NEVADA COMMITTEE ON TESTING FOR INTOXICATION
INTERLOCK REGULATION WORKSHOP
MINUTES OF MEETING

September 14, 2018 – 8:30 AM

Video Conference Between

NDOT Headquarters, Room 302
1263 S Stewart St.
Carson City, Nevada 89701

NDOT District I, Training Room B (Bldg. B),
123 E Washington Avenue
Las Vegas NV 89101

Ms. Victoria Hauan, Committee Chair, called the meeting to order at 8:30 am. After the roll call, a quorum was present.

Members present:

Kerri Heward, Director, Washoe County Sheriff's Office-Forensic Science Division
Dr. William Anderson, Toxicologist III, NMS Labs
Kim Murga, Forensic Laboratory Director, Las Vegas Metro Police Department
Victoria Hauan, Committee Chair, DPS, Impaired Driving Program Manager

The following individuals were also in attendance:

Nathan Hastings, Attorney General's Office
Julie Hall, Intoxalock
Andrew Redinger. Draeger Inc.
Yvonne Sherman, Guardian Interlock
Justin Moorfy, Alcohol Detection Systems
Steve Rogers, Alcohol ALCOLOCK/ACS
Jennifer Rangel, Smart Start
Toby Taylor, Smart Start
Marty Elzy, DMV
Ann Love, DMV
Denise Engle, DMV
Sean McDonald, DMV
Michael Mahana, Guardian Interlock
Allan Taylor, Budget IID
Darby Lanz, Las Vegas Metro Forensics Lab
David Denson, Las Vegas Justice Court
Jennifer Tucker, Griffin Company
Terri Suffecool, Las Vegas Metro Forensic Lab
Marlissa Collins, Las Vegas Forensic Lab
Darrell Peterson, Global Interlock
Carlos Ochoa, Global Interlock
Judge Susan Baucum, Las Vegas Justice Court
Thomas Moskal, Clark County DA's Office

Mike Lyon, Low Cost Interlock
Dwayne Burns, Alcohol Detection
David Astles, Washoe County Crime Lab

1. Review of Regulations with Public Comment

Chair Hauan thanked everyone for attending the Interlock Regulation Workshop. She explained the goal of the workshop was to examine each interlock regulation and make suggestions and necessary corrections/revisions for formatting, guideline modifications, confusing verbiage, obsolete or inapplicable items, and so forth. She suggested starting with page 1 and working through to the end. A condensed summary of the regulation discussions follows.

Section 1

No recommended changes.

Section 2

An unidentified speaker said he would add a standardized definition of "initial test."

Section 3

Julie Hall from Intoxalock suggested changing the word "Agent" to "Technician" based on AIIPA. Also, she would add to that and say "the technician will receive formal training from the manufacturer." Ms. Hauan responded that the Committee doesn't have the ability to define any regulations that control the Technician's training. An unidentified speaker said that if they are going to adopt the AIIPA Standardized Definition then it would be "Service Center Provider" for this particular definition, not Technician.

Section 10

Mr. Taylor had some comments about item Number 10, Tampering. He said some states allow the handsets of the devices to be disconnected, and some do not. He suggested adding the exact definition for tampering: to physically disable, disconnect the device from its power source (the relay under the dash) or disconnecting it from the wiring harness in the car. Disconnecting the handset should not be considered tampering.

Mr. David Astles from the Washoe County Crime Lab, stated in devices where the handset can be unplugged from the vehicle, typically, the recommendation is to not leave it in the car, to keep it in a room as opposed to hot or cold in the car.

Section 11 ISO:9001 Certification

Ms. Hall had a comment regarding ISO:9001 Certification. She thinks this requirement should be changed or eliminated because it has an economic impact on small for-profit ignition interlock businesses and results in significant loss of resources, time, and money. ISO:9001 2015 are guidelines for quality management system. They are process standards,

not product standards. These process standards are voluntary and not subject to the scrutiny of any state or federal statutory body. So she thinks between the rules and laws, the NHTSA requirements, and the state's accredited lab certification, all requirements for device certification have been met.

Chair Hauan pointed out that according to the AAMVA Best Practices Recommendation 4.3, "The manufacturer has to certify that devices *are manufactured in a facility that is accredited to the ISO:9001 Quality Management System*." An unidentified speaker said the ISO:9001 is a certification standard that the manufacturers of these devices have a quality management system in place. It's a measure the State can put in place to ensure that they're getting devices manufactured in a facility that maintains and is audited by an independent third party of quality management system.

An unidentified speaker said this will definitely have a financial impact on the smaller business manufacturers if it's costing them about $20,000 per year. Missouri is the only state doing it. This is certification is a one time for the manufacturer of the device, not for the state entity that installs the device. It's just for the entity that manufactures the device.

A different unidentified speaker stated it's a quality management system; it's about recordkeeping and proper documentation. It's also about ensuring that parts that are utilized in the devices are high quality and have been tested randomly. It just gives the state an extra added note of security knowing that that manufacturer has undergone a robust audit by an independent third party. It's not a new standard. It's been around for a long time.

Mike Mahana with Guardian Interlock stated they would like to eliminate "design" from the wording in the section because "design" is open to many interpretations. Toby Taylor from Smart Start said the language "design, construction, and production" is the standardized AIIPA definition of a manufacturer. You adopt the AIIPA standardized definition and apply the ISO:9001 Certification.

<u>Digital Images</u>

Mr. Steve Rogers from ACS/ALCOLOCK had a comment about E4, "captures a digital image or photograph of the person driving the vehicle." He suggested that be changed to when a breath sample is provided, either initial or retest, when a retest request is triggered or when there is a start violation.

Mr. Justin Moorfy said they would have concerns anytime there's a random image captured because it allows for inappropriate or unintended pictures to be captured, which might cause privacy concerns for passengers in the vehicle.

Chair Hauan suggested that instead of "captures a digital image or photograph of the person driving the vehicle" her recommendation would be "to capture a digital image or photograph of all breath tests or attempted breath tests recorded on the interlock devices." Would that clean that up?

Mr. Taylor said there's a need to snap a picture of the driver when the vehicle engine starts. You want to make sure that whoever blew the sample is also the person starting the vehicle, and you would also want to record a digital photo in response to circumvention. So, if you only took a picture when you took a breath sample, you'd never get a photograph of a circumvention which is required under NRS 484C.470. You could have 4.1 any time a breath test is delivered into the device, 4.2 any time the vehicle's engine starts, 4.3 each time a notification is given, a retest is in progress, and then 4.4 each time a violation is reported. That would cover all the circumstances. Mr. Taylor said the Fourth Amendment issues regarding privacy concerns have never been an issue for the states requiring the digital images; there's never been a single challenge.

Mr. Andrew Redinger from Draeger said manufacturers have the ability to make the picture frame smaller so you're not taking a picture of everyone in the vehicle. Mr. Taylor said some states that require them to take an image of the driver's compartment, or the whole driver's seat.

Ms. Darby Lanz suggested that in Section 11, Part 2B, a unit of measurement needs to be added after ".02 more in his or her breath." The word "unit" needs to be added. They need to define that it's breaths per 210 liters or whatever unit you want to go with.

Ms. Hall commented on Section 11.2L and M. There are no time periods defining how you get the countdown from a violation reset to a permanent lockout.

Mr. Steve Rogers had remarks about Section 11 Part J. He suggested adding a line that says "require an initial test retest" because that is what is required in Section C of 484C.470. Add the constraint that the device be capable of requiring an initial test retest. And in Section M add "if the device reports a circumvention, an initial test retest or retest refusal or failure, then it would go into a violation reset."

Ms. Hall said that as used in Section 11.4, violation reset means a feature of the device that activates a service center reminder. She suggested adding the words "for a violation."

An unidentified speaker asked about Section 11, Part N regarding warning labels on tamper proof seals. The speaker said he was opposed to warning labels throughout every contact point. Mr. Taylor stated he thought warning labels should be placed on the separate pieces, because if the handset is disconnected and somebody circumvents the device, an argument could be made that they didn't see the warning label because it wasn't on the relay.

Mr. Moorfy wondered if they could make the warning label less specific to stay in accordance with NRS 484C.470. They didn't have to make Nevada-specific labels.

Section 12

Mr. Taylor suggested that they needed to tweak the verbiage in this section to allow the Committee an opportunity to do some graduated sanctions to try to bring a manufacturer to compliance before they revoke them or remove them. Ms. Hall agreed, saying the actions of one agent should not impact the status of the manufacturer's device certification throughout

the state. Instead, the agent should suffer the repercussions of noncompliance, and depending on severity after giving opportunity to cure, be removed.

Chair Hauan stated the way that this law was written, it gives them no funding capabilities or authority for anyone to go out and inspect how anything is being done. They can't actually hold the service center accountable. They have no other line of action other than to go to the manufacturer or to the contact of the manufacturer in the state and work with them on that.

Ms. Murga said if they did add a special component, they would have to add the provisions associated with what a suspension means and the timeline to comply. Mr. Taylor suggested that everyone could submit language to the Committee from other states who encompass suspension procedures to give the Committee some language options. The Chair said this was important and they need to have some steps defined as to how to address the issue.

Regarding 12.3, Certification Dates, Mr. Taylor suggested that instead of saying a device needs to be certified every two years, it says something like “all devices currently certified in the state must be recertified by a certain date of the next year.” Currently there is no date from which the State starts the two-year cycle. The State should consider inserting a date specific within which everyone must get recertified to start the two-year clock.

Mr. Astles asked what to do with currently certified devices, provide some kind of grace period? If there are new requirements on the date these regulations are enacted, theoretically, everything could fall off the table, and then there wouldn't be anything approved in Nevada.

Mr. Taylor said the program will no doubt be better as a result of the changes that are being made, but there's a lift for some of the folks, and that gives them an opportunity to get that lift resolved, but more importantly, it starts the clock. Mr. Astles agreed and said they would probably need some kind of process to have staggered submissions.

Ms. Murga had some comments. Perhaps what certification entails should be spelled out and better defined. What are the rules in between what those steps are and what are the parameters? She pointed out that Section 31 does indicate that this regulation requires that any interlock device that was installed in the vehicle before the effective date of this regulation, it does not meet the requirement to establish this regulation, has to be placed within an ignition interlock device that meets the requirements as established in this regulation not later than 120 days.

Chair Hauan asked for clarifications on digital cameras. Mr. Taylor said the camera is considered an attachment to the device in the same way GPS is. If you don’t have a camera, you would have to get a camera attached within 120 days of October 1st. And with respect to the question on camera, it references the device in statutory citation NRS 484C.450, which defines “device” as a mechanism that tests a person's breath and determine the concentration of alcohol in his or her breath. So, it's not just the camera. It's the device itself with the GPS or camera being considered an attachment to the device.

Ms. Hall had a comment about Section 12-4 that if a manufacturer is no longer in business or changes ownership, the manufacturer has the responsibility to notify the Committee immediately in writing. In this section, it would be recommended that if the manufacturer's device is removed from the device certification list, that the manufacturer be required to have a performance bond. Requiring a performance bond would ensure that the charges for removing a device that's been disapproved by the Committee and replaced with an approved device would be paid for by the manufacturer whose device is being removed from the list of approved devices. This would protect the driver to not bear the cost of that change of equipment, and it would put the cost on the manufacturer whose device is disapproved, and that cost would be covered through the requirement of the state requiring the performance bond of all manufacturers. Mr. Taylor said he would recommend a bond amount of $150,000 to $200,000 which is what most states are requiring. The performance bonds are to the benefit of the State to reimburse manufacturers who step in and remove those devices and reinstall the new ones and also to reimburse clients who have unrealized lease that they paid on a device that's now decertified when they can send it in to the State. So, it's an exit strategy that a lot of states employ to accommodate the transition of a device that's decertified to a certified device. Mr. Rogers suggested the bond amount should be $100,000.

Section 13

Mr. Taylor said he would like the Committee to consider adding some language to this section. He reminded everyone that 484C.470A outlines the fact that they are required to report the initial test sequence from an intent by the person to start the vehicle with a concentration of alcohol of .04 or more unless a subsequent test performed within ten minutes registers a concentration of alcohol lower than .04 and a digital image confirms it's the same person for both samples. Currently, there is nothing about this 484C.470A requirement outlined or spelled out in the regulations. Mr. Taylor offered to send the Committee some sample language from other states.

Ms. Hall stated she agreed with Mr. Taylor. The Committee has to define the expectations for initial test and initial retest and the time periods to take those tests. And so to create equity among all manufacturers and their device configurations, there needs to be some definition about initial testing and retesting initially.

In regard to Section 13.4, Ms. Hall recommends that a person be given more than one opportunity to take an initial test to start their vehicle to account for any other type of alcohol that's not truly related to a high breath alcohol content. Mr. Taylor said Smart Start agrees. For retest, they should be allowed multiple opportunities within the timeframe allowed. They want to ensure the device doesn't temporarily lock out in response to a fail during a retest sequence.

In regard to 484C.470, Mr. Taylor recommends the first retest window be ten minutes. That's four minutes longer than what AIIPA recommends, but it's still in accordance with the law. The proposal would be that If somebody fails a retest, by statute, it should immediately go into another retest sequence that gives them ten minutes to test, and if they fail that or don't submit a test within that second ten-minute window and the digital image confirms, then they submit to the Board. All the other manufacturers agreed with this suggestion.

Section 14

Ms. Heward said there were instances in Section 14 where the word “units” needed to be added to the .02 number.

Miss Hall suggested adding a sentence to the end of Section 14.3. She suggested adding “if a device records a circumvention, the device will record a violation reset.”

Mr. Rogers said that in Section 14.1 some language needs to be added to convey that the confirmatory test doesn't negate the requirement to have the vehicle inspected. Number 1 says if a device records a circumvention, the driver must take a confirmatory test. So, they want to say that if that confirmatory test is passed, it doesn't negate the early return.

Mr. Taylor explained the reason for the confirmatory test is because when hybrids pull up to a stop sign, the voltage can drop a running level. And when they press the accelerator again, the voltage shoots back up, and the device can record a confirmatory test. There's no tampering with the device, and so what a confirmatory test does is simply allows them not have to report that circumvention to the State. Other states use this confirmatory test language and have had no problems. If a driver refuses the confirmatory test, it would result in violation reset, and they would have to come back in, or if they fail the confirmatory test, they can't get a sample blown set point in which the timeframe allowed, they’d have to come back in and give an opportunity for inspection. All the manufacturers supported this suggestion.

Mr. Taylor asked if there would be any consideration to extending the time period for a confirmatory breath test from six to ten minutes? Mr. Rogers said if they adopted ten minutes, which they discussed previously on the retest, it would make it more consistent and much easier from an implementation standpoint.

Section 15

Ms. Hall stated the wording in this section needs to be revised to account for the different methods used on manufacturers' devices to override for a lockout condition. Mr. Taylor said the basic tenets of the lockout override need to be that under no circumstance is a vehicle started without ever delivering a breath sample and passing. That's an emergency override not to be confused with a lockout override. If a device is not permanently locked, the manufacturers need to know how long the State wants the device to be unlocked for.

Mr. Rogers suggested that rather than individual device specific codes, they use randomly generated codes that changes on a daily basis. This prevents the client from reusing the same code over and over. Mr. Taylor said he thought it was important that the State approve that process by each manufacturer.

Mr. Taylor said the rules need to convey that the device works normally after a lockout. The override just unlocks the device so the device will take a sample.

Section 16

Mr. Taylor had a recommendation for Section 16.3, the service center must have a designated waiting area for customers that is separate from the area where services are performed on the device. He suggested replacing “services” with “ignition interlock.”

Ms. Hall said in Section 16-3, instead of giving examples of types of crimes that would prohibit someone from performing services, the regulation should just refer to “felony conviction.” Mr. Rogers asked if they could broaden that out and include a timeframe. After a discussion, the group determined that a 5 year lookback would be best. So the replacement language would be “felony within five years.”

Mr. Moskal from the Clark County District Attorney's Office said he thought five years was much too short. He would go with ten years, minimum. Since this person may potentially have to be a witness in a hearing, they have to have a longer track record. Many manufacturers agreed.

Chair Hauan said she had made notes to add four words to Section 16.3, ignition, interlock, removal, and installation.

Ms. Lanz asked if by changing part 3, did that negate part 5 that explains part 3? Chair Hauan confirmed that and said they would eliminate number 5.

Section 17

Ms. Hall had a recommendation for Section 17. It should be broadened to say “an agent and/or manufacturer must….” Mr. Anderson said “agent” was defined on page 3. Wasn’t that sufficient? Mr. Taylor clarified that they are two unique entities; an agent is the entity designated by the manufacturer. The manufacturers typically have a lease that is between them and the driver, and there may be third party that's simply installing the device and removing the device and servicing it. Much of this may be in the lease agreement so that that would come from the manufacturer and not from the agent that's actually servicing the device or it could come from the agent himself. Using “an agent and/or manufacturer” gives the flexibility to either be the agent or the manufacturer. If it was our lease agreement, we had a third party provider, and it was just agent, then the third party provider would have to replicate that lease agreement with their name on it to the individual versus the relationship between the manufacturer and the driver.

Section 18

No recommended changes.

Section 19

Mr. Taylor suggested that on Section 19.2, there should be a requirement to record the vehicle mileage, not only the installation, but its service appointments as well. All the manufacturers supported this suggestion.

Ms. April Sanborn, DMV recommended that the part of the regulation that said the agent "shall issue a certificate to the driver and transmit a copy of the certificate to the Department of Motor Vehicles" be removed. She said the DMV has no means for receiving and/or storing a certificate.

Ms. Hall cited NRS 484C.460.3B. The driver is the one that's required to transmit a copy of the certificate to the DMV. Mr. Hastings from the AG's Office said what the statute says and what the different potential policy variables are is an "issue" that is acknowledged in his office. Ultimately, it will be resolved.

Mr. Taylor asked on Section 19.6, the period for which the driver is required to have the device installed, how will they be able to get that information? The vast majority of their clients don't know. There may be certain circumstances in which they don't actually know what the true program length is, and even if they did, it may change. So what's the real value of having that information on the installation verification report?

Chair Hauan asked wouldn't that kind of go along with number 9? Mr. Taylor said it would go along with 7 and 8 and 9. The device is going to be serviced in accordance with the rules, and the payment schedule is monthly. He proposed just deleting 6 through 9.

Chair Hauan asked how would they know which court to notify if there's a violation and it's not somehow recorded in someone's system? Mr. Taylor said maybe on Number 9, they could add at the end, "if available or if known."

Mr. Dwayne Burns with Alcohol Detection said they receive no information in Clark County from the different courts. If someone comes to them to remove a device, they require them to contact the court program administrator and have the administrator send them an email.

Mr. Taylor said the reality was there would be a DMV component to this. He thought the manufacturers would err on the side of caution and send a report every time a device is removed, not knowing if it's an authorized removal or not. If there was some way that they would they know that it's an authorized removal, then they could remove it and not have to notify the state.

Ms. Sanborn from the DMV said the DMV knows there are gaps in the process. If they receive from the courts a conviction that doesn't have an end date, they're going with what the statute says. They will only remove it based on the end date of the citation or conviction that's on record. The DMV can work with the manufacturers with their driver's license assessment team.

Section 20

Mr. Taylor recommended that they strike "30 days" and replace that with "in accordance with Section 29 of this regulation." So, just after a device is installed in the vehicle, the driver shall have the device inspected at a service center in accordance with Section 29 in this regulation.

Ms. Hall said that NRS 484C.460.4 provides for each 90 days. Mr. Hastings pointed out that the statute there is setting a floor when it says “at least.” It’s not saying that it has to be 90 days; it’s saying it has to be at least every 90 days.

Mr. Taylor said he would propose 30 days plus the grace period. Ms. Hall said that Section 29.1 does not give a time period. Ms. Lanz said they needed to clarify the difference between the 30-day just inspection and download and the 90-day calibration. Mr. Moorfy recommended any time the device is serviced, that it must be calibrated.

Mr. Taylor said that in Part A, they should keep “any areas of discussion with the driver regarding problems with or questions about the device” and then he recommended deleting the rest of that section. If the inspection reveals a problem, they would rather not discuss this with the client. They would rather photograph it, document it, fix it, and send a report to the state. In line 3 they could say “in addition to the information required to be collected pursuant to subsection 2. An agent shall, rather than collect the following information, have a discussion, if applicable.”

Ms. Hall thought 3C, D, E, and F could be condensed and that C could just say “any violations, violation resets, and permanent lockouts recorded by the device.” And the rest could be deleted. The other statement that should be added is “record any of the incidents specified in subsection 1 of NRS 484C.470 have occurred within the last four consecutive months prior to date of release.”

Mr. Taylor added that also in number 3 and number 4 they should replace the words “agent and/or manufacturer shall report” with just “manufacturer shall report.” Also, they could add “any incident specified in subsection 1 of NRS 484C.470” and that way if the statute changes, they don't have to come back and change the rules subsequent to that.

Section 21

Ms. Hall said that the word “repairs” should be removed, per the previous discussion. Mr. Taylor suggested that all fees should include shipping so that the client knows that they have to pay a fee to have a device shipped to them.

Ms. Hall said Section 21 addresses hardship, also addressed in statute 484C.480. She recommended that DPS makes a determination about a driver's federal poverty levels and their qualification for SNAP assistance and that that not be a responsibility of a manufacturer who's in the business of providing ignition interlock devices. The Chair said DBS would not be able to do that, given no funding and lack of personnel. Ms. Hall said there’s currently no provision for how often the person qualifies for hardship, and recommended that there be some annual requalification for hardship.

Mr. Taylor said hardship qualifications are covered in NRS 484C.480.D1 and 2. It specifically says “has an income level which is at or below 100% of the federally designated level signifying poverty.” Hardship clients only pay 50% of the lease, and then if they get SNAP, they get 75%. There was a discussion about proof of hardship status, ranging from

requiring tax returns to showing SNAP cards. The Chair said all suggestions would be considered.

Section 22

Ms. Heward had a question. It says that the records shall be kept for a period of three years. For ISO standards, it's usually in the period of cycle, like the 1702 bi-cycles, and those are five years. She suggested changing the wording to “keep all such records for a period of five years or an accreditation cycle.” She added that “record” should be defined as either a paper or an electronic copy.

Mr. Astles suggested adding the definition at the beginning of the chapter, a definition that could apply throughout the whole chapter of the NAC. That would give them the flexibility for wherever it talks about a record, be either a paper record or electronic record as appropriate to the circumstances.

Section 24

Ms. Lanz stated that they are in agreement that part C needs to be taken out; however, they need some clarification on part D that will become part C, and the two labs have not come to a consensus. They would like to provide the two different lab opinions to the Committee and have the Committee make the final decision. The Chair said they would welcome the two opinions.

Mr. Taylor said in Section C where it says “If it is found to be incomplete or does not otherwise meet the requirements set forth” that should be broader, something to the effect of “requirements set forth as prescribed by statute or administrative rule in the state of Nevada” or something along those lines.

Ms. Murga proposed to strike the word “forensic” before “laboratory” and also strike the words “by a certified forensic analyst of alcohol.” So, the sentence will read: upon a request of the Committee, the manufacturer shall provide two fully equipped devices for field or laboratory testing. And then that way, it provides the option to have specific testing done by the forensic laboratory or another laboratory that may be more well equipped to test certain aspects of the device. Mr. Taylor said inserting the word “accredited” in front of “laboratory” would make it ISO:17025 and consistent with the section on the previous page.

Ms. Heward proposed that they have further discussion between the laboratories to have some language that will work in this section, and the Chair agreed.

Section 25

Mr. Astles stated this section might be impacted if they define “record” at the beginning of the chapter. So they might need to tweak it.

Section 26

Chair Hauan said the Committee made a request to strike the words “approval by post” because post does not require that anymore.

Section 27

No recommended changes.

Section 28

The Chair suggested changing the word “petition” to the word “application.” They are going to implement an application process so “petition” is no longer applicable.

Ms. Hall asked what will be the definition of a modification of a device that's already approved, and what will be the process? Mr. Taylor said modifications were mostly changes in firmware updates. They could add language where manufacturer is required to notify the state before they roll out software and firmware updates with an implementation plan.

On Part D, Mr. Taylor pointed out there was nothing about a product liability insurance certificate. He recommended $1 million per currents and $3 million in the aggregate. That's very standard for the industry throughout the nation. Another missing item is the manufacturer indemnifying the state. It's important that the manufacturer indemnify the state and its employees against any loss or damage, and most states require this.

Ms. Hall said Section 28 is where it would be beneficial to insert the performance bond requirement that was discussed at the beginning as part of the device certification process.

Mr. Moorfy had a question about Part C as far as requiring the device to be recertified through the laboratory every five years. If the device hasn't changed and specifications haven't changed, is that necessary? Mr. Taylor stated that’s a recommendation of the model guidelines for state Interlock programs by the National Highway Traffic Safety Administration.

Ms. Hall pointed out that in F1, the word “repair” needs to be removed, as per previous discussion.

The Chair said in Part 2, they needed to add the words “or a court that orders the installation of the device.” She said they are going through an assessment with the Traffic Injury Research Foundation, so some of these processes in the future may change as it's more developed. The Chair asked if all companies have a web portal that people can log into to review a client's violation? All the manufacturers replied that this was true. Continuing with Part 2, Mr. Taylor suggested adding that the manufacturer will provide the name and contact information for custodian of records, and that would be the single point of contact for the state to contact.

The Chair stated that in Part 2, the wording suggests the Committee can order that a device be tested. Is this written correctly for what they’re trying to accomplish?

Mr. Astles said his take on this was the manufacturer would normally provide documentary evidence that the device meets the NHTSA model standards, and they would conduct a review of that documentation and provide the results for a summary of that review to the Committee for its deliberations; however, if for whatever reason the Committee wanted to test devices, they could then request that of a manufacturer, and then subsection 4 says that the manufacturer would then provide two fully equipped devices for testing. In most cases, it would simply be a document review of compliance with the NHTSA model standards. It's a safety valve in case the Committee wanted them to look at something from a technical perspective.

Mr. Taylor offered a possible solution. In Section 4 it could say "upon the request of the Committee, a manufacturer shall provide two fully equipped devices to the Committee" period, and then say "the Committee may elect to conduct field or forensic laboratory testing by a certified forensic analyst of alcohol."

Chair Hauan said she would recommend that B be deleted, because it doesn't need to be in the regulation, and then number 4 gives the Committee their backdoor.

Section 29

In Section 29.1 for calibration time periods, Mr. Taylor suggested replacing 90 days with 30 days and a seven-day grace period. Mr. Moorfy said he thought they put 90 days to accommodate the rurals. Participants seemed to think the 30 days plus 7 was fine.

Ms. Murga clarified that according to 484460, the devices need to be inspected every 90 days and calibrated every 30 days. Mr. Taylor said they would propose that the device be calibrated, inspected, and the data be docked every 30 days. Chair Hauan stated that according to AIIPA best practices, they should calibrate, inspect, and download the data on a monthly basis.

Ms. Lanz asked if they needed to recommend combining Sections 20 and 29 into one part that discusses both the inspection and the calibration? Mr. Taylor answered yes and said if they added "in accordance with Section 29 of this regulation" that would involve the inspection being done in accordance with Section 29, and then they could address the frequency pursuant to the calibration in Section 29 also.

Mr. Moorfy asked if the Committee would consider changing concentration levels from between .02 and .05 so that they're calibrating at the pass-fail level of the state? Ms. Lanz said they should add the word "inclusive" so it includes the .02 and the .05, not just between those two. Mr. Moorfy said "inclusive" would work as long as it still appeared on NHTSA's conforming products list. Ms. Lanz said "inclusive" could be added right after "210 liters of breath", because it gives the range, the increments, and then says that it's inclusive. Mr. Taylor said in that same sentence, he would recommend replacing the word "mechanism."

Ms. Hall asked if Section 29, 2D and 5C were in agreement? Ms. Lanz said 5C needed a verb before "within" to clarify what this states. Ms. Astles stated his understanding was that

2D refers to the decision of the device, whereas 5C refers to the quality of the calibration standard.

Ms. Lanz stated on 2F, they need to put in the full grams of alcohol per 210 liters. That was stricken, and it needs to be put back.

Section 31

Mr. Mahana had a question about the timeline for conversion to dry gas. He suggested some sort of six-month transition period. Mr. Astles said he thought it was a reasonable request to allow for a transition or grace period for existing approved devices. Ms Heward suggested 180 days from date of implementation. Mr. Astles said his understanding was that Section 31 applies to everything. Now it says 120 days from the implementation of the regulations, and that could be changed to 180 days.

Chair Hauan said she was fine with the dry gas piece, but not with requiring them to change out a camera. She thought the camera device needs to be installed as soon as possible after the law goes into effect based on when that person goes in to get their next service appointment.

NRS 484C.470 requires digital images or camera images beginning October 1st, 2018. A long discussion about dates, timelines, and regulations took place. Mr. Astles stated the origin of the 120 days was to allow for a transition from devices that are currently on the list to whatever ends up being required after the approval of the regulation so that both it's fair and reasonable to the manufacturers, but also to users, customers of current devices, that there's a reasonable transition in place. Mr. Taylor said the 120 days from the effective date of the regulation was fine, but he thought the state needs to have something in here that says at some point, we're going to reevaluate the currently certified devices to make sure they are in accordance with the new rules.

Mr. Taylor said since adding a camera to an existing device doesn't change anything else on the device that was certified, he would suggest that the manufacturers simply send in a sworn statement to the effect that the camera will be added to the device that's currently certified. Mr. Eickhoff said in Arizona each of the manufacturers self-certify their devices.

Ms. Hall stated that with the camera addition, the definition of tampering needs to address the disconnection of the camera from the power source and that the definition of circumvention has to include something about the obstruction of the camera. She said there are some states that have taken into their definition of circumvention the obstruction of a camera. Mr. Taylor said he thought that camera obstruction needs to be considered a tamper, not a circumvention.

Mr. Taylor said they needed to work on the language of the violation reset part to clarify what situations would bring about reset, and an explanation of the grace period.

Ms. Hall asked for clarification about compliance-based device removal and Mr. Taylor explained that while they report any and all violations, the language suggests the first month or two that a client has the device installed, it's an educational opportunity, and they learn.

So, they're not held accountable for their actions violation-wise in the first couple of months. It's soft training opportunities. So, what counts is the last four months.

Ms. Hall pointed out that in 1A they list an initial test is .04 in the statute, but in Section 11-2B, it's .02 for an initial test. Mr. Taylor said the rule actually says that the vehicle won't start at .02 or more. It becomes a reportable incident at .04 or above.

Ms. Lanz asked the interlock providers if they checked the devices at different values? Mr. Taylor answered that they use several values. If a device is not in calibration after test #1, they deliver another sample for test #2. If it doesn't come into calibration on the third try, it's got to be taken out of service and repaired by the manufacturer. Mr. Taylor and others think language could be added to explain these steps and put a limit on the number of attempts allowed.

Ms. Lanz asked what was an ISO accreditation requirement for a calibration? Mr. Taylor explained the new rules require them to submit a quality assurance plan (drafted in accordance with ISO:9001 quality assurance measures) that outlines the calibration processes.

Chair Hauan asked if that’s put in regulation will the state have to do anything? Mr. Taylor said no, that’s the point of the quality assurance plan. The companies will attest to the State their processes are in order and up to par.

Chair Hauan said that completed the work of the workshop and she asked if there was any public comment.

2. Public comment
None

3. Adjournment
Ms. Murga moved for adjournment. Mr. Anderson seconded. The motion passed unanimously.