption of K.A.R. 92-56-9. Proof of installation. The proposed K.A.R. 92-56-9 is a new regulation that clarifies the requirement in K.S.A. 8-1015, and amendments thereto, that mandates the Division of Vehicles can only fully reinstate normal driving privileges once it has received proof of completion of any mandatory BAIID restriction period. The regulation also

addresses rare instances wherein a customer is confronted with: 1) a disability that affects his or her ability to provide a normal breath sample; or 2) logistical problems based on the driver's state not having a BAIID program or alternative.

Economic Impact:

The adoption of this regulation will have little economic impact upon the Department of Revenue. If there is any impact, it will be positive to the Department for the regulation will assist the State's disabled and help the Department address those cases on a case by case basis.

The Department does not anticipate this regulation will have significant economic impact on other government agencies, private businesses, or individuals.

A copy of these regulations and the economic impact statements may be obtained from the Kansas Department of Revenue, Office of Policy and Research, Room 230, Docking State Office Building, 915 SW Harrison, Topeka, Kansas 66612-1588 or via our website: www.ksrevenue.org.

92-56-1. Ignition interlock device~~,~~; definitions. As used in ~~these regulations~~ this article, each of the following terms shall have ~~these meanings~~ the meaning specified in this regulation: (a) ~~"Ignition interlock device" and~~ "Device" ~~mean an electronic~~ means "ignition interlock device," as defined in K.S.A. 8-1013 and amendments thereto. This device ~~using~~ uses microcomputer logic and internal memory and ~~having~~ has a breath alcohol analyzer as a major component that interconnects with the ignition and other control systems of a motor vehicle. This device measures the breath alcohol concentration (BrAC) of an intended driver to prevent the motor vehicle from being started if the BrAC exceeds a preset limit and to deter and record ~~attempts to circumvent~~ any instances of circumvention or ~~tamper with the device~~ tampering.

(b) "Alcohol setpoint" means the breath alcohol concentration at which the ignition interlock device is set to lock the ignition. The alcohol setpoint is the normal lockpoint at which the ignition interlock device is set at the time of calibration. The alcohol setpoint shall be .03. The alcohol setpoint for retests shall be ~~set at .06 as a safety factor to preclude a false positive test result during the operation of the vehicle~~ .03.

(c) "BrAC" means the breath alcohol concentration expressed ~~in percent by~~ as weight divided by volume, based upon grams of alcohol per 210 liters of breath.

(d) “BrAC fail” means the condition in which the ignition interlock device registers a BrAC value ~~in excess of~~ equal to or greater than the alcohol setpoint ~~limit~~ when the intended driver conducts an initial test or retest. This condition is recorded as a violation.

(e) “Breath sample” means the sample of alveolar or end-expiratory breath that is analyzed for the analysis of alcohol content after the expiration of ~~a minimum of~~ at least 1.2 liters of air.

(f) “Circumvention” means an overt, conscious attempt to bypass the ignition interlock device by any of the following:

(1) Providing samples other than the natural, unfiltered breath of the driver;

(2) starting the vehicle without using the ignition switch; or

(3) performing any other act intended to start the vehicle without first taking and passing a breath test.

~~Circumvention permits a driver with a BrAC in excess of the alcohol setpoint to start the vehicle.~~

(g) “Director” means director of vehicles, division of vehicles of the department of revenue.

(h) "Emergency bypass ~~switch~~ procedure" means the ~~switch~~ procedure that allows the driver to ~~bypass the ignition interlock device in case of an emergency or failure of the device and that places the ignition interlock device in a run state mode so that no test is required when the ignition switch is turned on~~ travel to a service provider and avoid a lockout. ~~The bypass switch can be used only once.~~ If used, the event shall be recorded in the event log, and the device shall be put into early service status. The emergency bypass procedure shall require the driver to provide a breath sample with a test result below the alcohol setpoint.

~~(h)~~ (i) "Fail-safe" means a condition in which the ignition interlock device cannot operate properly due to a problem, including improper voltage and a dead sensor. In ~~a~~ fail-safe ~~condition~~, the ignition interlock device will not permit the vehicle to be started.

(j) "High BrAC" means a BrAC fail result for an initial test or retest that registers an alcohol setpoint of .08 or greater.

~~(i)~~ (k) "Lockout" means an instance in which the ignition interlock device will prevent the vehicle from starting. The vehicle cannot be operated until

serviced by the service provider. A lockout occurs if any of the following events occurs:

(1) A driver incurs five or more violations between scheduled inspections with the service provider.

(2) A driver fails to submit to calibration and inspection as required by K.A.R. 92-56-4(b)(5), and the seven-day grace period has expired.

(3) A driver engages in circumvention or tampering.

(l) "Manufacturer" means the person, company, or corporation that produces an ignition interlock device and certifies to the division that the manufacturer's representative and the manufacturer's service providers are qualified to service and provide information on the manufacturer's state-approved ignition interlock device. To be a manufacturer, the division shall approve and certify the manufacturer's device for use in the state, and the approval and certification shall remain in effect.

(m) "Manufacturer's representative" means a single individual based in Kansas and designated by a manufacturer to act on behalf of or represent the manufacturer in matters relating to this article and K.S.A. 8-1001 et seq., and amendments thereto.

~~(j)~~ (n) "Rolling retest" means a ~~subsequent~~ breath test that ~~must be conducted according to the preset conditions of the ignition interlock device for a fixed time period and must be completed while the motor vehicle is in operation. Failure to execute a valid retest will cause the vehicle ignition system to enter a lockout condition after a fixed time period.~~ is required after the initial engine start-up breath test and while the engine is running. This term is also known as a retest or a running retest. The device shall require the driver of the vehicle to submit to a retest within 10 minutes of starting the vehicle. A rolling retest shall continue at randomized, variable intervals ranging from 10 to 45 minutes after the previous retest for the duration of the travel.

(o) "Service provider" means an ignition interlock device technician that is authorized by a manufacturer to service a certified device on behalf of the manufacturer or the manufacturer's representative. The ignition interlock device technician shall have a written agreement or authorization from a division-approved manufacturer or its manufacturer's representative to service the manufacturer's devices within Kansas.

(p) "Services" means the installation, inspection, monitoring, calibration, maintenance, removal, replacement, and repair of division-approved ignition interlock devices within Kansas.

(q) "Tampering" means an overt, conscious attempt to physically disable, bypass, or otherwise disconnect an ignition interlock device from its power source.

~~(k)~~ (r) "Violation" means ~~either~~ any of the following:

(1) The driver has blown a ~~high~~ BrAC and fails the initial breath test when attempting to start the vehicle~~.~~

~~(2)~~ , and the driver fails a breath test within the allowable time after a subsequent retest has been requested.

(2) The driver has blown a BrAC and fails the initial breath test when attempting a required rolling retest, and the driver fails a breath test within the allowable time after a subsequent rolling retest has been requested.

(3) The driver fails to execute a valid rolling retest after a five-minute period.

(4) The driver fails to submit to a requested rolling retest by turning the vehicle off to avoid submitting to the rolling retest.

(5) The driver has blown a high BrAC during an initial breath test or rolling retest. (Authorized by and implementing K.S.A. 8-1016; effective Oct. 23, 1989; amended July 5, 2002; amended P-_____.)

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KANSAS DEPARTMENT OF REVENUE
ECONOMIC IMPACT STATEMENT
K.A.R. 92-56-1

I. Summary of Proposed Regulation.

The proposed K.A.R. 92-56-1 modifies and adds defined terms to Article 56 of Chapter 92 of the Kansas Administrative Regulations.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

Due to the Kansas DUI Commission recommendations, and resulting legislation Senate Bill 6 (2011) and Senate Bill 60 (2012), there has been a significant increase in the number of drivers with breath alcohol ignition interlock devices (BAIID) installed. These regulations have been proposed to manage the quality and service provided by State certified BAIID providers to the citizens of Kansas. These proposed regulations will improve services to Kansas citizen by achieving the following objectives:

1. Increase geographic coverage of BAIID providers throughout the entire State.
2. Assist the Department of Revenue in supervising the BAIID providers indigency programs.
3. Assist the BAIID providers by giving them clearer instructions on required customer service.
4. Require BAIID providers to provide tools to Department of Revenue staff to evaluate the BAIID provider's performance and the performance of its customers.
5. Clarify to drivers that service of BAIID restrictions periods must be evidenced by documentation from BAIID providers before such restriction will be withdrawn by the Department of Revenue.

These proposed regulations track with Federal recommendations made by the National Highway and Traffic Safety Administration. Where State law or regulation varies from Federal recommendations, the State law and/or regulation shall control. In such circumstances, variance from Federal recommendations will not impact State/Federal relations nor affect any Federal/State income streams.

III. Anticipated Economic Impact upon the Kansas Department of Revenue.

The adoption of this regulation will not have any economic impact upon the Department of Revenue.

IV. Anticipated Financial Impact upon Other Government Agencies and upon Private Business or Individuals.

The Kansas Department of Revenue does not anticipate that these proposed definitional changes in proposed K.A.R. 92-56-1 will have substantial impact on any economic impact upon other government agencies, private businesses or individuals.

V. Description of any Less Costly or Less Intrusive Methods that were Considered by the Department of Revenue for Achieving the State Purpose of the Regulation and the Reason that those Methods were Rejected in Favor of the Proposed Regulation.

The Kansas Department of Revenue has determined that the proposed regulation is the least costly method for achieving its purpose. The Department has conducted a series of meetings with BAIID providers and affected government stakeholders (Kansas Attorney General's Office and Kansas Department of Health and Environment) to explore the repercussions of proposed regulations and have developed this proposed regulation with their feedback.

92-56-2. Ignition interlock device; certification and standards. (a) Each manufacturer of an ignition interlock device ~~desiring~~ wanting to market the device in ~~this state~~ Kansas shall apply to the division of vehicles for certification of the device and submit the following information and equipment:

(1) The name and address of the manufacturer;

(2) the name and model number of the device;

(3) certification that the device meets the following criteria:

(A) Offers safe operation of the vehicle in which installed, works reliably and accurately in an unsupervised environment, and, when in ~~a~~ fail-safe ~~condition~~, prevents the vehicle from starting;

(B) offers protection against tampering and is able to detect and be resistant to circumvention;

(C) allows for a free restart of the vehicle's ignition within two minutes after the ignition has been turned off without requiring another breath test if the driver has not registered a BrAC fail or is not in the process of completing a retest;

(D) allows for a rolling retest of a subsequent breath test after the vehicle has been in operation;

(E) disables the ignition system if the BrAC of the person using the device equals or exceeds the alcohol setpoint of ~~.04~~ .03;

(F) ~~contains~~ incorporates an emergency bypass ~~switch~~ procedure;

(G) records each time the vehicle is started, the duration of the vehicle's operation, and any instances of tampering ~~or attempts to tamper with the device~~;

(H) displays to the driver all of the following:

(i) When the device is on;

(ii) when the device has enabled the ignition system; and

(iii) ~~when a BrAC fail condition has occurred, along with the BrAC reading that caused the failure; and~~

~~(iv)~~ the date ~~that~~ on which a lockout will occur; and

(I) alerts the driver with a ~~three-minute~~ five-minute warning light or tone that a rolling retest is required;

(4) a map and list of ~~ignition interlock device~~ service providers and the address where the device can be obtained, repaired, replaced, or serviced 24 hours a day by calling a toll-free phone number. ~~Service providers shall be located within 100 miles of all Kansas residents. Manufacturers shall be responsible for the quality of service provided by their service providers; and~~

(5) the name of ~~an~~ any insurance carrier authorized to do business in this state that has committed to issue a liability insurance policy for the manufacturer ~~in the amounts specified in K.A.R. 92-56-3~~;

(6) the name and address of the manufacturer's representative designated by the manufacturer to manage the manufacturer's statewide operations;

(7) not more than two ignition interlock devices for testing and review to the division upon the director's request; and

(8) a declaration on a form prescribed by the division that requires the following:

(A) The manufacturer, manufacturer's representative, and the manufacturer's service providers shall cooperate with the division, law enforcement, and court staff at all times, including the inspection of the manufacturer's installation, service, repair, calibration, use, removal, or performance of each ignition interlock device;

(B) the manufacturer shall provide all downloaded ignition interlock device data, reports, and information related to the ignition interlock device to the division, upon the director's request, in a division-approved electronic format;

(C) the manufacturer shall provide the alcohol reference value and type of calibration device used to check the ignition interlock device;

(D) the manufacturer shall provide the division with inquiry access to the manufacturer's ignition interlock device system management software for the management of state drivers; and

(E) the manufacturer or the manufacturer's representative shall provide a map of Kansas showing the area covered by each service provider's fixed site.

(b) Each certification issued by the division shall continue in effect for three years unless either of the following occurs:

(1) The manufacturer requests in writing that the certification be discontinued.

(2) The division informs the manufacturer and the manufacturer's representative in writing that the certification is suspended or revoked.

(c) If a manufacturer modifies a certified device, the manufacturer shall notify the division of the exact nature of the modification. A device may be required by the division to be recertified at any time. A modification shall mean a material change affecting the functionality, installation, communication, precision, or accuracy of a certified device.

(d) Each manufacturer of a certified device shall notify the division of the failure of any device to function as designed. The manufacturer and the manufacturer's representative shall provide an explanation for the failure and shall identify the actions taken by the manufacturer or the manufacturer's representative to correct the malfunctions.

(e) The manufacturer's device shall meet or exceed the model specifications for ignition interlock devices, as specified by the national highway traffic safety administration. The provisions of 78 fed. reg. 26862-26867 (2013), beginning with the text titled "B. Terms" on page 26862, are hereby adopted by reference for purposes of this subsection. If state specifications vary from the federal specifications, the state specifications shall control.

(f) Each manufacturer of a certified device shall accumulate a credit of at least two percent of the gross revenues attributed to ~~installation, maintenance, calibration, and removal of ignition interlock devices~~ services provided in Kansas or to out-of-state services provided to Kansas residents. Any existing credit shall be made available to ~~people~~ drivers who are restricted to operating a vehicle with ~~an ignition interlock~~ a device and who are indigent as evidenced by eligibility for the federal food stamp program. The amount of the credit available shall be

limited to the amount of the existing credit balance. The manufacturer and its service providers shall notify the manufacturer's customers of the existence of this indigent program by utilizing division notices and forms.

~~(f)~~ (g) Each manufacturer of a certified device shall submit a report to the division ~~by~~ on or before January 31 of each year with the following information for the previous calendar year's activities:

(1) The number of ignition interlock devices initially installed on vehicles for Kansas drivers who were restricted to driving only with an ignition interlock device;

(2) the number of vehicles that had devices removed due to ~~failures~~ a failure in the device, a malfunction of the device, or a defect in the device and, for each vehicle, the driver's name, the driver's license number, the specific failure or operational problem that occurred during the period installed, and the resolution of each situation; ~~and~~

(3) the total number of devices in operation in Kansas on December 31 of the previous calendar year;

(4) the total number of devices removed;

(5) the total number of instances of circumvention;

(6) the total number of instances of tampering; and

(7) a ~~chronological accounting~~ summary of the following information:

(A) The ~~beginning credit balance~~ number of indigent drivers that qualified for reduced fees;

(B) ~~two percent of the gross revenues attributable to installation, maintenance, calibration, and removal of ignition interlock devices;~~ the number of drivers that applied for indigent classification and reduced fees but were denied;

(C) amounts credited to indigent drivers; and

(D) the ending credit balance.

(h) Each manufacturer and manufacturer's representative of a certified device shall make sales brochures and other informational materials available at no cost to the state's community corrections and court services officers, the district courts, magistrate courts, municipal courts, and the division for distribution to potential drivers. These brochures and informational materials may be provided through electronic means if approved by the director.

(i) Each manufacturer shall provide to the division, on or before January 31 of each year for that calendar year, documentation indicating the normal prices

and fees charged to a driver that are associated with the manufacturer's Kansas installation of devices. If the documentation regarding normal prices and fees charged changes during the course of that calendar year, the manufacturer and manufacturer's representative shall provide amended documentation to the division within seven days of the change.

(j) Each manufacturer shall have a service provider with a fixed site within each state judicial district on and after January 1, 2015, unless the following conditions are met:

(1) At least two manufacturers have a service provider located in the same judicial district.

(2) The director determines that a competitive market exists for ignition interlock services in the state judicial district and the absence of a manufacturer's service provider in the state judicial district specified in paragraph (j)(1) does not create a competitive advantage for that manufacturer.

(3) The director approves the manufacturer to be absent from that state judicial district.

(k) If a driver completes six months of calibrations without the driver's device generating a lockout or high BrAC, the service provider shall extend the driver's calibration period interval from 30 days to 60 days.

(l) Each device shall be capable of uniquely identifying and recording all of the following:

(1) Each time the vehicle is attempted to be started;

(2) each time the vehicle is started;

(3) the results of all tests, retests, or failures as being a malfunction of the device or a result of the driver not meeting the requirements;

(4) the length of time the vehicle was operated; and

(5) any indication of tampering.

The features required of the manufacturer's installed device shall be enabled to capture the information required by this subsection. (Authorized by and implementing K.S.A. 8-1016; effective Oct. 23, 1989; amended July 5, 2002; amended P-_____.)

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KANSAS DEPARTMENT OF REVENUE
ECONOMIC IMPACT STATEMENT
K.A.R. 92-56-2

I. Summary of Proposed Regulation.

The proposed K.A.R. 92-56-2 modifies required technical specifications for State approved breath alcohol ignition interlock device (BAIID) installation and manages the BAIID manufacturer once it is approved to do business within the State.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

Due to the Kansas DUI Commission recommendations, and resulting legislation Senate Bill 6 (2011) and Senate Bill 60 (2012), there has been a significant increase in the number of drivers with breath alcohol ignition interlock devices (BAIID) installed. These regulations have been proposed to manage the quality and service provided by State certified BAIID providers to the citizens of Kansas. The following reasons justify modifications to the existing regulation:

1. The State's existing regulations set the breath alcohol level wherein the BAIID disables the vehicle's ignition at .04. The Department of Revenue believes the level should be reduced to .03 to better conform to National Highway and Traffic Safety Administration standards and to reduce the level below the criminal breath alcohol level of .04 associated with operation of a commercial motor vehicle.
2. The proposed regulation will require the BAIID manufacturer to identify a sole source of contact with the Department of Revenue and require such contact to closely cooperate with the Department and State law enforcement agencies regarding any BAIID issues that arise.
3. The Department is incorporating Federal recommendations into its evaluation criteria for determining whether a BAIID manufacturer should remain in operation in the State and for new participants that many want to enter the Kansas market. The Federal government has not mandated that the State adopted its recommendations. The Department is referencing such Federal standards in its evaluation criteria because such benchmarks will help the Department ensure that legitimate, serious BAIID manufacturers are permitted to operate within the State.
4. The proposed regulation imposed a notice requirement upon the BAIID provider to inform every customer of the existence of an indigency program. The Department wants to increase utilization of the indigency program required by statute and believes that mandatory notice to all customers will ensure the BAIID providers distribute available funds.

5. The proposed regulation creates clearer regulatory standards for geographic coverage in the State. The Department believes that there is currently inconsistent coverage of the State by all BAIID manufacturers with some manufacturers focusing on larger urban areas. This leads to BAIID manufacturers that are covering the State, including its rural areas, to be at a competitive and economic disadvantage for following the law. The Department must create fair regulatory incentives for all BAIID manufacturers to have locations throughout the State.

III. Anticipated Economic Impact upon the Kansas Department of Revenue.

The adoption of this regulation will have an economic impact upon the Department of Revenue. The Department anticipates that changes to these regulations will require approximately 10 hours of work a week for the first year. The additional work shall be absorbed through existing positions.

IV. Anticipated Financial Impact upon Other Government Agencies and upon Private Business or Individuals.

The Department anticipates that there will be substantial economic impact on some of the State's currently approved BAIID Manufacturers. The Department anticipates that two or three of the BAIID manufacturers are close to having physical locations in all 31 State judicial districts. Other BAIID manufacturers may have to bear additional expenses as they try to develop additional physical locations to satisfy the requirements. The Department is softening the requirement by giving a grace period to all BAIID manufacturers for regulatory compliance to the new State judicial district rule.

V. Description of any Less Costly or Less Intrusive Methods that were Considered by the Department of Revenue for Achieving the State Purpose of the Regulation and the Reason that those Methods were Rejected in Favor of the Proposed Regulation.

The Kansas Department of Revenue has determined that the proposed regulation is the least costly method for achieving its purpose. The Department has conducted a series of meetings with BAIID providers and affected government stakeholders (Kansas Attorney General's Office and Kansas Department of Health and Environment) to explore the repercussions of proposed regulations and have developed this proposed regulation with their feedback.

92-56-4. Installation, inspection, and calibration standards. (a) Each ignition interlock device installed at the direction of the division shall be done at the driver's own expense, except as allowed by K.A.R. ~~92-56-2(e)~~ 92-56-2.

(b) A manufacturer shall ensure that each service provider ~~shall meet~~ meets the following requirements:

(1) Install each device in accordance with the manufacturer's instructions. Each service provider shall, within two weeks of installation, inform the division each time a device has been installed;

(2) install each device so that the device will be deactivated if the driver has a BrAC of ~~.04~~ .03 or higher until a successful retest occurs;

(3) set each device so that if the driver fails ~~an~~ the initial ignition interlock device test, a retest cannot be done for 15 minutes;

(4) set each device so that a rolling retest will ~~occur after the vehicle has been in operation for 10 minutes~~ be required of the driver of the vehicle within 10 minutes of starting the vehicle. Subsequent rolling retests shall occur ~~at 30-minute intervals~~ as described in K.A.R. 92-56-1(n). ~~A three-minute warning light or tone shall be set to come on to alert the driver that a retest is coming.~~ The driver shall have five minutes to complete the retest. The free restart shall not be operative when the device is waiting for a rolling retest sample;

(5) calibrate each device at least every ~~60~~ 30 days at the driver's own expense, except as allowed by K.A.R. ~~92-56-2(e)~~ 92-56-2(k), and maintain an inspection and calibration record with the following information:

(A) The name of the person performing the calibration;

(B) the date of the inspection and calibration;

(C) the method by which the calibration was performed;

(D) the name and model number of the device calibrated;

(E) a description of the vehicle in which the device is installed, including the license plate number, make, model, year, and color; and

(F) a statement by the ~~installer~~ service provider indicating whether there is any evidence ~~that attempts have been made to circumvent the device~~ of circumvention or tampering; and

(6) set each device so that a lockout will occur no later than seven days after any of the following events occurs:

(A) The ~~60-day~~ 30-day calibration and service requirement has been reached;

(B) five or more violations are recorded;

(C) the emergency bypass ~~switch~~ procedure has been used;

(D) a hardware failure or evidence of tampering is recorded; or

(E) the events log has exceeded 90 percent of capacity.

(c) Each driver restricted to driving a vehicle equipped with an ignition interlock device shall keep a copy of the inspection and calibration records in the vehicle at all times. The manufacturer shall retain the original record for each current driver for ~~a period of~~ one year after the device is removed. The manufacturer shall notify the division within seven days after a device has been serviced due to a lockout that occurred for any of the reasons specified in paragraph ~~(b)(6)(B), (b)(6)(C), or~~ (b)(6)(D) ~~of this regulation~~.

(d) The service provider shall enable each device's anticircumvention features when installing a device and keep the features enabled during the ignition interlock device period. Within two business days, a service provider shall notify the division of any evidence of tampering or circumvention. The evidence shall be preserved by the manufacturer or the manufacturer's representative until otherwise notified by the division.

(e) The division may conduct or have conducted independent checks on any of the approved ignition interlock devices to determine whether the devices are operating in a manner consistent with the manufacturer's specifications,

manufacturer's certifications, or these regulations. The director may require the manufacturer or the manufacturer's representative to correct any abnormality found in the installation, calibration, maintenance checks, or usage records of the device. The manufacturer and the manufacturer's representative shall report in writing to the division within 30 days after receiving notification of any abnormality. In conducting these checks, the manufacturer shall install the device in a vehicle chosen by the division, and the manufacturer shall waive any costs to the division for the installation, calibration, or testing of the device.

(f) Each manufacturer shall ensure that its service providers meet all of the following requirements:

(1) Follow certified manufacturer's standards and specifications for service associated with the manufacturer's state approved ignition interlock device;

(2) have the skills, equipment, and facilities necessary to comply with all of the certification and operational requirements specified in this article;

(3) comply with any division reporting requirements; and

(4) have a fixed site to provide each driver with access to an enclosed building that is open for business and has a separate waiting area.

(g) Each manufacturer shall provide the division with written evidence of that manufacturer's statewide network of service providers within seven days of a request by the division. Written evidence shall include lease and ownership documents associated with each manufacturer's service providers in the required state judicial districts.

(h) A manufacturer, manufacturer's representative, or service provider shall not compel any driver to travel out of Kansas to receive services.

(i) A manufacturer shall not permit its service provider to install any device in that service provider's vehicle for the purpose of satisfying K.S.A. 8-1014, and amendments thereto. (Authorized by and implementing K.S.A. 8-1016; effective Oct. 23, 1989; amended July 5, 2002; amended P-_____.)

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KANSAS DEPARTMENT OF REVENUE
ECONOMIC IMPACT STATEMENT
K.A.R. 92-56-4

I. Summary of Proposed Regulation.

The proposed K.A.R. 92-56-4 modifies required installation, inspection, and calibration standards for BAIID service providers in the State. The modifications are described below:

a. Reduction of the set point from .04 to .03. The set point is the amount of alcohol that is observed in a driver's breath wherein an amount equal to or greater in the driver's breath sample will result in the vehicle's ignition system being disabled.
b. Provided instruction on when rolling BAIID retests of the driver are to occur.
c. Shorten the default calibration cycle from 60 days to 30 days.
d. Clarify the BAIID service providers' responsibility that the devices anti-circumvention features must be enabled unless the service provider has received approval from the Division of Vehicles.
e. Create authority for the Division of Vehicles to conduct spot checks of BAIID manufacturers and their service providers.
f. Creating standards for BAIID manufacturers when developing and maintaining the BAIID manufacturer's service providers.
g. Creates a prohibition on BAIID service providers working on their own vehicles to satisfy State license sanction requirements.
h. Prohibits BAIID manufacturers from compelling State customers to travel outside the State to receive BAIID services.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

Due to the Kansas DUI Commission recommendations, and resulting legislation Senate Bill 6 (2011) and Senate Bill 60 (2012), there has been a significant increase in the number of drivers with breath alcohol ignition interlock devices (BAIID) installed. These regulations have been proposed to manage the quality and service provided by State certified BAIID providers to the citizens of Kansas.

The following reasons justify modification of the existing regulation:

a. The State's existing regulations set the breath alcohol level wherein the BAIID disables the vehicle's ignition at .04. The Department of Revenue believes the level should be reduced to .03 to better conform with National Highway and Traffic Safety Administration standards and to reduce the level below the criminal breath alcohol level of .04 associated with operation of a commercial motor vehicle.

b. The current regulations provide conflicting instruction on when a BAIID manufacturer is to require rolling retests. The modification makes the Division's requirements more consistent.
c. The shortening of the required calibration period is being made to create better and timelier driver alcohol consumption information for the Division and applicable probation/parole supervisors. Because the BAIID manufacturers will be required to have physical locations in all 31 judicial districts, any customer's travel concerns are being addressed. Many BAIID manufacturers already have 30 day calibration windows because the time period permits the BAIID service provider to better manage its program.
d. The Division has suggested modifications to the regulations tampering and circumvention requirements to put more responsibility on the BAIID service providers to report incidents of tampering and circumvention.
e. The current regulations do not spell out a BAIID manufacturer or service provider's responsibility to assist and cooperate with Division or State inspections of their machines or program during the certification period. The proposed changes give the Division broader authority to inspect such machines and/or programs.
f. The Division is amending the regulation to give the Division oversight over the quality of BAIID service providers contracted with by the BAIID manufacturer. The Division is setting a standard that BAIID manufacturers may look to when evaluating potential contractors. By imposing these standards, customers will enjoy a higher level of professionalism and consistency from the State's BAIID manufacturers and service providers.
g. BAIID service providers may not service their own vehicles for purposes of BAIID license sanction requirements.
h. There have been complaints received from the Kansas City area wherein State of Kansas customers were required to travel across the Missouri border to receive BAIID service provider services. This creates concerns for the Division of Vehicles for the Division's ability to regulate such out of state entities and ensure that the indigency fund is being properly administered is much reduced by the entities out of state location.

III. Anticipated Economic Impact upon the Kansas Department of Revenue.

The adoption of this regulation will have an economic impact upon the Department of Revenue. The Department anticipates that changes to these regulations will require approximately 10 hours of work a week regarding the management and regulation of BAIID service providers. (see II(f) above). The Department anticipates that there will be little or slight economic impact to the Kansas Department of Revenue based on the other modifications to the regulation. The additional work shall be absorbed through existing positions.

IV. Anticipated Financial Impact upon Other Government Agencies and upon Private Business or Individuals.

The Department anticipates that there will be economic impact on some of the State's currently approved BAIID Manufacturers regarding categories II(a)-(h) above. The following describes those impacts:

a. Slight economic impact to BAIID industry. Because the set point is being reduced to .03 from .04 there will be a proportional increase in test failures and lockouts, and that will lead to an increase in customer visits to BAIID service providers to inspect and recalibrate the BAIID. The customer can avoid these visits by not attempting to start his or her vehicle while he or she has alcohol in his/her system.
b. No economic impact.
c. This shortening of the calibration period will have an economic impact on the BAIID service providers for it will require more work. Rather than a 10 to 30 minute calibration once every 60 days, the BAIID service provider will be required to perform the work more frequently. This cost is reduced somewhat by the new requirement that a BAIID manufacturer have a fixed location in the State's judicial districts. The cost to the consumer should remain about the same because some BAIID service providers were charging a greater amount for the 60 day calibration check.
d. No economic impact.
e. No economic impact.
f. No economic impact.
g. No economic impact.
h. No economic impact.

V. Description of any Less Costly or Less Intrusive Methods that were Considered by the Department of Revenue for Achieving the State Purpose of the Regulation and the Reason that those Methods were Rejected in Favor of the Proposed Regulation.

The Kansas Department of Revenue has determined that the proposed regulation is the least costly method for achieving its purpose. The Department has conducted a series of meetings with BAIID providers and affected government stakeholders (Kansas Attorney General's Office and Kansas Department of Health and Environment) to explore the repercussions of proposed regulations and have developed this proposed regulation with their feedback.

92-56-5. Revocation of certification; penalties. (a) A certification for any ignition interlock device may be revoked for any of the following reasons:

~~(a)~~ (1) The device fails to comply with specifications or requirements provided by the division.

~~(b) The policy of product liability insurance required by K.A.R. 92-56-3 is canceled or not renewed.~~

~~(c)~~ (2) The manufacturer, the manufacturer's representative, or the manufacturer's service provider has failed to make adequate provisions for the ~~installation, maintenance, inspection, calibration, repair, and removal~~ service of the device, as required by K.A.R. 92-56-2, K.A.R. 92-56-4, and K.A.R. 92-56-6.

~~(d)~~ (3) The manufacturer has failed to provide statewide service network coverage or 24-hour, seven-day service support, as required by K.S.A. 8-1016(a)(3) and amendments thereto and K.A.R. 92-56-2(a)(4) and (j).

~~(e)~~ (4) The manufacturer is no longer in the business of manufacturing ignition interlock devices.

(5) The manufacturer or the manufacturer's representative fails to comply with the reporting and testing requirements of K.A.R. 92-56-4.

(6) The manufacturer, the manufacturer's representative, or the manufacturer's service provider fails to comply with K.A.R. 92-56-7.

(7) The manufacturer, the manufacturer's representative, or the manufacturer's service provider fails to promote, implement, and sustain the indigent program required by K.A.R. 92-56-2(f).

(8) The manufacturer, the manufacturer's representative, or the manufacturer's service provider fails to have a fixed location in every state judicial district on and after January 1, 2015, as required by K.A.R. 92-56-2(j).

(9) The manufacturer, the manufacturer's representative, or the manufacturer's service provider compels a driver to travel out of state to receive services, in violation of K.A.R. 92-56-4(h).

(b) Each manufacturer's device certification shall be subject to suspension, revocation, nonrenewal, or cancellation if the division determines that the manufacturer or its representatives have violated any requirement in this article.

(c) In lieu of revoking a manufacturer's device certification, the director may require a manufacturer to terminate its relationship with a service provider.

(Authorized by and implementing K.S.A. 8-1016; effective Oct. 23, 1989; amended July 5, 2002; amended P-_____.)

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KANSAS DEPARTMENT OF REVENUE
ECONOMIC IMPACT STATEMENT
K.A.R. 92-56-5

I. Summary of Proposed Regulation.

The proposed K.A.R. 92-56-5 modifies the Department of Revenue's revocation and suspension process for State approved BAIID manufacturers. The modifications are described below:

a. The insurance requirement contained in K.A.R. 92-56-3 remains a continuing requirement for State certification and does not need to be addressed in the regulation.
b. The regulation is modified to specifically incorporate the other ignition interlock regulations and to emphasis that the BAIID manufacturer is responsible for the actions of its representative and service providers.
c. The regulation is modified to specifically address failures of a BAIID manufacturer to maintain and support an indigency program.
d. The regulation is modified to specifically address the Department's authority to take action upon a BAIID manufacturer's failure to comply with the State wide coverage requirement of K.S.A. 8-1017.
e. Provides the Department with authority to suspend a BAIID manufacturer rather than revoke such manufacturer. The modification also gives the Department authority to compel a BAIID manufacturer to terminate its relationship with a problematic BAIID service provider.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

Due to the Kansas DUI Commission recommendations, and resulting legislation Senate Bill 6 (2011) and Senate Bill 60 (2012), there has been a significant increase in the number of drivers with breath alcohol ignition interlock devices (BAIID) installed. These regulations have been proposed to manage the quality and service provided by State certified BAIID providers to the citizens of Kansas.

Enforcement priorities have changed in the years since these initial regulations were drafted. The modifications better address current issues confronted by customers, the Kansas Department of Revenue, BAIID manufacturers, and BAIID service providers.

III. Anticipated Economic Impact upon the Kansas Department of Revenue.

The adoption of this regulation will have little economic impact upon the Department of Revenue.

IV. Anticipated Financial Impact upon Other Government Agencies and upon Private Business or Individuals.

The Department anticipates that the most significant economic impact from this regulation will concern the new State judicial district requirement for BAIID manufacturers that will require all manufacturers have a greater physical location foot print throughout the State. Some BAIID manufacturers that do not currently promote a State wide network of service will have to undertake some expense to comply with the statute and these regulations.

V. Description of any Less Costly or Less Intrusive Methods that were Considered by the Department of Revenue for Achieving the State Purpose of the Regulation and the Reason that those Methods were Rejected in Favor of the Proposed Regulation.

The Kansas Department of Revenue has determined that the proposed regulation is the least costly method for achieving its purpose. The Department has conducted a series of meetings with BAIID providers and affected government stakeholders (Kansas Attorney General's Office and Kansas Department of Health and Environment) to explore the repercussions of proposed regulations and have developed this proposed regulation with their feedback.

92-56-6. Service provider; relocation and replacement. (a) Each manufacturer and manufacturer's representative shall be responsible for providing uninterrupted service of the manufacturer's installed devices if one of the manufacturer's service providers moves out of the manufacturer's judicial district or goes out of business. If a service provider is moving or going out of business, the manufacturer or the manufacturer's representative shall indicate to the division whether or not the manufacturer will replace the service provider. The manufacturer and the manufacturer's representative shall notify the division electronically or in writing of all changes in the status of any service provider and any additions, deletions, or other changes to the manufacturer's complete listing of service providers, which shall include for each service provider the name, location, phone number, contact name, and hours of operation. Notification shall occur on a quarterly basis or more frequently if required by the division.

(b) If the manufacturer or manufacturer's representative replaces a service provider, the manufacturer and manufacturer's representative shall make all reasonable efforts to obtain driver records and data from the original service provider and provide the records and data to the new service provider. If the manufacturer or manufacturer's representative does not replace the service provider, the manufacturer and manufacturer's representative shall make all reasonable efforts to obtain driver records and data from the original service

provider, maintain the records and data at the main business office of the manufacturer's representative, and provide the records and data to the division as required by this regulation.

(c) Each manufacturer and manufacturer's representative shall notify all affected drivers of the change of service provider or replacement of the device as soon as possible but not later than 30 days before the change of service provider or replacement will occur. (Authorized by and implementing K.S.A. 8-1016; effective P-_____.)

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KANSAS DEPARTMENT OF REVENUE
ECONOMIC IMPACT STATEMENT
K.A.R. 92-56-6

I. Summary of Proposed Regulation.

The proposed K.A.R. 92-56-6 is a new regulation that clarifies a BAIID manufacturer's responsibilities when its service provider terminate its relationship with the BAIID manufacturer or when such manufacturer replaces a service provider with another service provider in the same State judicial district. The regulation provides the customer and Department of Revenue with direction when dealing with a BAIID manufacturer that temporarily or permanently moves out of a geographic area.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

Due to the Kansas DUI Commission recommendations, and resulting legislation Senate Bill 6 (2011) and Senate Bill 60 (2012), there has been a significant increase in the number of drivers with breath alcohol ignition interlock devices (BAIID) installed. These regulations have been proposed to manage the quality and service provided by State certified BAIID providers to the citizens of Kansas.

This new regulation is needed to address new State judicial district requirements for BAIID manufacturers. The Department of Revenue has observed there to be no small amount of turnover and change between the BAIID manufacturers and their service providers. This regulation will create notice requirements and other logistical support for customers if their BAIID service provider stops providing service.

III. Anticipated Economic Impact upon the Kansas Department of Revenue.

The adoption of this regulation will have little economic impact upon the Department of Revenue.

IV. Anticipated Financial Impact upon Other Government Agencies and upon Private Business or Individuals.

The Department does not anticipate this regulation will have significant negative economic impact on BAIID manufacturers. A version of this regulation is found in many other states and the BAIID manufacturers are familiar with the requirement.

V. Description of any Less Costly or Less Intrusive Methods that were Considered by the Department of Revenue for Achieving the State Purpose of the Regulation and the Reason that those Methods were Rejected in Favor of the Proposed Regulation.

The Kansas Department of Revenue has determined that the proposed regulation is the least costly method for achieving its purpose. The Department has conducted a series of meetings with BAIID providers and affected government stakeholders (Kansas Attorney General's Office and Kansas Department of Health and Environment) to explore the repercussions of proposed regulations and have developed this proposed regulation with their feedback.

92-56-7. Security; tampering prohibitions; conflict of interest. (a) Each manufacturer and each manufacturer's representative shall be responsible for ensuring that the manufacturer's service providers comply with all of the following security requirements:

(1) Only authorized employees of a service provider may observe the installation of a device.

(2) Reasonable security measures shall be taken to prevent the driver from observing the installation of a device and from obtaining access to installation materials.

(3) Service providers shall be prohibited from assisting with, in any manner, tampering or circumvention.

(4) Manufacturer's representatives and service providers shall not install or service a device on a vehicle owned or operated by the manufacturer's representative or service provider, or any of the service provider's employees, for division-required installations.

(b) Nothing in this regulation shall prohibit a manufacturer, manufacturer's representative, or service provider from installing a device in that entity's vehicles for demonstration and testing purposes. (Authorized by and implementing K.S.A. 8-1016; effective P-_____.)

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KANSAS DEPARTMENT OF REVENUE
ECONOMIC IMPACT STATEMENT
K.A.R. 92-56-7

I. Summary of Proposed Regulation.

The proposed K.A.R. 92-56-7 is a new regulation that increases the level of professionalism required of BAIID service providers and manufacturer's representatives. The first part of the regulation prohibits a service provider from tampering with or circumventing the BAIID to assist a customer in avoiding his or her BAIID restriction requirements. The regulation also requires a BAIID service provider to not permit a customer to directly observe the installation and/or service of the BAIID. The purpose of such prohibition is to avoid empowering the customer with knowledge to tamper with or circumvent security features contained in the BAIID. The second part of the regulation prohibits a service provider, service provider's employee, or manufacturer's representative from installing a BAIID in their own vehicle for purposes of satisfying Department of Revenue driver's license restriction requirements.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

Due to the Kansas DUI Commission recommendations, and resulting legislation Senate Bill 6 (2011) and Senate Bill 60 (2012), there has been a significant increase in the number of drivers with breath alcohol ignition interlock devices (BAIID) installed. These regulations have been proposed to manage the quality and service provided by State certified BAIID providers to the citizens of Kansas.

This new regulation is needed to improve the level of professionalism of the State's certified BAIID manufacturers and their service providers.

III. Anticipated Economic Impact upon the Kansas Department of Revenue.

The adoption of this regulation will have no economic impact upon the Department of Revenue.

IV. Anticipated Financial Impact upon Other Government Agencies and upon Private Business or Individuals.

The Department does not anticipate this regulation will have significant economic impact on BAIID manufacturers. A version of this regulation is found in many other states and the BAIID manufacturers are familiar with the requirement.

V. Description of any Less Costly or Less Intrusive Methods that were Considered by the Department of Revenue for Achieving the State Purpose of the Regulation and the Reason that those Methods were Rejected in Favor of the Proposed Regulation.

The Kansas Department of Revenue has determined that the proposed regulation is the least costly method for achieving its purpose. The Department has conducted a series of meetings with BAIID providers and affected government stakeholders (Kansas Attorney General's Office and Kansas Department of Health and Environment) to explore the repercussions of proposed regulations and have developed this proposed regulation with their feedback.

92-56-8. Device removal. Whenever a service provider removes a device, the following requirements shall apply:

(a) The only persons allowed to remove or observe the removal of the device shall be service providers or a manufacturer's representative associated with the manufacturer of that device.

(b) Adequate security measures shall be taken to ensure that unauthorized personnel cannot gain access to proprietary materials and to the files of drivers.

(c) Upon removal of the device, the service provider shall ensure that both of the following occur:

(1) The driver is provided with a report showing the removal of the device.

(2) The division is notified, in the form and format designated by the division.

(d) The service provider and the manufacturer shall restore the driver's vehicle to its original condition after removal of the device. (Authorized by and implementing K.S.A. 8-1016; effective P-_____.)

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KANSAS DEPARTMENT OF REVENUE
ECONOMIC IMPACT STATEMENT
K.A.R. 92-56-8

I. Summary of Proposed Regulation.

The proposed K.A.R. 92-56-8 is a new regulation that increases the level of professionalism required of BAIID service providers and manufacturer's representatives relating to the removal of the BAIID from the customer's vehicle.

In addition, the regulation creates explicit notification requirements for the BAIID service provider that will assist the customer and Division of Vehicles to transition the customer's driver's license status to regular driving privileges upon the completion of required license sanctions and controls.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

Due to the Kansas DUI Commission recommendations, and resulting legislation Senate Bill 6 (2011) and Senate Bill 60 (2012), there has been a significant increase in the number of drivers with breath alcohol ignition interlock devices (BAIID) installed. These regulations have been proposed to manage the quality and service provided by State certified BAIID providers to the citizens of Kansas.

This new regulation is needed to improve the level of professionalism of the State's certified BAIID manufacturers and their service providers and will improve the efficiency of a driver's reinstatement once he or she has completed the required BAIID restriction period(s).

III. Anticipated Economic Impact upon the Kansas Department of Revenue.

The adoption of this regulation will have no economic impact upon the Department of Revenue.

IV. Anticipated Financial Impact upon Other Government Agencies and upon Private Business or Individuals.

The Department does not anticipate this regulation will have significant economic impact on BAIID manufacturers. A version of this regulation is found in many other states and the BAIID manufacturers are familiar with the requirement.

V. Description of any Less Costly or Less Intrusive Methods that were Considered by the Department of Revenue for Achieving the State Purpose of the Regulation and the Reason that those Methods were Rejected in Favor of the Proposed Regulation.

The Kansas Department of Revenue has determined that the proposed regulation is the least costly method for achieving its purpose. The Department has conducted a series of meetings with BAIID providers and affected government stakeholders (Kansas Attorney General's Office and Kansas Department of Health and Environment) to explore the repercussions of proposed regulations and have developed this proposed regulation with their feedback.

92-56-9. Proof of installation. (a) If a driver is unable to provide proof of installation of the device to the division for the full restriction period required by K.S.A. 8-1014 and amendments thereto, the director shall extend the ignition interlock device restriction period until the driver provides the division with proof that the driver has had a device installed in a vehicle for a period that is equal to or greater than the initial ignition interlock device restriction period required by K.S.A. 8-1014 and K.S.A. 8-1015(d), and amendments thereto.

(b) Any device may deviate from the breath sample requirement by accepting a breath sample of less than 1.2 liters of air if the deviation is approved in advance by the division to address valid accommodation requests under the Americans with disabilities act of 1990. Each request for accommodation shall be submitted on a form provided by the division. Each form shall require a certification by a licensed pulmonologist that the driver has a lung condition that will render the driver incapable of blowing a normal breath sample, 1.2 liters of air or more, into an ignition interlock device.

(c) If an accommodation that is requested pursuant to subsection (b) cannot be made for a driver that is a qualified individual with a disability as defined by 42 U.S.C. 12131(2), and amendments thereto, the director, upon the driver's request, may reinstate the driver's license after the initial ignition interlock device restriction period if the records maintained by the division have

no indication of the occurrence of any of the following offenses during the entire initial ignition interlock device restriction period:

(1) Conviction pursuant to K.S.A. 8-1599, and amendments thereto;

(2) conviction pursuant to K.S.A. 41-727, and amendments thereto;

(3) conviction of any violation listed in K.S.A. 8-285(a), and amendments thereto;

(4) conviction of three or more moving traffic violations committed on separate occasions within a 12-month period; or

(5) revocation, suspension, cancellation, or withdrawal of the person's driving privileges due to an unrelated event.

If the driver that is requesting accommodation has any offenses during the initial ignition interlock device restriction period, the director shall not reinstate the driver's full driving privileges until the driver has no such offenses for the year before the driver's request for reinstatement of full driving privileges. This subsection shall not serve as a defense to allegations that the driver has violated K.S.A. 8-1017, and amendments thereto, during any required ignition interlock device restriction period.

(d) The director may waive the requirement for proof of ignition interlock device installation, upon a driver's request, if the director determines that all of the following conditions are met:

(1) The driver's ignition interlock device restriction period has been extended at least two years beyond the initial ignition interlock device restriction period due to the driver's failure to provide the division with proof of installation as required by subsection (a).

(2) The driver has not had an "alcohol or drug-related conviction" or "occurrence," as those terms are defined by K.S.A. 8-1013 and amendments thereto, a conviction pursuant to K.S.A. 8-1017 and amendments thereto, or a conviction of a violation of a law of another state that would constitute a violation similar to any violation specified in K.S.A. 8-1017 and amendments thereto, during the ignition interlock device restriction period.

(3) The driver has not had any violations specified in paragraphs (c)(1) through (c)(5) during the ignition interlock device restriction period.

(4) The driver has never held a driver's license issued by the state of Kansas.

(5) The driver provides the director with clear and compelling evidence that the driver does not reside in Kansas and did not reside in Kansas during the ignition interlock device restriction period. (Authorized by K.S.A. 8-1016; implementing K.S.A. 2013 Supp. 8-1015 and K.S.A. 8-1016; effective P-_____.)

Office of the Director of Vehicles
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Nick Jordan, Secretary
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Sam Brownback, Governor

KANSAS DEPARTMENT OF REVENUE
ECONOMIC IMPACT STATEMENT
K.A.R. 92-56-9

I. Summary of Proposed Regulation.

The proposed K.A.R. 92-56-9 is a new regulation that clarifies the requirement in K.S.A. 8-1015, and amendments thereto, that mandates the Division of Vehicles can only fully reinstate normal driving privileges once it has received proof of completion of any mandatory BAIID restriction period. The regulation also addresses rare instances wherein a customer is confronted with: 1) a disability that affects his or her ability to provide a normal breath sample; or 2) logistical problems based on the driver's state not having a BAIID program or alternative.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law.

Due to the Kansas DUI Commission recommendations, and resulting legislation Senate Bill 6 (2011) and Senate Bill 60 (2012), there has been a significant increase in the number of drivers with breath alcohol ignition interlock devices (BAIID) installed. These regulations have been proposed to manage the quality and service provided by State certified BAIID providers to the citizens of Kansas.

This regulation is required by K.S.A. 2012 Supp. 8-1015(d), because many Kansas drivers have argued that "[P]roof of the installation of such ignition interlock device, for the entire period required by the applicable law, shall be provided to the division before the person's driving privileges are fully reinstated" is not clear enough. This regulation would spell out to the customer why his or her license is not being fully reinstated until the Division has received proof of installation for the entire BAIID restriction period.

The Department has been confronted with numerous requests and one lawsuit regarding the application of the Americans with Disabilities Act to this BAIID program. This regulation incorporates many of the lessons learned in those experiences and applies them to the Department's overall management of the program.

Finally, the Department has carved out a special process for out of state drivers with no connection to Kansas, except for driving in the State at one time, regarding the reinstatement of their driving privileges. Some states have no BAIID program and if a driver lives in such state, he or she is in a difficult position regarding compliance with Kansas rules. This proposed regulation would assist the Department in resolving those small handfuls of cases.

III. Anticipated Economic Impact upon the Kansas Department of Revenue.

The adoption of this regulation will have little economic impact upon the Department of Revenue. If there is any impact, it will be positive to the Department for the regulation will assist the State's disabled and help the Department address those cases on a case by case basis.

IV. Anticipated Financial Impact upon Other Government Agencies and upon Private Business or Individuals.

The Department does not anticipate this regulation will have significant economic impact on other government agencies, private businesses, or individuals.

V. Description of any Less Costly or Less Intrusive Methods that were Considered by the Department of Revenue for Achieving the State Purpose of the Regulation and the Reason that those Methods were Rejected in Favor of the Proposed Regulation.

The Kansas Department of Revenue has determined that the proposed regulation is the least costly method for achieving its purpose. The Department has conducted a series of meetings with BAIID providers and affected government stakeholders (Kansas Attorney General's Office and Kansas Department of Health and Environment) to explore the repercussions of proposed regulations and have developed this proposed regulation with their feedback.

The survey will be conducted as an address-based mail survey with the mailings sent out by the Idaho Transportation Department. It will include a pre-survey letter and a series of mailed reminders. Completed questionnaires will be returned in postage-paid pre-addressed envelopes to NHTSA's contractor for this project, Battelle. The survey will be administered only once per respondent. It will be made available on-line for any respondents that prefer to do the survey on-line. The on-line option is included to ensure adequate participation by younger drivers. No personally identifiable information will be collected; all results will be reported in the aggregate.

Description of the Need for the Information and Proposed Use of the Information—The National Highway Traffic Safety Administration (NHTSA) was established by the Highway Safety Act of 1970 (23 U.S. C. 101) to carry out a Congressional mandate to reduce the number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. Speeding is one of the primary factors involved in vehicle crashes. In 2011, speeding was a contributing factor in 30% of all fatal crashes and the loss of 9,994 lives. The estimated economic cost to society for speeding-related crashes is $40.4 billion per year. Given the widespread occurrence of speeding and the high toll in injuries and lives lost in speed-related crashes, as well as the high economic costs of speed-related crashes, this is a safety issue that demands attention.

Given there has been so little progress in reducing the percentage of speeding-related fatalities over the last decade, it is appropriate to examine new approaches for addressing this problem. Recent research findings reveal important differences in driver types and speeding behaviors and provide an opportunity to develop new countermeasures and more targeted approaches to reduce speeding-related fatalities and injuries. The data collected in this study will provide NHTSA with important detailed information that will help to better define the nature of the speeding problem and assist in reducing speeding on our nation's highways. In support of its mission, NHTSA will use the findings from this survey for developing new speeding countermeasures that are better matched to specific types of speeding problems. This new information on driver types and countermeasures for speeding can help communities throughout the country to enhance and improve their speed management programs. This information is focused on achieving the greatest benefit in decreasing crashes and resulting injuries and fatalities, and providing informational support to States, localities, and law enforcement agencies that will aid them in their efforts to reduce traffic crashes.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—After a thorough search for a State to participate in this project, an agreement with the State of Idaho was established to conduct this study. The survey respondents will be a random sample of drivers currently licensed and living in Idaho. The sample will be stratified by age, gender, and numbers of citations for speeding in the previous three years. The questionnaire will be mailed to respondents and also made available on-line. A final sample size of 3,200 drivers is projected for the survey mailing with a projected response rate of 50% (1,600 drivers). All respondents will surveyed only once and participation in the survey is voluntary.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information—The total estimated annual burden is approximately 560 hours for the survey. Based on cognitive testing of the paper and pencil survey (n = 9), it is estimated it will take approximately 21 minutes per respondent to complete the survey (1,600 respondents × 21 minutes each = 560 hours total). The survey would be fielded for a two-month period in 2014. The mailed survey packets would include a postage-paid return envelope for returning the completed questionnaires. Respondents will also have the option of completing the survey on-line. The mean hourly wage for all occupations in the State of Idaho is $18.52. At 560 total responding hours for the survey, this would put the cost burden at approximately $10,371.20. The respondents would receive a $5.00 incentive for taking the survey. The respondents would not incur any reporting cost from the information collection beyond the time to respond to the information request and they would not incur any record keeping burden or record keeping cost from the information collection.

Authority: 44 U.S.C. 3506(c)(2)(A).

Issued on: May 3, 2013.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2013–10930 Filed 5–7–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0058]

Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs)

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice revises the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs). The Model Specifications are guidelines for the performance and uniform testing of BAIIDs. These devices are designed to prevent a driver from starting a motor vehicle when the driver's breath alcohol concentration (BrAC) is at or above a set alcohol level. Every State in the United States has enacted a law providing for the use of BAIIDs as a sanction for drivers convicted of driving while intoxicated offenses. This notice revises the 1992 Model Specifications, to test BAIIDs for conformance. These Model Specifications are based, in part, on input from interested parties during an open comment period. This notice also indicates that NHTSA will delay rendering a decision about the feasibility and timing of a Conforming Products List (CPL) until more information is available. Accordingly, NHTSA plans to conduct an assessment to determine whether establishing and maintaining a CPL is feasible, prior to rendering a decision.

DATES: *Effective Date:* This notice is effective May 8, 2014.

FOR FURTHER INFORMATION CONTACT: *For technical issues:* Ms. De Carlo Ciccel, Behavioral Research Division, NTI–131, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; Telephone number: (202) 366–1694; Email: *decarlo.ciccel@dot.gov. For legal issues:* Ms. Jin Kim, Attorney-Advisor, Office of the Chief Counsel, NCC–113, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; Telephone number: (202) 366–1834; Email: *jin.kim@dot.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

In 1992, the National Highway Traffic Safety Administration (NHTSA) adopted and published Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs). (57 FR 11772.) Ignition interlocks are alcohol breath-testing devices installed in motor vehicles that require the driver to provide an acceptable breath sample in order to start the engine. If the breath sample provided by the driver contains more than a predetermined alcohol concentration, the ignition interlock device prevents the vehicle from starting. Ignition interlocks also require drivers to provide breath samples periodically while the engine is running, to ensure that their alcohol concentration remain under the predetermined level.

Before NHTSA adopted the Model Specifications in 1992, a number of States enacted laws authorizing the use of "certified" BAIIDs. However, there was no single standard or test procedure among the States for certifying BAIIDs. Manufacturers of ignition interlock devices requested that the Federal Government develop and issue standards for certifying such devices rather than leaving the industry subject to numerous State standards and test requirements. After notice and comment, NHTSA adopted the Model Specifications for BAIIDs to provide a degree of consistency.

Since the Model Specifications were adopted in 1992, many States have incorporated them or some variation into their certification requirements. Persons required to use BAIIDs are generally under the direct supervision of a court or another State agency (e.g., Motor Vehicle Administration). All 50 States have enacted laws providing for the use of BAIIDs for impaired driving offenders. Currently, of these States, 18 mandate or highly incentivize the use of BAIIDs by all impaired driving offenders (including first-time offenders); an additional 20 States mandate the use of BAIIDs by repeat and/or high BAC offenders (at .15 or greater).

While many States have incorporated the Model Specifications to certify BAIIDs used by impaired driving offenders, there remains considerable variability among State certification requirements. Due to this variability and rapid technological advances in the industry, States and manufacturers of BAIIDs had requested that NHTSA update the Model Specifications. They also urged NHTSA to test the devices against the Model Specifications and maintain a Conforming Products List (CPL) of devices found to meet the Model Specifications.

A. 2006 Request for Comments

In preparation for the revision of the Model Specifications, NHTSA published two notices in the **Federal Register**. On February 15, 2006 (71 FR 8047), NHTSA published a request for comments, explaining that the agency intended to revise the 1992 Model Specifications and was interested in obtaining comments from interested parties in 13 specific areas. The areas included: Accuracy and precision requirements; sensor technology; sample size requirements; temperature extreme testing; radio frequency interference (RFI) or electromagnetic interference (EMI); circumvention testing; the vehicle-interlock interface; calibration stability; ready-to-use times; NHTSA testing; international harmonization; specifications for ignition interlock programs; and acceptance testing.

B. 2010 Proposed Model Specifications

In general, the comments to the 2006 notice were supportive of the agency's intent to revise the 1992 Model Specifications, but they noted that some adjustments were warranted to assure more consistency in the quality of equipment in use at that time. On October 6, 2010 (75 FR 61820), NHTSA published a separate notice containing proposed revisions to the 1992 Model Specifications. That notice addressed the 13 topics that had been listed in the **Federal Register** notice published in 2006. It also addressed additional issues that were raised in the comments responding to the 2006 notice, including: Set points; removable sensing heads or units; tampering testing; service interval; retests; among others.

II. Comments Received in Response to 2010 Notice

NHTSA received comments from 20 individuals and organizations in response to the 2010 notice, including five States (Iowa, Illinois, Oklahoma, Wisconsin and Colorado); nine BAIID manufacturers (Alcohol Countermeasure Systems (ACS), Alcohol Detection Systems (ADS), Consumer Safety Technology (CST), Draeger Safety Diagnostics, Guardian Interlock Systems, LifeSafer Interlock, National Interlock Systems, Omega Point Systems and Smart Start); one manufacturer of Evidential Breath Testing Devices (Intoximeters); one citizen; two coalitions/associations (American Association of Motor Vehicle Administrators (AAMVA) and the Coalition of Ignition Interlock Manufacturers (CIIM)); and two BAIID installers/providers (Ignition Interlock

Systems of Iowa (IISI) and Road Safety Technologies).

A. General Comments

Many of the comments were supportive of the proposed changes to the Model Specifications. However, a number of comments raised serious concerns. Many comments suggested that, despite NHTSA statements to the contrary, some aspects of the proposed Model Specifications seemed tantamount to program guidelines or design (and not performance) specifications. In addition, a number of comments suggested that NHTSA seemed "out of touch" with certain current State practices and technology, and the proposed Model Specifications seemed "inflexible" in some respects. These comments stressed that certain aspects of the proposed Model Specifications would negatively impact technical innovation and State programs. Other, more technical, issues were also raised.

NHTSA appreciated receiving the many candid and thoughtful comments submitted in response to the 2010 notice. The agency has considered them carefully and made a number of revisions to the Model Specifications as a result. In particular, the agency agrees that the Model Specifications should define performance criteria and not specify design features. The agency also agrees that some decisions are programmatic in nature and should not be included in these Model Specifications, which are intended to apply to the performance of BAIID units, not the manner in which States and local jurisdictions conduct their programs. The agency defers to the discretion of States and local jurisdictions regarding programmatic decisions and, as appropriate, seeks to incorporate flexibility in these Model Specifications, in an effort to support the programmatic decisions of States and local jurisdictions.

In this notice, the agency first discusses these overarching issues, which generated the greatest number of comments. Discussions about the more technical issues, which relate more directly to particular sections of the Model Specifications, follow.

Another topic that generated many comments related to the question of whether NHTSA should undertake the responsibility of evaluating ignition interlocks against the Model Specifications and publish a CPL of devices meeting those specifications. For reasons described in more detail later in this notice (Section II.E.), NHTSA will delay rendering a decision about the feasibility and timing of a CPL until more information is available. NHTSA plans to conduct an assessment to determine whether establishing and maintaining a CPL is feasible, prior to rendering a decision.

B. Overarching Issues

1. Sensor Technology

The **Federal Register** notice published in 2006 indicated that the 1992 Model Specifications did not address the type of sensor technology that should be used to satisfy the performance requirements, and asked whether the Model Specifications should limit sensor technology to alcohol-specific sensors (such as fuel cell technology based on electrochemical oxidation of alcohol) or other emerging sensor technologies, or whether NHTSA should not specify the sensor technology and rely instead on performance requirements. (71 FR 8047.)

In the 2010 **Federal Register** notice, NHTSA stated that, while alcohol-specific sensor technologies have made great advances, the proposal would not limit the sensor technology used in the BAIIDs as long as the BAIID meets the performance requirements of the Model Specifications. In that notice, the agency expressed the belief that this approach would allow a wider variety of options, including the use of emerging technologies as they become available. (75 FR 61822.)

The agency received nine comments regarding this topic. The comments were overwhelmingly opposed to the agency's proposal not to specify or restrict sensor technology.

For example, Road Safety Technologies stated, "It is critical that the interlock device be as accurate as the technology can allow." (p. 1.) Similarly, LifeSafer asserted, "As jurisdictions have embraced and expanded their use of BAIID technology, they have demanded alcohol-specific sensor technology. [Interlocks that] are not alcohol-specific . . . tarnish the reputation of the industry . . ., [which] undermines interlock efficacy and creates lasting misperceptions." (p. 4–5.) AAMVA expressed its belief that "non-specific alcohol devices are prone to false positives and unwarranted lockouts, leading to a lower acceptance rate amongst drivers." (p. 1.) Colorado stated, "it is unfortunate that the proposed specifications do not seize the opportunity to move all our programs towards greater success, customer convenience, acceptance and satisfaction by requiring alcohol-specific technology." (p. 2.)

NHTSA agrees with the comments that the Model Specifications should ensure that BAIIDs are as accurate as possible and that it is not desirable to accept devices that generate high levels of false positives. The agency is also persuaded by the comments that current technology has progressed sufficiently to expect that BAIIDs should be able to distinguish between alcohol and other chemicals or substances. Accordingly, the Model Specifications provide in Test 12 and 13 that BAIIDs should distinguish between alcohol and other specific substances, such as acetone and cigarette smoke, which are commonly found on breath. BAIIDs that are unable to distinguish these substances from alcohol will not meet the Model Specifications.

Some comments went further and urged the agency to require fuel cell technology and/or ban the use of semi-conductors. NHTSA declines to take this further step, since requiring one particular technology or prohibiting another would be equivalent to setting a design (and not a performance) standard.

2. Removable Heads and Fixed Control Boxes

In the 2010 notice, NHTSA proposed that the sensing unit should not be removable because it can more easily be damaged or mishandled, leading to frequent repairs and increased cost. Accordingly, NHTSA proposed to test only BAIIDs without removable sensing heads or units, though the agency clarified that it does not object to BAIIDs with a removable mouthpiece. (75 FR 61823.)

This aspect of the proposal generated a large number of comments in strong opposition. For example, Consumer Safety Technology (CST) stated that it found "the provision for the prohibition of removal of the sensing head to be inexplicable and unjustified." (p. 1.) According to CST, "All ignition interlocks have removable handsets. This provision would make every interlock noncompliant." (p. 1.) Road Safety Technologies pointed out that, "In practice, many interlock providers now recommend to their customers that the sensing head be taken inside to keep it warm or cool in inclement weather [or] to prevent the vehicle from being stolen." (p. 1.)

Guardian asserted that placing a restriction on removable heads would be "design restrictive." (p. 2.) Guardian continued, "There should not be any restriction of design imposed by NHTSA. If a BAIID can meet . . . and successfully comply with the test requirements, the design of the device itself should be left to the manufacturer and the marketplace." (p. 2.)

A number of State comments also opposed the restriction. According to Illinois, "Currently, [it] has seven vendors whose BAIIDs are certified by the Secretary of State, all of which use BAIIDs that have a removable sensing head . . . The Illinois Secretary of State has administered a BAIID program since 1995 and not once during the past 15 years has the Secretary received any complaints from BAIID users, installers or vendors that the BAIID has been damaged or mishandled as a result of removal of the sensing head." (p. 1) Objections were received also from other BAIID manufacturers, the Coalition of Ignition Interlock Manufacturers (CIIM), interlock providers, Iowa and Oklahoma. Wisconsin did not oppose the restriction, but urged NHTSA to specify that the sensing head be removable only by the service provider; not the customer.

NHTSA has reconsidered this aspect of its proposal based on the comments. The agency acknowledges that prohibiting removable sensing heads may constitute a design (and not a performance) standard and may unintentionally stifle new technologies. In addition, it could interfere with current State practices. Accordingly, the revised Model Specifications do not state a preference with regard to whether BAIIDs should have removable sensing heads. However, a provision has been added to the General Provisions and Features section of the Model Specifications (Section C), providing that if the BAIID has a removable sensing head, the vehicle should not start without use of the sensing head.

To ensure performance, BAIIDs should be tested as a unit under appropriate tests, as provided in the Model Specifications, including Tests 5 and 6, under extreme temperature conditions. If a BAIID includes removable components, such components should be tested in accordance with the manufacturer's user instructions.

NHTSA has not adopted the recommendation from Wisconsin to specify that only service providers may remove the sensing heads. We believe that such a restriction is a programmatic decision and does not relate to the performance of BAIID units.

NHTSA also proposed that BAIID memory should be located in a fixed control box. This aspect of the proposal was intended to prevent damage to the BAIID memory.

Draeger agreed with this aspect of the proposal, stating that it will ensure data integrity. However, most comments opposed this part of the proposal. For example, National Interlock stated, "Current interlock technology stores data in the sampling head, the control box or both. Regardless of the memory storage location, the data is preserved in memory for download . . . We believe that it is not necessary for NHTSA to mandate that the memory storage be in a fixed control box." (p. 2.) Similar comments were received from Smart Start. Guardian added that this proposed restriction would limit "innovation in product development and technological advancement" (p. 5.) andinterfere with current State practices. Comments in opposition were received also from Iowa, Colorado, Ignition Interlock Systems of Iowa (IISI) and Alcohol Detection Systems (ADS). Oklahoma requested clarification of the terms "memory", "fixed" and "control box." (p. 2.)

NHTSA has carefully considered these comments. The agency wishes to ensure the integrity of the data. However, the agency does not wish to specify design features or unnecessarily stifle new technologies. It also does not wish to interfere with current State practices. Accordingly, the revised Model Specifications have been revised to remove the specification that the memory be contained in a fixed control box. The interlock data logger of each BAIID should be tested, wherever it is maintained under the manufacturer's design.

3. Retests

As stated earlier, ignition interlocks test drivers for alcohol before they can start their vehicle's engine. Interlocks also retest drivers for alcohol periodically while the engine is running. In the 2010 notice, the agency stated that "NHTSA does not intend that retests be conducted while the vehicle is moving, but rather while the engine is running with the vehicle stopped in a safe location on the side of the road." (75 Fed. Reg. 61824.)

Many of the comments objected to this statement. For example, LifeSafer asserted, "All interlock vendors advise the client/user to pull off the road in a 'safe' place to take the retest. The practical reality is 99% of the 500,000–1,000,000 plus retests per day are not taken in this fashion, but rather safely delivered while the vehicle is in motion with little or minimal driver distraction." (p. 3–4.) Some of the comments asked NHTSA for evidence demonstrating that drivers are at increased risk when taking a retest.

Colorado asserted that, while requiring that a retest be conducted while "stopped in a safe location . . . may appear to serve public safety, current interlock devices are designed to be so unobtrusive that they are easier to manipulate [than] a vehicle's sound system, GPS or climate control system." Moreover, Colorado argued that "there are too many traffic situations that make pulling over less safe, even with an extended period within which to deliver the sample" such as "long mountain tunnels" or "other congested environments with tight lanes and limited shoulders." (p. 2.)

NHTSA is very concerned about distracted driving and the risks that distraction can pose for drivers and other road users. However, the agency acknowledges that it currently has little data regarding crashes involving drivers taking interlock retests. We will continue to monitor the data and respond to any new trends that are identified.

Draeger pointed out, in its comments, that the manner in which retests should be conducted "is a requirement for the driver and is not directly related to the BAIID itself or its design and functionality." (p. 3.) NHTSA agrees with this assessment. Accordingly, while the agency strongly urges drivers to conduct retests when and where it is safe to do so, the Model Specifications no longer specify how retests should be conducted. This is more appropriately a function for States and local jurisdictions. The Model Specifications have been revised to remove this reference.

4. Alerts

In response to the 2006 notice, one commenter suggested that an interlock-specific tone (other than a honking horn) be used to alert outsiders to BAIID violations. In the 2010 notice, NHTSA responded that it does not believe that audible sounds or lights to alert the public to interlock violations are necessary. (75 FR 61826.) The agency did not include the suggestion in its proposal.

The comments in response to this aspect of the 2010 notice were mixed. Consumer Safety Technology (CST) agreed that "the honking of the vehicle horn is disruptive enough to attract attention to a driver in violation of a . . . retest." (p. 9.) Smart Start did not take a position about the horn, but expressed its belief that "it . . . promotes unsafe driving when lights are flashing on and off to alert the public." (p. 5.)

IISI requested the evidence that NHTSA relied on to reach the conclusion that audible sounds or lights are not necessary to alert the public to interlock violations. According to IISI, "Our technicians, who collectively meet

with hundreds of IID users every day, would say that the threat of the honking horn on a failed or ignored random retest is the single greatest deterrent to the IID user's attempting to have another person pass a test so the impaired driver can sneak home undetected." (p. 1.)

Similarly, ACS asserted that NHTSA's position "is contrary to 25 years of experience with alcohol interlock programs in which audible sounds and (to a lesser extent) visual indications are required by jurisdictional authorities as both a warning to others and a deterrent to the driver to ignore a retest requirement." (p. 22.)

As stated above with regard to retests, NHTSA is concerned about distracted driving and believes that certain types of alerts may serve as a distraction to drivers. On the other hand, the agency acknowledges that alerts may play an important role in creating deterrence for drivers in violation of a retest, and in drawing the attention of other drivers on the offending motor vehicle.

More importantly, upon reconsideration, NHTSA has reached the conclusion that decisions about the types of alerts that may be required and/or permitted are programmatic in nature, and should be at the discretion of States and local jurisdictions. Accordingly, the Model Specifications do not address the use of alerts. Such decisions may vary from State to State, and the options that vendors choose to offer ultimately will be dictated through the marketplace.

5. Emergency Override

Some comments received in response to the 2006 notice stated that an emergency override is a useful feature. In the 2010 notice, NHTSA declined to propose that BAIIDs must include this feature (i.e., the ability to start the vehicle without a breath test) in order to meet the Model Specifications. However, should a BAIID be equipped with an emergency override feature, NHTSA proposed to test the feature, but indicated that it could start the vehicle only once. The 2010 proposal provided that whenever the override feature was activated, the BAIID must indicate the need for service and record the use of the emergency override. No additional emergency overrides should be allowed during the lifetime of the BAIID installation. The agency proposed to test this feature. NHTSA also proposed that this emergency override feature have a default to prevent an override from being used when the BAIID malfunctions or fails. (75 FR 61825–26.)

The comments received in response to this portion of the proposal were varied. CST argued that "emergency overrides should not be allowed as they essentially allow a drunk driver one free pass to drive drunk." (p. 5.) ACS and LifeSafer both agreed that emergency overrides should be allowed, but disagreed that an override should be permitted only once during the lifetime of the installation. ACS pointed out that not all jurisdictions permit the use of an emergency override, but of those that do, "the restriction on use is typically once per monitoring period (service interval), rather than once per installation (program duration)." (p. 21.) LifeSafer also disagreed that the override feature should not function when the BAIID malfunctions or fails. In fact, LifeSafer asserted, "From a service standpoint, this is exactly when an override should be allowed." (p. 14.)

NHTSA believes the decision whether to permit the use of an emergency override feature is programmatic in nature and should be left to the discretion of States and local jurisdictions. Accordingly, as proposed, the Model Specifications do not address whether BAIIDs should be equipped with an emergency override feature. The Model Specifications have been modified to remove specifications related to emergency overrides and they remove the proposed override test.

6. Calibration Stability and Service Interval

In the 2006 notice, NHTSA asked, "Is the duration of calibration stability testing sufficient? Should ignition interlocks be required to hold their calibration for a longer period of time, thereby requiring less frequent calibration checks?" (71 FR 8048.)

In the agency's 2010 notice, in response to comments received, NHTSA explained that, "The 1992 Model Specifications called for calibration stability for 7 days beyond the manufacturer's designated calibration stability period of 30, 45, or 60 days. For example, if the manufacturer required that the calibration of BAIIDs be checked after 60 days, the BAIID would need to hold the calibration for 67 days." (75 FR 61824.)

NHTSA proposed that BAIIDs "must hold calibration for a minimum 30 days plus the 7-day lockout countdown described previously (i.e., 37 days) in order to conform to the Model Specifications." NHTSA explained that, "Although some manufacturers have BAIIDs that are claimed to hold calibration for a longer time period, NHTSA proposes to test the calibration stability at 37 days (i.e., 30 days plus the 7-day lockout countdown) . . ." (75 FR 61824.)

NHTSA also proposed in the 2010 notice to add service interval requirements of "not greater than 30 days, plus a 7-day lockout countdown." (75 FR 61824.)

More than half of the comments addressed this issue. All of the comments objected to this aspect of the agency's proposal. Iowa described it as "a step backwards" (p. 1); Wisconsin said it is "overly restrictive" (p. 2); CST called it "an inexplicable regression in standards that will result in increased costs to the participant and consequently result in a marked reduction in participation in state interlock programs." (p. 3.)

CIIM explained that "This is an area where technology has significantly improved since the last time NHTSA asked for comments. Most devices can go 2 or 3 months without needing to have its calibration checked." (p. 2.) Accordingly, CIIM suggested a longer calibration period. ACS sought to clarify that calibration stability and service intervals are not the same. "Calibration stability is a performance criterion of the BAIID to be included in Model Specifications; whereas, service interval is programmable as a function of the performance of a participant and is a program matter." (p. 13.) In addition, National Interlock pointed out that, "The proposed [Model Specifications] would appear to prohibit specialized programming of the BAIID device or software to meet the specific requirements of jurisdictions." (p. 2.)

NHTSA agrees with the comments that current technology now permits ignition interlocks to maintain stable calibration for longer periods of time. The Model Specifications continue to provide for a *minimum* calibration stability period of 37 days (30 days plus the 7-day lockout countdown) and for BAIIDs to be tested (under Test 3) to determine conformance with this period. This minimum calibration period should provide some consistency and the 30-day period would allow results of this test to be available quickly. In addition, in recognition of recent technological advances and current practice in the field, the Model Specifications provide manufacturers with the opportunity to demonstrate that their BAIIDs can maintain their calibration stability for longer periods of time, by providing for testing of BAIIDs also at 60 days, 90 days and 180 days, plus 7 days.

As suggested in the comments, NHTSA agrees that it is appropriate to decouple the period of calibration stability and the service interval. States and local jurisdictions make decisions about service intervals based on a

number of different factors, including the need to supervise some offenders more closely or the desirability of providing an incentive (and permitting a longer service interval) for offenders who have demonstrated compliance with their sentence. In addition, NHTSA recognizes that BAIIDs can be programmed to vary the service interval, based on the circumstances in each case. Accordingly, the Model Specifications do not provide for a specific service interval period. Rather, the agency defers to States and local jurisdictions to determine the service intervals they believe are appropriate.

However, in one important respect, these two periods are very much related. States and local jurisdictions are reminded that, if they choose to use service intervals that are longer than 37 days, the BAIIDs they select should be capable of maintaining a stable calibration for the requisite period of time.

Smart Start suggested that a maximum number of violation points should be defined and allowed, and recommended 5. (p. 4.) NHTSA believes that, like the service interval, this is a programmatic issue and should be set by States and local jurisdictions. Accordingly, the Model Specifications have not been modified to specify a maximum number of violation points.

C. Technical Issues Relating to Particular Sections of the Model Specifications

1. Terms Used in Model Specifications (Section B)

The 2010 notice contained proposed definitions for 14 terms. ACS took issue with the proposed definition for the term, "Service interval", which the notice proposed to define as "The maximum time period that a BAIID may be used without maintenance or data download, after which the ignition must lock." ACS pointed out that, "Service interval is not a device performance criteria; it is a program guideline, which is the time period during which the participant may drive between monitoring appointments, based upon the jurisdiction restrictions and the compliance of the participant with program conditions." (p. 26.) NHTSA agrees with this point and has changed the definition of this term accordingly.

Oklahoma suggested that the word "pertinent" should be removed from the proposed definition of "Interlock Data Logger—A device within a BAIID that records all pertinent events, dates and times during the period of installation and use of a BAIID." NHTSA has made this modification, as well, to avoid limiting the information that is recorded on the interlock data logger.

Other comments supported the proposed definitions.

2. General Provisions and Features of BAIIDs (Section C)

The 2010 notice proposed that BAIIDs must meet certain requirements in order to conform to the Model Specifications, including:

- Pass conformance tests 1 through 16
- Not compromise normal functions of the vehicle
- Not have a removable sensing head
- Contain memory in a fixed control box
- Have tamper proof seals
- Capable of locking out a specified BrAC at a set point of .02 g/dL with a minimum flow rate of 0.1 L/sec
- Bypass or disable a remote start device, if installed on a vehicle
- Clear instructions to the driver
- An interlock data logger that will record all start attempts and outcomes
- Track all changes to the metrological software

In addition, the notice proposed that manufacturers of BAIIDs must submit:

- The operator's manual and other documentation
- The quality assurance plan (QAP)
- A self-certification that the manufacturer meets the requirements of the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration (FDA) Good Manufacturing Practices regulations for devices used for medical purposes (21 CFR Part 820) and that the device's label meets the requirements contained in FDA's Labeling regulations for devices used for medical purposes (21 CFR 809.10).

As discussed in detail previously, the agency received many comments concerning the removable sensing head and the fixed control box, and modifications have been made to the Model Specifications in response to these comments.

The comments concurred with most of the other requirements and features. However, comments were raised regarding some of these provisions.

a. Ignition, Ignition Switch and Locking—Oklahoma (p. 1) and ACS (e.g., p. 28–30) pointed out that the 2010 notice included some incorrect references to "ignition", "ignition switch" and "locking" of the ignition. These references have been corrected.

b. Set point of 0.02 g/dL and minimum flow rate of 0.1 L/sec—In the 2006 notice, NHTSA asked whether the current set point of 0.025 grams of alcohol per 210 Liters of air (g/dL) is appropriate or whether it should be changed. (71 FR 8047.) The comments received in response to the 2006 notice were varied, including that the 0.025 g/dL level should not be changed, that the set point should be more stringent and that the agency should establish a set point of 0.025 g/dL for adults and 0.02 g/dL for minors.

In response to these comments, in the 2010 notice, NHTSA proposed lowering the set point from 0.025 g/dL to 0.02 g/dL. (75 Fed. Reg. 61822.) Comments received in response to this aspect of the 2010 proposal were mixed again. For example, AAMVA questioned the need to lower the set point and suggested that a lower level could lead to unwarranted lockouts. (p. 2.) IISI asked whether this change was being proposed for the purpose of enforcing "abstinence from alcohol consumption" as opposed to ensuring "highway safety." (p. 3.) Some comments, including those from Smart Start and Wisconsin, expressed support for the proposed change. LifeSafer supported the change and suggested that BAIIDs should be required to provide and record a "warn" when they register at 0.01 g/dL and above. (p. 5.)

The 2010 notice proposed a minimum flow rate of 0.1 Liters per second (L/sec). (75 FR 61823.) ACS suggested it should be set no lower than 0.2 L/sec. (p. 9.)

The agency is not attempting to influence program purposes, but rather is seeking simply to define the Model Specifications to test the precision and accuracy of BAIID devices. We recognize that State BrAC levels are not uniform. Most are set at 0.02 g/dL, but others are set at other (generally higher) levels. NHTSA continues to believe that 0.02 g/dL is an appropriate set point to use for the testing of BAIIDs under these Model Specifications. This set point will ensure accuracy for the States, whether they are using 0.02 g/dL or a higher level. That choice is still each State's to make.

In addition, the change from 0.25 g/dL to 0.20 g/dL will align the BAIID Model Specifications with NHTSA's other Model Specifications, which pertain to evidential breath testing instruments (EBTs), calibrating units and alcohol screening devices. Moreover, NHTSA continues to believe that the technology is available for BAIIDs to achieve and maintain a set point at this level. Accordingly, this portion of the proposed revision is adopted without change. The recommendation to require a "warning" at the 0.01 g/dL level has not been adopted, since practices vary from State to State.

NHTSA agrees with ACS's comment regarding the flow rate. In fact, the 0.1

minimum flow rate included in the General Conditions and Features section of the notice was an unintentional error on the agency's part. The General Test Conditions section of the 2010 notice stated that unless specified otherwise in a particular conformance test, each test would use an ambient flow rate of 0.3 L/sec. Consistent with this provision, the General Conditions and Features section should have indicated that BAIIDs be tested with a flow rate of 0.3 L/sec. The Model Specifications have been modified accordingly.

In accordance with the revised Model Specifications, BAIIDs should record and maintain a record of all breath samples provided.

c. Federal Drug Administration (FDA) Requirements—In the 2010 notice, in response to comments received regarding the 2006 notice, NHTSA proposed that manufacturers must submit a self-certification that the manufacturer meets the requirements of the FDA Good Manufacturing Practices (GMP) regulations for devices used for medical purposes (21 CFR Part 820) and that the device's label meets the requirements contained in FDA's Labeling regulations for devices used for medical purposes (21 CFR 809.10).

Some comments supported this aspect of the proposal. CST said that holding interlock providers to this "more rigorous" standard was "positive." (p. 3.) ACS agreed, in principle, with requiring that interlock manufacturers comply with FDA's GMP requirements, but asked how the requirement will be enforced? ACS did not believe a self-certification process would be adequate. (p. 24.)

However, most comments strongly objected to these requirements. The comments from National Interlock were representative. They stated, "The BAIID is not a medical device and is not intended to be used for medical purposes. The application of these regulations will place tremendous cost and burden on the manufacturers of BAIIDs, with the possibility of raising costs of programs beyond what is reasonable for a driver to pay. This could result in a higher incidence of individuals driving without a license, and without a BAIID, which would be contrary to federal and state policy to increase the use of BAIIDs as an alcohol countermeasure." (p. 2.) Draeger added, "Breath alcohol test systems intended solely for forensic (law enforcement) purposes are currently exempt from . . . premarket notification and other FDA requirements. . . . BAIID devices intended for use by law enforcement are therefore exempted by the FDA from GMP compliance. . . . We recommend that NHTSA defer to the FDA's judgment and guidance on this matter. . . ." (p. 4.)

It is NHTSA's understanding that the FDA Good Manufacturing Practices (GMP) regulations (21 CFR Part 820) apply to devices used for medical purposes. While the FDA has applied these regulations to some alcohol devices, such as screeners that are used for medical purposes, the FDA has not exercised jurisdiction over instruments used for other purposes, such as Evidential Breath Testing Instruments (EBTs), which are used for law enforcement purposes. Similarly, it is our understanding that, to date, the FDA has not exercised jurisdiction over BAIIDs. In addition, NHTSA has not, at this time, reached a decision about whether it will develop a CPL. Accordingly, manufacturers of BAIIDs must comply with any applicable FDA requirements, but NHTSA has removed the reference in the Model Specifications to submission of a self-certification of compliance with the FDA regulations.

Smart Start (p. 6) and Guardian (p. 5) suggested that, if quality assurance requirements are to be imposed, NHTSA should consider using ISO standards instead of the FDA requirements. While manufacturers may adopt the ISO standards if they wish to do so, the agency does not believe there is sufficient justification to add this as a condition in the Model Specification for all manufacturers of BAIIDs.

3. BAIID Test Procedures (Section D)

The 2010 notice proposed to include 17 separate tests in the Model Specifications. It also proposed a number of general test conditions, pertaining to the number of trials, ambient temperature, ambient atmospheric pressure, sample parameters and simulated breath samples. In addition, the notice proposed a number of performance requirements relating to tests at 0.000 g/dL, 0.008 g/dL and 0.032 g/dL. The notice also proposed that a BAIID must be ready for use one minute after it is turned on and it must be ready for a second test within one minute of a preceding test.

a. General Test Conditions and Performance Requirements

The 2010 notice proposed that unless specified otherwise under a particular conformance test, BAIIDs must meet a number of performance conditions under all tests conducted.

i. Breath Sample Volume and Flow Rate

In the 2006 notice, NHTSA indicated that the 1992 Model Specifications set the minimum breath sampling size at 1.5 liters and asked whether NHTSA should consider lowering the minimum breath sampling size requirement. (71 FR 8047–48.) Most comments received in response to that notice advocated lowering the minimum sampling size to either 1.2 L or 1.0 L. In the 2010 notice, in response to these comments, NHTSA proposed lowering the minimum sampling size from 1.5 L to 1.2 L. Unless specified otherwise in the particular conformance test, BAIIDs should be tested at a volume of 1.2 liters and an ambient flow rate of 0.3L/sec. (75 FR 61822, 61828.) Breath sample volume relates to how much a person blows into a BAIID. Flow rate is the intensity of the blow.

The comments received in response to the 2010 notice were mixed. CST questioned the wisdom of lowering the minimum breath sampling size to 1.2 L, claiming that it could reduce the quality of the breath sample. (p. 3.) Wisconsin expressed a preference for retaining the size at 1.5 L (p. 2), as did Draeger, with allowances for reductions to 1.2 L upon medical recommendation (p. 4). On the other hand, Smart Start, ACS and LifeSafer all supported the reduction. Smart Start expressed the belief that this change would permit more individuals to participate in interlock programs. (p. 2.) ACS recommended that minimum back pressure also be included. (p. 8.)

NHTSA agrees that lowering the minimum breath sampling size will make the BAIID available to a larger population of users, including individuals with smaller or diminished lung capacity. No evidence was submitted to indicate that the reduced volume will diminish the integrity of breath samples. Accordingly, this element of the Model Specifications is adopted without change. If a State wishes to set its minimum breath sampling size at 1.5 L and permit a 1.2 L level upon a medical recommendation, the Model Specifications will be able to support them in that decision. The ambient flow rate will remain at 0.3 L/sec. The agency believes that the other criteria included in the Model Specifications, provide sufficient safeguards against circumvention, without the need to address back pressure as well. Accordingly, a back pressure test has not been added.

ii. Precision

The 2010 notice stated that BAIIDs must experience no ignition locks in 20

trials at 0.000 g/dL (grams of alcohol/210 liters of air); not more than one ignition lock in 20 trials at 0.008 g/dL; and not more than one ignition unlock in 20 trials at 0.032 g/dL. (75 Fed. Reg. 61828.) These performance requirements represented an increase from 90 percent to 95 percent compliance at the 0.008 and 0.032 levels and 100 percent at 0.000.

Oklahoma suggested that no ignition "locks" should be permitted in 20 trials at both the 0.000 and 0.008 levels and no ignition "unlocks" should be permitted in 20 trials at the 0.032 level. (p. 3.) Wisconsin also recommended 100% conformance at all levels. (p. 2.) Smart Start asserted that the difference between 100% and 95% "does not matter." Some changes in accuracy and precision "potentially [add] costs to the BAIID and [have] no real world added benefit." (p. 1.) No other comments addressed this issue. In these revised Model Specifications, NHTSA has sought to strike a balance between the capabilities of the latest technology, the variability among various products currently on the market, as well as costs and other factors. Accordingly, as proposed in the 2010 notice, the performance requirements have been increased in these revised Model Specifications at the 0.000 level, by providing that the vehicle must not be prevented from starting even once during 20 trials. However, the Model Specifications do not require 100 percent compliance at all levels. They provide that the vehicle must not be prevented from starting more than once during 20 trials at the 0.008 level and must not start more than once during 20 trials at the 0.032 level. (See Section D of the Model Specifications, Performance Requirements.)

iii. Terminology

ACS and Oklahoma noted that the terms "locked" and "unlocked", while easily understood, are technically inaccurate. They suggest that they be replaced. The agency has made adjustments in these revised Model Specifications to avoid use of these terms, such as by describing whether or not the vehicle will start, instead of using the terms "locked" and "unlocked".

iv. Readiness

The 1992 model specifications provided for a wait time of up to 5 minutes for a driver to take a breath test. A common complaint by users of BAIIDs was the long wait times for breath tests by BAIID users. Comments to the 2006 notice indicated that, with improved technology, faster ready-to-use times were achievable, even in extreme low temperatures because BAIIDs now have quick start capabilities.

The 2010 notice proposed that, unless specified otherwise in a particular test, BAIIDs must be ready for use within one minute after they are turned on and ready for a second test within one minute of a preceding test. (75 Fed. Reg. 61824.) A number of comments expressed concern that the proposed change was too extreme. ACS pointed out that, if the BrAC is at or above the set point, the BAIID will enter into a lock out period of 3–5 minutes. ACS stated, "The examiner must request special parameter settings if a one minute retest period is required." (p. 29.) LifeSafer made a similar comment, suggesting that 90 seconds should be allowed "to completely purge the prior alcohol-laden sample." (p. 15.) NHTSA has decided to adopt a compromise readiness time period of 3 minutes as the performance level in the Model Specifications, which the agency believes is appropriate and achievable, based on current practices and the current state of technology. NHTSA has revised the Performance Requirements in Section D of the Model Specifications to provide for this change.

No other comments were received objecting to the General Test Conditions or Performance Requirements.

b. Conformance Tests

The 2010 notice proposed 17 separate conformance tests regarding the performance of BAIIDs. Some of the tests were supported by the comments. Questions, objections and suggestions were raised regarding others. Each test, the comments that it generated and the agency's responses are discussed in detail below.

Test 1—Precision and Accuracy

As explained in the 2010 notice, "accuracy" is the degree to which a BAIID measures the BrAC correctly. For example, for a BAIID to be accurate, a breath sample with no alcohol present (0.000 g/dL) must not prevent the vehicle from starting. "Precision" is the degree to which that same measure can be repeated. In the previous example, for the BAIID to be precise, that same alcohol free breath sample should not prevent the vehicle from starting consistently over time. (75 FR 61822.)

In the 2010 notice, NHTSA proposed testing BAIIDs at ±0.012 g/dL above and below the set point of 0.02 g/dL, i.e., at 0.032 g/dL and 0.008 g/dL. (75 Fed. Reg. 61822.) Wisconsin suggested that testing should be carried out at ±25 percent so that tests would be conducted at 0.015 g/dL rather than 0.008 g/dL and 0.025 g/dL rather than .032 g/dL. (p. 2.) All other comments either supported or did not object to the proposed levels. As explained in the 2010 notice, NHTSA arrived at these proposed levels by using standard statistical techniques for small samples. (75 Fed. Reg. 61822.) The ±0.012 interval corresponds to a 2 sigma requirement for compliance. The levels proposed in the 2010 notice are adopted without change.

ACS suggested that the BAIID should record the measured BrAC value from the data log to conduct statistical analysis. (p. 29.) Draeger proposed adding a result requirement to each test point. (p. 4.) The Model Specifications do not require a numerical readout. They require only that the BAIID functions properly at each appropriate BrAC, by preventing or permitting a vehicle to start, as appropriate. BAIID manufacturers may offer a feature that provides a numerical readout, if they choose to do so. However, the Model Specifications do not specify that such a feature be offered and do not specify a test for that particular function.

Test 2—Breath Sample Volume and Flow Rate

As described above, the General Test Conditions provide that, unless specified otherwise in a particular conformance test, all tests will be conducted using a volume of 1.2 liters and a flow rate of 0.3 L/sec. The purpose of Test 2 is to evaluate the performance of BAIIDs under different breath sample volumes and flow rates. Tests 2a and 2b are designed to test the amount (volume) of air blown into the BAIID, using a smaller and a larger sample volume (1.0 and 1.5 liters, respectively). Tests 2c and 2d are designed to test the intensity (flow rate) of the blow, using a slower and a faster flow rate (0.1 and 0.7 L/sec, respectively).

The 2010 notice proposed that BAIIDs should prevent a vehicle from starting when the sample volume is 1.0 liters and permit the vehicle to start with a sample volume of 1.5 liters. (75 FR 61828.) These elements of Tests 2a and 2b are adopted without change.

The 2010 notice proposed that BAIIDs should permit the vehicle to start using both flow rates. (75 FR 61828.) As mentioned earlier in this notice in Section II.C.2.b., ACS commented that the flow rate should be set no lower than 0.2 L/sec (p. 9), and the agency agrees. Consistent with this change, the Model Specifications are revised to provide that BAIIDs should prevent a vehicle from starting when the flow rate is 0.1 L/sec and it should permit the

vehicle to start with a flow rate of 0.7 L/sec.

Test 3—Calibration Stability

These issues are discussed fully in Section II.B.6. above. In response to comments received, the Model Specifications continue to provide for a minimum calibration stability period of 37 days (30 days plus the 7-day lockout countdown) and BAIIDs should be tested (under Test 3) to determine conformance with this period. In addition, the Model Specifications provide manufacturers with the opportunity to demonstrate that their BAIIDs can maintain their calibration stability for longer periods of time, by providing for testing of BAIIDs also at 60 days, 90 days and 180 days, plus 7 days.

Test 4—Input Power

No comments were received regarding this proposed test. It is adopted without change.

Tests 5 and 6—Extreme Temperature and Humidity and Warm Up Time at −40 °C

The 1992 Model Specifications called for testing at −40 °C, −20 °C, +70 °C and +85 °C, but allowed for the removability of the alcohol sensing unit so that it may be kept at an artificial temperature when the vehicle may be subject to extremely cold or hot temperatures. In its 2006 notice, NHTSA asked whether this approach to extreme temperature testing seemed sufficient or whether it should be more stringent. (71 Fed. Reg. 8048.)

The agency received a variety of comments in response to the 2006 notice and, in 2010, proposed to retain the current extreme temperature tests at −40 °C and +85 °C, believing it to be reasonably representative of the environments encountered in the United States. In addition, NHTSA proposed to conduct additional high temperature tests for components of the BAIID installed in the passenger compartment (at +49 °C) and in the engine compartment (at +85 °C), and to specify the humidity level for these high temperature tests. The agency proposed to discontinue the tests at −20 °C and +70 °C, because the agency's experience indicated that testing at the extreme temperatures is sufficient. (75 FR 61823.)

NHTSA also proposed a warm up test in the 2010 notice to ensure that BAIIDs are ready to test and ready for retest within 3 minutes under extreme temperature conditions, at −40 °C. (75 FR 61824.)

Draeger suggested that a warm-up time of up to 3 minutes at 9V and −40 °C is overly severe, and proposed that the test be changed to require a warm-up time of up to 3 minutes at 9V and −20 °C, but most comments supported the range that NHTSA proposed in the notice. (p. 5.)

Wisconsin applauded NHTSA's proposed adoption of tests at extreme temperatures, stating that "this will more effectively simulate BAIID operation in cold-weather climates. (p. 2.) ACS agreed that the proposed extreme temperature testing at −40 °C and +85 °C should adequately address the needs of the environmental tests for the U.S. ACS disagreed that the −20 °C and +70 °C tests should be discontinued, asserting that these temperatures provide different stress levels on devices and that Tests 5 and 6 should be conducted under all of these conditions, and at +22 °C, as well. (p. 9, 31.) Smart Start also suggested that the intermediate temperature tests should be retained. (p. 2.) LifeSafer urged the agency to harmonize the extreme temperature tests with the CENELEC (the European standard), at least on the high-side. (p. 7–8.)

NHTSA notes that the purpose of Tests 5 and 6 is to determine the BAIIDs' ability to perform at extreme temperatures and humidity. The temperatures that NHTSA included in the proposed Model Specifications are adopted without change, since they accurately represent extreme temperatures experienced in the United States. Other tests contained in the Model Specifications, including Tests 1–4 and others, should be performed at ambient temperatures. Accordingly, the agency believes intermediate temperatures need not be included under Tests 5 and 6.

Wisconsin recommended that the procedures used when testing at extreme temperatures must ensure that measurements are taken when the device is at the prescribed temperature and humidity and has not been allowed to vary. (p. 3.) NHTSA agrees with this comment. Steps should be taken during testing to prevent temperature and humidity drift, such as by testing BAIID devices in a temperature chamber.

A number of comments objected specifically to the proposed requirements regarding readiness for retest at various temperatures. ACS asserted that the requirements are overly simplistic, requiring that BAIIDs are ready for retest within three minutes at −40 °C, and one minute at −39 °C. (p. 15.) Smart Start recommended that NHTSA consider adopting the CENELEC standard regarding this requirement, which provides that devices are to be tested at an ambient temperature of −40 °C and +85 °C with no time limit; at −20 °C within 3 minutes and at −5 °C within 90 seconds. (p. 4.)

Similarly, LifeSafer sought clarification regarding the readiness requirements for this test and others, noting that the various tests seem to require that devices need to be ready for retest within one minute, three minutes, five minutes or other periods of time. According to LifeSafer, retest sequences are typically 5–6 minutes before a Refused Violation is recorded. Imposing a 90 second wait between tests will allow a user three attempts to pass the retest. LifeSafer suggested that after a fail, a 90 second (versus a 60 second) interval between test attempts will produce a more precise result and is a reasonable period to require the user to wait after failing a test. (p. 11–12.)

NHTSA acknowledges that the variety of different wait times contained in the Model Specifications could cause confusion and has decided they are not warranted. Upon further review, the agency finds that it is preferable to establish more consistency in the readiness requirements and believes the objectives of each test can be achieved with a wait time of 3 minutes. Accordingly, NHTSA has revised the Model Specifications to provide that BAIIDs must be ready for all tests and retests within a period of 3 minutes. This change represents an improvement over the 1992 Model Specifications, is not as restrictive as the 2010 proposal and is consistent with (though not identical to) the European standard. See also the discussion above in Section II.C.3.a. of this notice.

Some comments addressed the voltage levels. Lifesafer, for example, expressed concern that the 9v level would be too low at −40 °C. (p. 15.) On the other hand, ACS agreed with the agency's proposal, stating that "this emulates a real world circumstance in a vehicle during winter months and with less than optimal batteries." (p. 10.) This was the agency's intention. NHTSA wanted to simulate less than optimal conditions, which commonly occur in winter. This aspect of the proposal is adopted without change.

Comments were received also concerning NHTSA's statements in the proposal prohibiting use of a removable sensing head. These comments are discussed in detail in Section II.B.2. above. As explained above, the revised Model Specifications do not prohibit the use of removable heads and provide allowances for these components under

extreme temperatures, consistent with manufacturer instructions to users.

Test 7—Vibration

The agency received no objections to the proposed vibration test, although ACS noted that, "Instead of interpreting the requirements of the vibration test," NHTSA could consider simply referring to "SAE standards for automobile electronic components." (p. 32.) This proposed test is adopted without change.

Test 8—Retest

Under Test 8, NHTSA proposed a series of tests to simulate the BAIID functions that must operate in connection with retests once the vehicle has been started, including an indication to the driver that a retest must be taken, and an indication that a service call is required when tested with a BrAC of 0.032.

In the 2010 notice, the agency stated that it "does not intend that retests be conducted while the vehicle is moving, but rather while the engine is running with the vehicle stopped in a safe location on the side of the road." (75 FR 61824.) This issue is discussed fully in Section II.B.3. above. In response to comments received, the preamble to this notice no longer specifies how retests should be conducted. The Model Specifications also are revised to remove this reference. They otherwise are not changed.

Test 9—Tampering and Circumvention

In the 2006 notice, NHTSA stated that the 1992 Model Specifications offer a number of procedures for evaluating whether existing devices can be easily circumvented and it asked whether these procedures are sufficient or whether new or modified procedures should be added. (71 FR 8048.)

The comments to this notice criticized the Model Specifications for being confusing and lacking specificity. The comments offered a variety of specific suggestions. In the 2010 notice, NHTSA acknowledged that the circumvention requirements in the Model Specifications were confusing and proposed to clarify them and specify that BAIIDs must have tamper proof seals to indicate when a BAIID has been disconnected from the ignition. (75 FR 61823.) The 2010 proposal also included tests for "hot wiring", push start, un-warmed air sample, warmed air sample, cooled 0.032 BrAC sample and filtered 0.032 BrAC sample. The proposal indicated that each attempt must be noted on the interlock data logger. (75 FR 61829.) A sample format for downloaded data from an interlock data logger was included in Appendix D to the 2010 notice. (75 FR 61832–33.)

Smart Start supported the proposed tests, and emphasized the importance of anti-circumvention and anti-tampering techniques, stating, "There is a general mistrust in public perception that anyone can test on an interlock, thereby allowing the non sober driver to start their interlock equipped vehicle. NHTSA should take the lead in setting standards that negate this negative perception and instill public confidence in this technology that can separate drinking from driving." (p. 3.)

However, Smart Start also suggested that the Model Specifications could go further. Other comments strongly agreed. Wisconsin stated, "Inclusion of tamper proof seals and routine monitoring for tampering during BAIID service does not go far enough to ensure that ignition interlock devices have sufficient features to prevent circumvention and the subsequent driving by impaired individuals. The proposed model specifications should require anti-circumvention measures in addition to electronically logging these events. These measures could include use of breath signature, humidity, differing blow patterns, photography, pressure, temperature or time to prevent BAIID circumvention." (p. 4.)

The comments seem to support tests (a) and (b) (hot wiring and push start), but they criticized the other four tests. CST explained that these four tests "are based upon circumventions that plagued interlock programs in the early years of [such programs]. To even conduct these tests you would need an interlock with a very rare setting, the setting that allows the breath sample to be given in a long continuous blow." (p. 4.)

Intoximeters asserted that tests (c)–(f) are intended to test the instruments' ability to prevent tampering and circumvention, "but in fact do not do so." According to Intoximeters, "Many BAIID devices are using a hum and blow or blow and hum method to determine if a person is providing the sample." (p. 1.) LifeSafer mentioned also other techniques, including the flow and suck back. (p. 9.) Intoximeters asserted, "It is disingenuous to show that an instrument is meeting these tests, when in fact the common anti-circumvention techniques are not being tested at all." (p. 1.) CST indicated that thirty eight states are already using these anti-circumvention breath sample patterns. (p. 4–5.) Intoximeter suggested that these anti-circumvention methods should be reviewed and tests should be established to determine if they can be beaten. (p. 1.)

Regarding Test 9b (push start), Draeger asserted that depending on the chosen technology, it may take up to 2 minutes until the movement or motor run is detected. Accordingly, Draeger suggested that the Model Specifications should be revised to provide that the vehicle be driven for at least two minutes. (p. 5.)

NHTSA has decided to continue to include the hot wiring and push start tests (9a and 9b) in the Model Specifications. To ensure that the results are properly recorded under the push start test, the Model Specifications specify that the vehicle should be run under this test for at least two minutes.

NHTSA recognizes that increasingly, interlock companies are introducing new, more sophisticated anti-circumvention features into their products, designed to ensure that the driver is blowing into the BAIID and to prevent circumvention. Manufacturers are employing a variety of anti-circumvention methods, including blow and hum, hum and blow, and suck and blow patterns, as well as the use of cameras. NHTSA appreciates that these methods might make some of the tests proposed in the 2010 notice (9c–f) appear to be unnecessary or obsolete.

However, the revised Model Specifications do not specify the use of any particular type of anti-circumvention feature, since that would be tantamount to a design, rather than a performance, standard. In addition, since the technology associated with these features is still evolving and continuing to change rapidly, NHTSA will not attempt to establish further minimum performance criteria for this function at this time. Accordingly, at the present time, NHTSA will continue to include Tests 9c–f in the revised Model Specifications.

Test 10—Restart of Stalled Motor Vehicle

Comments received in response to the 2006 notice suggested that restarts should be allowed only if a vehicle stalls, but not if the ignition is intentionally turned off or if a BAIID malfunctions or is awaiting a retest. In the 2010 notice, NHTSA proposed that a restart (i.e., without a breath sample) should be allowed when the vehicle stalls, provided the restart is accomplished in no more than 20 seconds. NHTSA also proposed that in all other situations where the vehicle malfunctions, the vehicle should be prevented from starting without a breath test. (75 FR 61825.)

The agency received a number of comments in response to this aspect of the proposal, all of which were in

opposition. The comments uniformly argued that a period of 20 seconds is too short and could create unnecessary safety risks, particularly if a vehicle stalls in a hazardous area. Draeger pointed out that panic often occurs in a critical stall situation. (p. 5.) IISI asked whether NHTSA had received any reports that warranted a reduction in the "3 minute time period * * * by nearly 90% to 20 seconds." (p. 3.)

NHTSA acknowledges that stalls can take place in locations, such as on railroad tracks or in heavy traffic, which could present serious hazards should a driver be unable to restart the vehicle. While the comments suggested a variety of counter-proposals, ranging from 1–3 minutes, NHTSA notes that no comments, in response to either the agency's 2006 notice or its 2010 notice objected to the 3 minute time period contained in the 1992 Model Specifications. Accordingly, the agency has decided to retain the time period of 3 minutes.

Test 11—High Altitude

The 2010 notice proposed the addition of a high altitude test and proposed that it would apply only to BAIIDs using semiconductor alcohol sensors, based on a belief that high altitudes affect these types of sensors. (75 FR 61826, 61829.) Some comments objected to this unequal treatment. ACS did not object to inclusion of this test, but recommended that it be applied to all alcohol interlocks submitted for conformance testing. (p. 34.) CST asserted that this high altitude test is warranted also for fuel cell devices, but urged that "semiconductor technology should be outlawed" altogether. (p. 5.)

As explained earlier in this notice in Section II.B.1., the agency will not specify particular types of technology that should or should not be used. Instead, the Model Specification specify performance criteria to be met. To ensure consistent treatment of all instruments and to anticipate the possibility of other instruments that might be introduced into the marketplace, all BAIIDs should be tested under these high altitude conditions.

Test 12—Cigarette Smoke

This proposed test would require a person who is alcohol-free to smoke approximately ½ of a cigarette, and wait one minute or a period specified by the BAIID manufacturer before testing. The proposal indicated that a simulator may be used in lieu of a smoker. (75 FR 61829.) ACS objected to this proposed test, stating "This is not a performance test equally applied to all BAIIDs if the manufacturer can specify how long to wait after the person smokes the cigarette." ACS suggested instead that the test should specify, for example, that 30 seconds be applied equally to all BAIIDs. (p. 34.) NHTSA disagrees. Like some other elements of these Model Specifications, some conformance tests should be conducted in accordance with the manufacturer's user instructions. If a manufacturer instructs users that they must wait 10 minutes after smoking a cigarette before they may use the BAIID, Test 12 should be conducted in accordance with those instructions. We note, however, that a BAIID that imposes this sort of limitation on the user may experience disadvantages in the marketplace. This aspect of Test 12 has been clarified, by specifying that the test should be conducted in accordance with the manufacturer's user instructions.

ACS also asked about the possible use of a simulator to conduct this test. Specifically, ACS asked how the test would simulate a person who smokes ½ a cigarette and then wait a fixed period of time. (p. 34.) NHTSA no longer believes that a simulator needs to be used for the cigarette smoke test. Accordingly, reference to a simulator in this portion of the Model Specifications has been deleted. No other comments objected to this proposed test. It is otherwise adopted without change.

Test 13—Acetone

The 2010 notice proposed adding an acetone test, based on NHTSA's belief that it is the most common interfering substance for BAIIDs. (75 FR 61826.) No comments objected to the inclusion of this test, although CST noted that "the concentration being used for the test is higher than would be experienced by a diabetic about to go into a diabetic coma, and thus . . . does not really reflect real world conditions." (p. 5.) Wisconsin noted that alcohol-specific sensors, such as fuel cells, will have no difficulty passing this test, since substances other than alcohol will have no effect. However, Wisconsin urged that units that are not specific to alcohol, such as semi-conductors, "should be rigorously tested for the impact of interferences such as acetone and other volatile organic compounds." (p. 5.)

This test has been adopted with a lower concentration of acetone (115 microliters, rather than 230), which is a more realistic level. The test should be applied to all BAIIDs. No other changes have been made.

Test 14—Emergency Override

This issue was discussed fully in Section II.B.5. NHTSA believes the decision whether to permit the use of an emergency override feature is programmatic in nature and should be left to the discretion of States and local jurisdictions. Accordingly, as proposed, the Model Specifications do not specify that BAIIDs be equipped with an emergency override feature in order to meet the Model Specifications. Since this feature is not specified, the Model Specifications will not include a test of this feature. The Model Specifications are modified to eliminate the reference to a feature that prevents an override from being used when the BAIID malfunctions or fails and it removes proposed Test 14.

Test 15—Radiofrequency Interference/ Electromagnetic Interference

In the 2006 notice, NHTSA explained that the RFI testing protocol in the 1992 Model Specifications uses power sources that are no longer commonly in use, but noted that new power sources that may interfere with the operation of BAIIDs (e.g., cell phones) have output power commensurate with equipment in use today. The agency asked what are the appropriate levels to measure RFI/ EMI. (71 FR 8048.)

The comments pointed out that an increasing number of electronic devices are being operated in close proximity to BAIIDs, such as gaming, remote keyless entry, portable medical and Bluetooth-capable devices. The comments offered a variety of recommendations to address these potentially interfering power sources.

In the 2010 notice, NHTSA expressed its belief that the current specifications do not adequately define or describe RFI/EMI tests and proposed to test BAIIDs for emissions and transmissions of RFI/EMI and immunity to RFI/EMI using the SAE Surface Vehicle Standard J1113 series for Class C devices (devices essential to the operation or control of the vehicle) and the International Special Committee on Radio Interference (CISPR), Subcommittee of International Electro-technical Committee (IEC); specifically, CISPR 25, for RFI/EMI testing. NHTSA stated that it believed these procedures represent a broad consensus in the industry. (75 FR 61823.)

The agency received comments regarding this test from Smart Start, ACS, LifeSafer, ADS, CST and the State of Wisconsin. Most of the comments supported the proposed tests, although CST expressed the belief that the tests may be unnecessary. (p. 5.) ADS recommended that the appropriate level for testing should be 1W or less, since that level would be sufficient to identify potential cell phone interference. (p. 2.)

Wisconsin recommended that immunity testing for electrical equipment should be conducted in conformity with EN 61326–1:2001. (p. 5.)

The agency has not changed these elements of the Test. NHTSA believes the tests should not be limited to cell phone interference. The EN 61326–1:2001 test cited in Wisconsin's comment is used for remote locations, such as bridges, roads, etc., and not for motor vehicles.

Test 16—Service Interval Display

As discussed more fully in Section II.B.6. and in the discussion regarding Test 3, NHTSA agrees that it is appropriate to decouple the period of calibration stability and the service interval. States and local jurisdictions make decisions about service intervals based on a number of different factors, including the need to supervise some offenders more closely or the desirability of providing an incentive (and permitting a longer service interval) for offenders who have demonstrated compliance with their sentence. In addition, NHTSA recognizes that BAIIDs can be programmed to vary the service interval, based on the circumstances in each case. Accordingly, the Model Specifications do not provide for a specific service interval period. Rather, the agency defers to States and local jurisdictions to determine the service intervals they believe are appropriate.

However, Test 16 has a different function. Its purpose is to ensure that the BAIID's display of the service interval is working properly. While NHTSA recognizes that service intervals may be set at a variety of time periods, the Model Specifications provide that a period of 30 days (with a 7-day lockout countdown) should be used for the purpose of this test. Under Test 16, after a period of 30 days, the BAIID should prominently display that the vehicle be taken to a designated maintenance facility for maintenance and data downloads within seven days. This message should continue to be displayed for seven days. Following the seven-day period, if the BAIID is not serviced at a designated maintenance facility, it should not allow the vehicle to be started.

Test 17—Data Integrity and Format

NHTSA proposed that the data be downloaded from the interlock data logger after all other tests have been completed. (75 FR 61831.) No comments objected to this requirement.

D. Other Comments Received Regarding the Model Specifications

1. Dust Test

In the 2010 notice, NHTSA indicated that one comment to the 2006 notice had suggested that several CENELEC standards be adopted into the Model Specifications, including the dust standard. The agency responded that in two decades of experience, NHTSA has received no reports suggesting that dust is an issue or source of concern in BAIIDs installed in vehicles. Accordingly, NHTSA did not propose to include a dust standard in the Model Specifications. (75 FR 61826.) A number of comments specifically agreed with the agency's decision, including Smart Start and IISI. A dust standard has not been added.

2. Vehicle-Interlock Interface

The 2006 notice indicated that anecdotal reports from ignition interlock manufacturers have suggested that it is sometimes difficult to install existing interlock systems in some of the newer electronic ignition systems. The agency asked whether NHTSA should establish any guidelines regarding the vehicle-interlock interface. (71 FR 8048.)

The comments received in response were mixed. In general, interlock manufacturers and providers supported a standard interlock-vehicle interface; vehicle manufacturers asserted that requiring a common interface presented significant challenges that could compromise vehicle ignition security systems and anti-theft immobilizing technologies. In the 2010 notice, NHTSA acknowledged that a common interface could afford installation convenience. However, the agency indicated that it would not specify such a requirement in the Model Specification and explained that "such a requirement goes beyond the scope of this proposal, which is limited to the BAIID itself and not to changes to the vehicle." (75 FR 61823–24.)

The comments received in response to this issue were mixed. For example, National Interlock asked NHTSA to reconsider its decision and establish specifications regarding a common interface. (p. 1.) ADS said it would support this type of provision. (p. 2.) CST agreed with the vehicle manufacturers that a common interface could compromise anti-theft systems and should not be required. (p. 7.) Draeger expressed its view that requiring a specific interface on all vehicles might be impractical. (p. 3–4.) ACS agreed with the agency that the interface is beyond the scope of these Model Specifications. (p. 12.) CIIM argued that, "As advances in the automobile industry evolve, installation of interlock devices becomes more difficult. There are examples of installations taking hours, even days to complete as remote starters and push button ignitions become more prevalent." CIIM urged NHTSA to "facilitate a dialogue between the two industries about this issue." (p. 3.)

NHTSA will take CIIM's recommendation under advisement. However, the agency continues to believe that a common interface in vehicles for ignition interlocks is outside the scope of these Model Specifications. Accordingly, the agency has not included such a requirement in this notice.

3. International Harmonization

In the 2006 notice, NHTSA asked about the importance of harmonizing NHTSA's Model Specifications for BAIIDs with standards in other parts of the world. (71 FR 8048.) The comments received in response to this aspect of the notice were varied. Some comments supported harmonization with CENELEC (the European standard) due to increasingly global economy; others opposed harmonization based on a belief that aspects of the CENELEC standard are potentially restrictive and costly. In response, NHTSA proposed to maintain an independent set of Model Specifications, but to incorporate selected elements of the CENELEC, including vibration and cigarette smoke. (75 FR 61825.)

As noted above, the comments favored inclusion of these tests and some comments suggested that other CENELEC tests be included as well, including high temperature, dust and the drop test.

NHTSA has carefully considered other standards, including CENELEC, and as appropriate, has incorporated consistent provisions into these Model Specifications. In some cases, variations are warranted, based on cost, conditions and the manner in which BAIIDs are used in the United States. Further discussions regarding individual tests are contained in other sections of this notice.

4. Ignition Interlock Program Guidelines

In the 2006 notice, NHTSA asked whether the ignition interlock community (users, manufacturers, States, etc.) favor NHTSA development of an "interlock program" in addition to Model Specifications for devices. (71 FR 8048.) Some comments supported the development of ignition interlock program guidelines; others expressed the belief that program guidelines have

been and should remain a function of State government.

NHTSA did not include program guidelines in the 2010 notice, but indicated that the agency may explore the development of such guidelines in the future. (75 FR 61825.) The comments generally supported this position. AAMVA urged NHTSA to ensure that any such guidelines are "based on scientifically valid research" and "allow the necessary flexibility." (p. 1.)

As stated earlier in this notice, NHTSA is committed to providing support, and not dictating practices, to the States. Over the last few years in particular, the agency has sought to provide information, support and technical assistance to the States in a variety of ways. NHTSA hosted a National Ignition Interlock Summit and invited representatives from every State to attend. NHTSA has also produced a number of publications containing information about ignition interlock programs, including "Ignition Interlocks—What You Need to Know: A Toolkit for Policymakers, Highway Safety Professionals and Advocates" (DOT HS 811 246), "Key Features for Ignition Interlock Programs" (DOT HS 811 262), National Ignition Interlock Summit Proceedings" (available on *www.ghsa.org*) and a series of New Mexico ignition interlock studies (see Traffic Tech 401; November 2010). In addition, NHTSA supported the development of the Alcohol Interlock Curriculum for Practitioners by the Traffic Injury Research Foundation (TIRF) (available on *www.tirf.ca*) and has supported technical assistance workshops, meetings and training (in cooperation with TIRF) and a series of regional Ignition Interlock Summits (in cooperation with Mothers Against Drunk Driving). Also, NHTSA has provided financial assistance to support the establishment of a new National organization, representing State Ignition Interlock Program Administrators.

NHTSA will continue to provide support and assistance to States as they seek to expand and strengthen their ignition interlock programs, and the agency will consider whether the development of program guidelines would add value to the field. However, such guidelines are outside the scope of this notice and have not been included in the Model Specifications.

E. NHTSA Testing of BAIIDs and Conforming Products List (CPL)

In the 2006 notice, the agency asked, whether NHTSA should undertake the responsibility to evaluate ignition interlocks against its Model Specifications and publish a CPL of devices meeting those specifications. (71 FR 8048.)

In the 2010 notice, in response to comments received, NHTSA explained that the comments favored a certified testing laboratory program. Most advocated a NHTSA test program and the development of a CPL based on the Model Specifications. One commenter favored having a single private testing laboratory certified by NHTSA for this purpose. Several manufacturers noted significant problems with State certification requirements leading to questionable test results for some products. In general, both manufacturers and States favored a NHTSA test program because it would organize and standardize the industry and exclude less effective BAIIDs. One commenter suggested that NHTSA require BAIID re-certification in the event of an instrument design change and/or at some reasonable interval. (75 FR 61824.)

In the 2010 notice, NHTSA proposed to test BAIIDs for conformance with the Model Specifications. NHTSA also proposed to maintain and publish periodically a CPL with BAIIDs that have been tested and found to conform to the Model Specifications. NHTSA proposed to manage this new program as it does its other breath alcohol instrument testing programs. (75 FR 61824.)

NHTSA explained that testing of BAIIDs will be subject to the availability of Federal funds. If Federal funds are not available, NHTSA will discontinue testing BAIIDs until funds become available. (75 FR 61825.) In the proposed Submission Procedures contained in Appendix A of the 2010 notice, NHTSA proposed that it would "test BAIIDs on a first-come, first-served basis." (75 FR 61831.)

More than half of the comments addressed this issue and many of them raised concerns, though the concerns expressed were varied. Some of the comments related to the potential of insufficient funds and whether Volpe has the capacity to conduct the testing. For example, Oklahoma stated, "We cannot support the limitation that 'All tests are subject to the availability of Federal funds.' " (p. 2.) ACS asserted that "Volpe Laboratories lacks the equipment, expertise and perhaps financial resources to conduct the range of qualification tests on alcohol interlocks for conformance with the Model Specifications." (p. 16.) The comments offered various possible solutions to address these concerns, including that the manufacturers fund the testing of BAIIDs (Smart Start), that there be a funding limitation (Draeger) or that NHTSA consider certifying independent laboratories to perform some or all of the testing (ACS, Alcohol Detection Systems, Draeger, Guardian, National Interlock, Coalition of Ignition Interlock Manufacturers).

In general, the comments were supportive of a NHTSA CPL. Guardian's comments were typical. They stated, "whether the test results are provided by NHTSA or by [an outside laboratory], a conforming product should be placed on the NHTSA conforming products list." Guardian asserted further, "If NHTSA cannot agree to this critical element, then there should NOT be a CPL for these products." (p. 2.)

While some comments seemed to express alarm about the statement in the 2010 notice that the testing program would be subject to the availability of funds, this limitation applies to all Federal programs, including NHTSA's current testing programs for evidential breath testers, calibrating units and other breath alcohol instruments and devices.

The Volpe National Systems Center is currently in the process of developing the capacity to conduct Radiofrequency Interference (RFI) and Electromagnetic Interference (EMI) testing. Volpe is capable of conducting all other tests delineated in the Model Specifications. NHTSA expects that Volpe will have the ability to conduct the RFI/EMI tests in the near future. Until then, Volpe has the ability to procure these tests from other qualified laboratories.

However, the comments raise a valid concern about the ability of any one laboratory, including Volpe, to test all available BAIID models in a sufficiently timely manner, especially during the initial period when these revised Model Specifications will initially go into effect. The agency also appreciates the concern that some comments expressed regarding the testing of BAIIDs on a first-come, first-served basis. The agency does not wish to take any steps that would create an unfair competitive advantage for some manufacturers over others.

Since these revised Model Specifications represent a substantial departure from the existing 1992 specifications, NHTSA will delay rendering a decision about the feasibility and timing of a CPL until more information is available about the implications for testing costs, resource requirements and the time necessary to conduct product testing.

Accordingly, NHTSA plans to conduct an assessment to determine whether establishing and maintaining a CPL is feasible, prior to rendering a decision.

If the agency determines that a CPL is feasible, NHTSA will announce its intention to develop a CPL in a **Federal Register** notice and will, at that time, outline the procedures that will apply, including steps for submitting BAIIDs for compliance testing. The agency would seek to establish procedures that ensure a level playing field, in terms of competition among ignition interlock manufacturers.

Accordingly, NHTSA expects that manufacturers will continue to certify, and States and local jurisdictions will continue to determine, that BAIIDs conform to the Model Specifications essentially in the same manner that is currently being used. However, the revised Model Specifications, rather than the 1992 version, should be used, once they become effective. The Model Specifications will not take effect immediately, but rather will be delayed for one year, to provide manufacturers of BAIIDs sufficient time to make conforming modifications to their instruments and to conduct testing, as warranted.

F. Appendices to the 2010 Notice

The 2010 notice contained four appendices. Appendix A included submission procedures for conformance testing of BAIIDs. (75 FR 61831.) Appendix B included procedures for the re-examination of BAIIDs, which occur at the sole discretion of NHTSA. (75 FR 61831–32.) Appendix C provided a template for a Quality Assurance Plan. (75 FR 61832.) Appendix D provided a sample format for downloaded data from the interlock data logger. (75 FR 61832–33.)

As explained above, NHTSA has not yet decided whether it will develop a CPL. It will first conduct an assessment to determine its feasibility. If the agency decides that a CPL is feasible, NHTSA will publish a **Federal Register** notice announcing its plans to proceed and will, at that time, outline the procedures that will apply.

Accordingly, the first two appendices that were contained in the 2010 notice (then identified as Appendix A and Appendix B) are not included in this notice. The other two appendices that were contained in the 2010 notice (then identified as Appendix C and Appendix D) have been renamed as Appendix A and Appendix B, respectively.

III. New Model Specifications

On October 6, 2010, NHTSA proposed revisions to the 1992 Model Specifications for BAIIDs. (75 FR 61820.) Those proposed revisions were based, in part, on input from the comments received in 2006. Today, in response to the October 6, 2010 notice, the 1992 Model Specifications have been revised.

This Notice is not intended to take the place of any State certification requirements; rather, it provides for a voluntary testing and conformance program.

These Model Specifications do not have the force of regulations and are not binding. States and others may adopt these Model Specifications and rely on any tests that NHTSA may conduct, or they may conduct their own tests according to their own procedures and specifications.

After consideration of the comments, the Model Specifications for Breath Alcohol Ignition Interlock Devices have been revised to reflect the decisions discussed above and are set forth below.

Authority: 23 U.S.C. 403; 49 CFR 1.95; 49 CFR Part 501.

MODEL SPECIFICATIONS FOR BREATH ALCOHOL IGNITION INTERLOCK DEVICES (BAIIDs)

A. Purpose and Scope

The purpose of these specifications is to establish recommended performance criteria and test methods for breath alcohol ignition interlock devices (BAIIDs), commonly referred to as alcohol interlocks or ignition interlocks. BAIIDs are breath alcohol sensing instruments designed to prevent the motor vehicle from starting unless the driver first provides a breath sample whose alcohol concentration is below the set point into the BAIID. If the measured breath alcohol concentration (BrAC) is at or above a set level, the vehicle will not start. BAIIDs are currently being used as court sanctions as well as administrative conditions of licensure. Drivers convicted of impaired driving may be required to use BAIIDs in their vehicle under court supervision or as part of a required path to full reinstatement of driving privileges. These specifications are intended for use in conformance testing of BAIIDs installed in vehicles. These specifications are voluntary and do not impose any compliance obligations on BAIID manufacturers or others.

B. Terms

Alcohol—Ethanol or ethyl alcohol (C_2H_5OH).

Alcohol set point—Breath Alcohol Concentration (BrAC) at which a BAIID is set to prevent a vehicle from starting.

Breath Alcohol Concentration (BrAC)—The amount of alcohol in a given amount of breath, expressed in weight per volume (w/v) based upon grams of alcohol per 210 liters (L) of breath, in accordance with the Uniform Vehicle Code, Chapter 11, Section 11–903.4 and 5.[1]

Breath alcohol ignition interlock device (BAIID)—A device that is designed to allow a driver to start a vehicle if the driver's BrAC is below the set point and to prevent the driver from starting the vehicle if the driver's BrAC is at or above the set point.

Breath Sample—Normal expired human breath primarily containing air from the deep lung.

Calibration Stability—The ability of a BAIID to hold its accuracy and precision over a defined time period.

Circumvention—An attempt to bypass the correct operation of a BAIID, whether by use of an altered breath sample, by starting the vehicle by any means without first providing a breath sample.

Filtered air sample—Any human breath sample that has intentionally been altered so as to remove alcohol from it.

Interlock Data Logger—A device within a BAIID that records all events, dates, and times during the period of installation and use of a BAIID.

Retest—A breath test that is required after the initial engine start-up breath test and while the engine is running. This is also referred to as a running retest.

Service Interval—The time period established by the State or jurisdiction that a BAIID may be used without maintenance or data download. If the device is not serviced within the period, warnings are provided and the device will prevent further operation.

Simulator—A device that produces an alcohol-in-air test sample of known concentration (e.g., a Breath Alcohol Sampling Simulator (BASS))[2] or a device that meets the NHTSA Model Specifications for Calibrating Units (72 FR 34742)).

Tampering—An attempt to physically disable, disconnect, adjust, or otherwise alter the proper operation of a BAIID.

C. General Provisions and Features of BAIIDs

Conforming BAIIDs must meet the following provisions:

The BAIID must pass each of the conformance tests 1 through 16 in Section D, unless explicitly excluded from a test by the specific terms of these specifications.

[1] Available from the National Committee on Uniform Traffic Laws and Ordinances, 107 South West Street, #110, Alexandria, VA 22314 (*http://www.ncutlo.org*).

[2] See NBS Special Publication 480–41, July 1981. Available from Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Installation and service of the BAIID in a vehicle must not compromise any normal function of the vehicle, including anti-theft functions, on-board computer functions, or vehicle safety features required by the Federal Motor Vehicle Safety Standards, and must not cause harm to the vehicle occupants. Care should be taken to protect against reverse polarity and damage to other circuits and to ensure that the BAIID does not drain the vehicle's battery while in sleep mode (i.e., power save mode).

The BAIID must have tamper proof seals to indicate when a BAIID has been disconnected from the ignition.

The BAIID must be capable of permitting a vehicle to start or preventing it from starting at specified breath alcohol concentrations.

The BAIID must be tested at an alcohol set point of 0.02 g/dL with a flow rate of 0.3 L/sec. Upon detecting an alcohol concentration at or above that set point, the BAIID must prevent the vehicle from starting for a period of time before another test can be performed.

If the vehicle is equipped with a remote start device, the BAIID must be installed so that the remote start function is bypassed or disabled and a valid breath test must be performed before the vehicle may be started.

If the BAIID has a removable sensing head, the BAIID may not allow the vehicle to start without use of the sensing head.

The BAIID must include clear instructions to the driver (e.g., when to blow, when to wait, when to start the vehicle, when to retest, when a lockout countdown occurs, including the time remaining before the BAIID may be used again to start the vehicle, and when to seek service).

Manufacturers must submit the operator's manual (user's guide or instructions to the user), the maintenance manual, and specifications and drawings fully describing the BAIID.

In addition, manufacturers must submit the quality assurance plan (QAP). The QAP must include the following information: instructions for checking the calibration of the BAIID (i.e., recommended calibrating unit, BrAC of 0.02 g/dL, agreement not greater than ±0.005 BrAC, verification of accuracy of readout, actions to take for failed calibration check), instructions for downloading the data from the interlock data logger, instructions to maintain the BAIID, instructions on checking for tampering, and any other information regarding quality assurance unique to the BAIID. See Appendix A for a sample QAP template.

The design of the BAIID must include an interlock data logger that will record, at a minimum, all start attempts and outcomes, including an emergency override if applicable, delineation of calibration checks, circumvention, tampering, operator attempts to start the vehicle, and BrAC for each start attempt. The data must be presented in chronological order (i.e., by date and time of event). See Appendix B for a sample format for downloaded data from the interlock data logger. The manufacturer must provide a means of downloading the data from the interlock data logger.

Any change to a BAIID that could affect its performance, including potentially software changes, should require additional testing. The BAIID must track all changes to the metrological software and indicate the software version and date on all printed and downloaded reports. NHTSA is aware that States (and local jurisdictions) use different set points in their interlock programs, and changes to the set point, alone, would not require additional testing. The Model Specifications provide that BAIIDs are to be tested at an alcohol set point of 0.02 g/dL.

D. BAIID Test Procedures

General Test Conditions

Unless otherwise specified in a conformance test, the following conditions apply to each test:

- Number of trials at each alcohol level = 20
- Ambient temperature: 22 °C ± 3 °C (71.6 °F ± 5.4 °F).
- Ambient atmospheric pressure: 97.5 kPa ± 10.5 kPa (25.7 and 31.9 inches Hg).
- Sample parameters: volume 1.2 liters; ambient flow rate 0.3 Liters per second; maximum delivery pressure 2.5 kPa; temperature 34 °C (93.2 °F)
- Simulated breath samples will be generated by the BASS [3] or by a wet bath type calibrating unit that is listed on the NHTSA Conforming Products List for such devices. Solutions used in the calibrating device will be prepared as described in the NHTSA Model Specifications for Calibrating Units published June 25, 2007 (72 FR 34742).

Performance Requirements

Unless otherwise specified in a conformance test, the BAIID must meet the following performance requirements in each test:

- Tests at 0.000 g/dL BrAC: the vehicle must not be prevented from starting during 20 trials.
- Test at 0.008 g/dL BrAC: the vehicle must not be prevented from starting more than once during 20 trials.
- Tests at 0.032 g/dL BrAC (grams alcohol/210 liters of air): the vehicle must not start more than once during 20 trials.
- A BAIID must be ready for use 3 minutes or less after it is turned on. A BAIID must be ready for a second test within 3 minutes or less of a preceding test.

Conformance Tests

Unless otherwise specified in a test, these conformance tests need not be conducted in any particular order. Except when a test or portion of a test specifically requires the use of a motor vehicle, either a motor vehicle or a bench test set-up that simulates the relevant functions of a motor vehicle may be used.

Test 1. Precision and Accuracy

Test the BAIID at the following alcohol concentrations:

a. 0.000 g/dL BrAC,
b. 0.008 g/dL BrAC, and
c. 0.032 g/dL BrAC.

Test 2. Breath Sample Volume and Flow Rate

Use a mass flow meter to monitor sample volume. Conduct each test (a–d) five times.

a. Test at 0.000 g/dL BrAC with sample volume 1.0 liter. The BAIID must prevent the vehicle from starting and indicate insufficient volume 5 out of 5 times.

b. Test at 0.000 g/dL BrAC with sample volume 1.5 liters. The BAIID must permit the vehicle to start 5 out of 5 times.

c. Test at 0.000 g/dL BrAC with sample volume 1.2 liters at 0.1 L/s. The BAIID must prevent the vehicle from starting 5 out of 5 times.

d. Test at 0.000 g/dL BrAC with sample volume 1.2 liters at 0.7 L/s. The BAIID must permit the vehicle to start 5 out of 5 times.

Test 3. Calibration Stability

Initialize the BAIID to begin the calibration stability test. A BAIID must not be re-calibrated after the start of Test 3. Conduct Test 1. Repeat Test 1 at 37 days. Test 2 and Tests 4–15 may be performed between these two Precision and Accuracy tests.

If requested by the manufacturer, repeat Test 1 at 67 days, 97 days and 187 days. These additional tests are optional. They exceed the minimum requirements of this test.

[3] See NBS Special Publication 480–41, July 1981. Available from Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Test 4. Input Power

Conduct Test 1b and Test 1c at the following input power conditions:

a. Test at 11 VDC input power.

b. Test at 16 VDC input power.

Test 5. Extreme Temperature and Humidity

Using a temperature/humidity chamber:

a. Soak the BAIID at −40 °C (−40 °F) for 1 hour, then conduct Test 1b and Test 1c at that temperature using 9 VDC input power.

b. Soak the BAIID at 49 °C (120 °F), 95 percent relative humidity for 1 hour, then conduct Test 1b and Test 1c at that temperature and humidity using 16 VDC input power.

c. This part of the test applies only to BAIIDs with components installed in the engine compartment. Soak the components of the BAIID that are installed in the engine compartment at 85 °C (185 °F), 95 percent relative humidity for 1 hour, then conduct Test 1b and Test 1c at that temperature and humidity using 16 VDC input power. The components that are installed in the passenger compartment should remain at ambient temperature and humidity conditions. Removable components will be tested in accordance with the manufacturer's instructions to the user. (See General Test Conditions).

Test 6. Warm Up Time at −40 °C

Using a temperature chamber, soak the BAIID for 1 hour at −40 °C. With input power set at 9 VDC, the BAIID must be ready to test in 3 minutes, and ready to retest in 3 minutes after being turned on. Conduct Test 6 five times. The BAIID must indicate that it is ready to test or ready to retest in 3 minutes all five times. This test may be conducted in conjunction with Test 5 Extreme Temperature and Humidity.

Test 7. Vibration

Vibrate the BAIID in simple harmonic motion on each of three main axes uniformly through the frequency schedule specified below. For components not intended to be mounted on the engine, vibrate according to Test 7a; for components intended to be mounted on the engine, vibrate according to Test 7b. If a BAIID consists of several components connected by electrical wires or connected wirelessly, vibrate these components separately. After completion of the vibration, remove the BAIID from the shake table and conduct Test 1b and Test 1c.

VIBRATION FREQUENCY SCHEDULE

Test 7	Frequency range, Hz	Number of cycles	Sweep rate, octave/min	Amplitude, inches 0 to peak	Acceleration, gravity (g), 0 to peak
a	10 to 500	10	1	0.2	3
b	10 to 500	10	1	0.08	15

Test 8. Retest

If a BAIID includes a feature designed to detect whether the vehicle is moving, conduct Test 8 using a motor vehicle. If a BAIID does not include a feature designed to detect whether the vehicle is moving, conduct Test 8 using a motor vehicle or a bench test set-up that simulates the relevant functions of a motor vehicle.

a. Within an interval of 5 to 7 minutes after a vehicle successfully starts, using a 0.000 g/dL BrAC test sample, and while the engine is still running, the BAIID must indicate that a second breath sample is required. Conduct Test 1b five times. The BAIID must treat this test as a passed retest all 5 times.

b. Within an interval of 5 to 7 minutes after a vehicle successfully starts, using a 0.000 g/dL BrAC test sample, and while the engine is still running, the BAIID must indicate that a second breath sample is required. Conduct Test 1c five times. The BAIID must treat this test as a failed retest and prominently indicate the need for a service call.

A failed retest must be identified as an alert condition and flagged on the interlock data logger. A missed retest must be flagged on the interlock data logger. After the driver is alerted to retest, if the engine is accidentally or intentionally powered off, the BAIID must not allow the vehicle to start without a service call.

Test 9. Tampering and Circumvention

Attempt to start the ignition as indicated below. Conduct each test (a through f) five times. Each attempt to start the engine must be logged by the interlock data logger.

a. *"Hot wiring".* Start the engine by electrically bypassing the BAIID. The interlock data logger must record the ignition on with no breath test.

b. *Push start.* A motor vehicle must be used for this part of Test 9. Use a vehicle equipped with a manual transmission. Start the engine by pushing the vehicle with another vehicle or by coasting the vehicle downhill before engaging the clutch. The vehicle must run for at least two minutes. The interlock data logger must record the ignition on with no breath test.

c. *Un-warmed air sample.* Deliver an alcohol-free air sample of at least 2 liters into the BAIID using an air filled plastic bag which is fitted to the sampling tube and squeezed in a manner that mimics a person blowing into the BAIID. The vehicle must not start.

d. *Warmed air sample.* Prepare a 12-ounce foam coffee cup fitted with a bubble tube inlet and a vent tube (rubber or tygon tubing) attached through the plastic lid. Fill the cup with 8 ounces of water warmed to 36 °C and attach the lid. Attach the vent tube to the BAIID and pass an air sample of at least 2 liters through the bubble tube into the heated water and thence into the BAIID. The flow rate must not be high enough to cause a mechanical transfer of water to the BAIID. The vehicle must not start.

e. *Cooled 0.032 BrAC sample.* Attach a 4 foot long tygon tube of ⅜ inch inside diameter which has been cooled to ice temperature to the inlet of the BAIID, then test at 0.032 BrAC. The vehicle must not start.

f. *Filtered 0.032 BrAC sample.* Prepare a 1 to 2 inch diameter 3 to 5 inches long paper tube loosely packed with an active absorbent material. Use loose cotton plugs to retain the absorbent in the paper tube. Pack the tube so that a person can easily blow 2 liters of air through the assembly within 5 seconds. Test the absorbent by passing a 2 liter 0.032 BrAC sample though the assembly within 5 seconds. If the air passing out of the BAIID is found to have a concentration of 0.006 BrAC or less, prepare 5 tubes packed in the same manner, fit separately to the BAIID and test at 0.032 BrAC. The vehicle must not start.

g. *Alternative to Tests 9c—9f.* If a BAIID includes an anti-circumvention feature designed to ensure that the driver is blowing into the BAIID, test its operation at 0.000 BrAC in lieu of tests 9c—9f.

Test 10. Restart of Stalled Motor Vehicle

Conduct Test 10 using a motor vehicle.

Using a 0.000 g/dL BrAC sample, turn on the ignition. Turn off the ignition. Attempt to restart the ignition without a breath sample in less than 3 minutes—the vehicle must start. Turn off the ignition. Attempt to restart the ignition without a breath sample within 3 minutes after turning off the ignition—the vehicle must not start. Conduct Test 10 five times.

Test 11. High Altitude

Conduct Test 1b and Test 1c each at pressures of 80 kPa and 110 kPa (600 mmHg and 820 mmHg). Conduct Test 11 five times at each indicated pressure. At indicated pressure levels, for Test 1b, the ignition must treat the test as a passed test; for Test 1c, the ignition must treat the test as a failed test.

Test 12. Cigarette Smoke

Direct a cigarette smoker, who is alcohol-free, to smoke approximately ½ of a cigarette. The smoker must wait 1 minute or the period specified by the BAIID manufacturer in its user instructions before testing. Conduct Test 12 three times. The vehicle must start.

Test 13. Acetone

Test the BAIID for acetone interference. Conduct Test 1b by adding 115 microliters of acetone [4] to the 500 milliliters of .008 g/dL BrAC alcohol simulator solution. Conduct Test 1b three times. The vehicle must start.

Test 14. Radiofrequency Interference (RFI)/Electromagnetic Interference (EMI)

The Society of Automotive Engineers (SAE) Surface Vehicle Standard J1113 series, Required Function Performance Status, as defined in Surface Vehicle Standard J1113–1 for Class C devices (devices essential to the operation or control of the vehicle), and the International Special Committee on Radio Interference (CISPR), Subcommittee of International Electrotechnical Committee (IEC), specifically CISPR 25, will be used to evaluate BAIID electromagnetic immunity and compatibility. The test severity levels are specified below. The tests must be performed while the BAIID is in the drive and standby modes.

a. *J1113–1* 2006–10 General and definitions. Electromagnetic Compatibility Measurement Procedures and Limits for Vehicles, Boats, and Machines (Except Aircraft) (16.6 Hz to 18 GHz).

b. *J1113–2* 2004–07 Conducted immunity 30 Hz to 250 kHz—Power leads.

Level	Severity (volts, peak to peak)	Status
1	0.15	I
2	0.50	I
3	1.0	I
4	3.0	II

c. *J1113–4* 2004–08 Conducted immunity—Bulk Current Injection (BCI) Method.

Level	Severity (milliamps)	Status
1	25 to 60	I
2	60 to 80	II
3	80 to 100	III
4	100	IV

d. *J1113–11* 2007–06 Immunity to Conducted Transients on Power Leads.

Pulse (12 v sys)	Level	Severity (volts)	Status
1	1	−25	I
	2	−50	II
	3	−75	II
	4	−100	IV
2a	1	25	I
	2	40	II
	3	50	II
	4	75	IV
2b	1	10	I
3a	1	−35	I
	2	−75	II
	3	−112	II
	4	−150	IV
3b	1	25	I
	2	50	II
	3	75	II
	4	100	IV
4	1	−4	I
	2	−5	II
	3	−6	II
	4	−7	IV
5	1	87	IV

e. *J1113–13* 2004–11 Part 13: Immunity to Electrostatic Discharge.

Severity	Status
Contact discharge	
0–4 kV	I
4–8 kV	II
8 kV	IV
Air discharge	
0–4 kV	I
4–15 kV	II
15 kV	IV

f. *J1113–21* 2005–10 Immunity to Electromagnetic Fields, 30 MHz to 18 GHz.

Severity (V/M)	Status
Up to 60	I
60–80	II
80–100	III
100–150	IV

g. *J1113–22* 2003–11 Immunity to magnetic fields

Severity (uT)	Status
40	I
40–50	II
50–80	III
80	IV

h. *IEC CISPR 25* Limits of Radio Disturbance.

RADIATED DISTURBANCE LIMITS

[1 M test distance, 120 kHz bandwidth]

30–75 MHz	75–400 MHz	400–1000 MHz
a 62 − 25.13 × log(F/30)	52 + 15.13 × log(F/75)	63
b 52 − 25.13 × log(F/30)	42 + 15.13 × log(F/75)	53

a: broadband, quasi-peak detector.
b: narrowband, average detector.
limit in dB (uV/M) at frequency F.

[4] The amount of acetone specified is experimentally determined based on water to air partition factor of 365 to 1 at 34 °C to yield an acetone concentration in the air sample of 0.5 mg/liter.

CONDUCTED TRANSIENT EMISSIONS

Pulse polarity	Maximum pulse amplitude (12 volt system) (V)
Positive	75

CONDUCTED TRANSIENT EMISSIONS—Continued

Pulse polarity	Maximum pulse amplitude (12 volt system) (V)
Negative	−100

LIMITS FOR BROADBAND CONDUCTED DISTURBANCES

MHz	0.15–0.3		0.53–2.0		5.9–6.2		30–54		68–108	
	P	QP	P	QP	P	QP	P	QP	P	QP
a	93	80	79	66	65	52	65	52	49	36
b	80	67	76	63	62	49	62	49	56	43

a: power lines, limit in dB (uV).
b: control lines, limit in dB (uA).
P: peak detector.
QP: quasi-peak detector.

LIMITS FOR NARROWBAND CONDUCTED DISTURBANCES

MHz	0.15–0.3	0.53–2.0	5.9–6.2	30–54	68–87	76–108
a	70	50	45	40	30	36
b	60	50	45	40	40	46

a: power lines, limit in dB (uV).
b: control lines, limit in dB (uA).
limits by peak detection.

Test 15. Service Interval Display

Initialize the BAIID to begin the service interval period. After thirty (30) days, the BAIID must prominently indicate that it must be taken to a designated maintenance facility for maintenance and data downloads within 7 days or the vehicle will not start and the event will be logged. Over the course of the 7-day lockout countdown, the BAIID must prominently indicate that the BAIID is in need of service and the time remaining until ignition lockout. During this period, the vehicle may be started if other conditions for starting the vehicle are met. At the end of the 7-day lockout period, the BAIID must prominently indicate that the BAIID is in need of service and the vehicle must not start. Other tests (except Tests 14 and 16) may be performed during this 37-day period.

Test 16. Data Integrity and Format

Complete all other tests before performing Test 16. Download the data from the interlock data logger and compare it to the data recorded for each test. Disconnect, then reconnect the power to the interlock data logger. Download the data again and compare it to the first data download. No lost or corrupted data is allowed. Check the data format (i.e., date and time of event) to verify conformance with the sample format in Appendix D.

APPENDIX A—QUALITY ASSURANCE PLAN TEMPLATE

[Manufacturer name]

Quality Assurance Plan for

[Interlock name AND Model number]

[date]

This Quality Assurance Plan (QAP) and the operating instructions for the [Interlock name] provide step-by-step instructions for checking the accuracy of the calibration of a BAIID and the maintenance of the BAIID. (As noted in the Model Specifications, BAIIDs must hold calibration for at least 37 days (30 days + 7 day lockout countdown) and must prominently display the service interval and provide for a 7 day lockout countdown.)

1. Provide step-by-step instructions for checking the calibration of the BAIID. These instructions must include:

- Indication of the period of time that the BAIID can maintain calibration;
- Recommended calibrating unit(s) (listed on NHTSA's Conforming Products List of Calibrating Units for Breath Alcohol Testers) and instructions for using the calibrating unit(s);
- Breath alcohol concentration to be used in the calibration check(s): 0.02 g/dL BrAC;
- Agreement of the calibration check with the breath alcohol concentration of the calibrating unit: not greater than ± 0.005 BrAC
- Description of how to verify the accuracy of the BAIID reading of BrAC (e.g., from an instrument read out, printout, interlock data logger, etc.);
- Description of actions that must be taken if the BAIID fails the calibration check.

2. Provide instructions on downloading the data from the interlock data logger.

3. Provide instructions on how to maintain the BAIID (i.e., what must be examined during maintenance; any functions that require less frequent checks). Such instructions must detail any corrective action to be taken if the BAIID fails to perform as well as any events that would require a BAIID to be taken out of service and returned to the manufacturer.

4. Provide instructions on how to check for tampering.

5. Other information regarding quality assurance unique to this instrument, if any:

Contact information for the BAIID manufacturer regarding calibration and maintenance issues:

APPENDIX B—SAMPLE FORMAT FOR DOWNLOADED DATA FROM THE INTERLOCK DATA LOGGER

EXAMPLE 1—ACCEPTABLE START AND DRIVE CYCLE

Date	Time	Start attempts (engine activity)
4/21/07 ...	0951	start attempt.
		sample accepted.
		BrAC (alcohol absent, e.g., 0.000, 0.008).
		starter active.
	0952	engine on.
	0956	retest.
		sample accepted.
		BrAC (alcohol absent, e.g., 0.000, 0.008).

EXAMPLE 1—ACCEPTABLE START AND DRIVE CYCLE—Continued

Date	Time	Start attempts (engine activity)
	1032	engine off.

EXAMPLE 2—ACCEPTABLE START BUT FAIL ROLLING RE-START

Date	Time	Start attempts (engine activity)
4/22/07 ...	2316	start attempt.
		sample accepted.
		BrAC (alcohol absent, e.g., 0.008).
		starter active.
	2317	engine on.
	2319	retest.
		BrAC (alcohol present, e.g., 0.025).
		warning given.
4/23/07 ...	0047	engine off.

EXAMPLE 3—PUSH START

Date	Time	Start attempts (engine activity)
4/23/07 ...	2054	ignition keyed.
		warning given.
		starter not active.
	2055	engine on.
		warning given.
	2120	engine off.

EXAMPLE 4—START ATTEMPTED BUT ALCOHOL DETECTED. RETRY

Date	Time	Start attempts (engine activity)
4/21/07 ...	1652	start attempt.
		sample accepted.
		BrAC (alcohol present, e.g., 0.030).

EXAMPLE 4—START ATTEMPTED BUT ALCOHOL DETECTED. RETRY—Continued

Date	Time	Start attempts (engine activity)
	1653	warning given.
	1656	start attempt.
		sample accepted.
		BrAC (alcohol absent, e.g., 0.015).
		starter active.
	1657	engine on.
	1702	retest.
		sample accepted.
		BrAC (alcohol absent, e.g., 0.010).
	1850	engine off.

EXAMPLE 5—START ATTEMPTED USING FILTERED SAMPLE. RETRY

Date	Time	Start attempts (engine activity)
4/15/07 ...	2016	start attempt.
		low temp.
		warning given.
	2205	start attempt.
		sample accepted.
		BrAC (alcohol absent, 0.000).
		starter active.
	2206	engine on.
	2352	engine off.

EXAMPLE 6—CALIBRATION CHECK

Date	Time	Start attempts (engine activity)
4/28/07 ...	0900	start attempt.
		sample accepted.
		BrAC (alcohol absent, 0.000 or 0.008).
		starter active.
	0903	engine on.
	0926	retest.

EXAMPLE 6—CALIBRATION CHECK—Continued

Date	Time	Start attempts (engine activity)
		sample accepted.
		BrAC (alcohol absent, 0.000 or 0.008).
	1032	engine on.
	1045	Calibration check.

Issued on: May 3, 2013.

Jeffrey Michael,

Associate Administrator for the Office of Research and Program Development National Highway Traffic Safety Administration.

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BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G of the Health Insurance Portability and Accountability Act (HIPPA) of 1996, as amended. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a) or 877A) with respect to whom the Secretary received information during the quarter ending March 31, 2013. For purposes of this listing, long-term residents, as defined in section 877(e)(2), are treated as if they were citizens of the United States who lost citizenship.

LAST NAME	FIRST NAME	MIDDLE NAME/INITIALS
ABDULAZIZ ABDULLAH AL SAUD	SADEEN	
ABRAM	ISAAC	ZIKO
ADAMS	STANLEY	PHILLIP
ADRIAN	SHEILA	MAY
AHOUR	RAMIN	
AKRE	JAMES	EUGENE
AKRE	PIA	SOPHIE
AL–JALLAL	ZIYAD	ABDULAZIZ
AL–KAZEMI	MAY	FAISAL
ALOMRAN	ABDULAZIZ	
AL–RUMAIM	TAREK	
AL–SABAH	BIBI	MURBARAK
AL–SABAH	YASMINE	MUBARAK
AMARAL	DAVID	MICHAEL
AMMANN	HOPE	TRUDY
ANDO	YUKI	
APEL	EVA	NOELLE
ARIAS	MADELAINE	ANTONIA
AROSEMENA III	ROGELIO	AUGUSTO
ASKAR	EMAD	A
ASTROW	ANDRE	IGOR