

Chapter 204-50 WAC

IGNITION INTERLOCK BREATH ALCOHOL DEVICES

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

204-50-060	Device accuracy and reliability. [Statutory Authority: 1987 c 247. WSR 88-01-020 (Order 87-05-ESR), § 204-50-060, filed 12/9/87.] Repealed by WSR 99-01-156, filed 12/23/98, effective 1/1/99. Statutory Authority: RCW 46.04.215 and 46.37.005.
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WAC 204-50-010 Authority. This chapter is promulgated pursuant to RCW 43.43.395, 46.37.005 and 46.04.215.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 10-24-074, § 204-50-010, filed 11/30/10, effective 1/1/11. Statutory Authority: RCW 46.04.215 and 46.37.005. WSR 99-01-156, § 204-50-010, filed 12/23/98, effective 1/1/99. Statutory Authority: 1987 c 247. WSR 88-01-020 (Order 87-05-ESR), § 204-50-010, filed 12/9/87.]

WAC 204-50-020 Purpose. The purpose of this chapter is to establish guidelines for the certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, as required by RCW 46.04.215 and 43.43.395.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 10-24-074, § 204-50-020, filed 11/30/10, effective 1/1/11. Statutory Authority: RCW 46.04.215 and 46.37.005. WSR 99-01-156, § 204-50-020, filed 12/23/98, effective 1/1/99. Statutory Authority: 1987 c 247. WSR 88-01-020 (Order 87-05-ESR), § 204-50-020, filed 12/9/87.]

WAC 204-50-030 Definitions. The following definitions will apply throughout this chapter:

(1) Alcohol - The unique chemical compound ethyl alcohol. For the purpose of ignition interlock devices, all devices will be specific for ethyl alcohol.

(2) Bogus sample - Any air sample that is altered, diluted, contaminated, stored, or filtered human breath, or which is obtained from an air compressor, hot air dryer, balloon, manual air pump, or other mechanical device, and is provided by an individual attempting to start or continue to operate a vehicle equipped with an ignition interlock device.

(3) Breath alcohol concentration BrAC - Is the amount of alcohol in a person's breath determined by chemical analysis, which shall be measured by grams of alcohol per 210 liters of breath.

(4) Certification - The testing and approval process required by RCW 46.04.215, 43.43.395 and chapter 204-50 WAC.

(5) Chief - The chief of the Washington state patrol or his or her designee.

(6) Circumvention - The attempted or successful bypass of the proper functioning of an ignition interlock device including, but not limited to:

(a) The operation of a vehicle without a properly functioning ignition interlock device;

(b) The push start of a vehicle with the ignition interlock device;

(c) The disconnection of any part of the device including the control head while the vehicle is in operation or alteration of the ignition interlock device;

(d) The introduction of a bogus sample other than a deep-lung sample from the driver of the vehicle;

(e) The introduction of an intentionally contaminated or altered breath sample;

(f) The intentional disruption or blocking of a digital image identification device;

(g) The continued operation of the interlock vehicle after the ignition interlock device detects excess breath alcohol.

(7) Court (or originating court) - The particular Washington state court, if any, that has required the use of an ignition interlock device by a particular individual or has responsibility for the preconviction or postconviction supervision of an individual required to use or using the ignition interlock device.

(8) DOL - The department of licensing of the state of Washington.

(9) Fail level - The BrAC of .025 g/210L or a level set by the originating court, if lower, at which the ignition interlock device will prevent the operator from starting the vehicle, and/or once the vehicle is started, the level at which the operator must record a test below.

(10) Fee - Nonrefundable administrative fee set by schedule paid to the patrol by the manufacturer through electronic funds transfer.

(11) Ignition interlock device - An electronic device that is installed in a vehicle which requires submitting to a BrAC test prior to the starting of the vehicle and at periodic intervals after the engine has been started. If the ignition interlock device detects a BrAC test result below the alcohol setpoint, the ignition interlock device will allow the vehicle's ignition switch to start the engine. If the ignition interlock device detects a BrAC test result above the alcohol setpoint, the vehicle will be prohibited from starting.

(12) Ignition interlock technician - A person employed by the ignition interlock device manufacturer or vendor and certified by the impaired driving section to install, service, calibrate, remove and monitor certified ignition interlock devices in Washington state.

(13) Impaired driving section - The section of the Washington state patrol that has been designated by the chief of the Washington state patrol to coordinate and regulate ignition interlock devices.

(14) Initial start failure - A breath sample introduced into an ignition interlock device when a restricted operator is attempting to start a vehicle with a BrAC higher than .025 g/210L or the alcohol concentration as prescribed by the originating court.

(15) Lessee - A person who has entered into an agreement with a manufacturer, vendor, or service center to lease an ignition interlock device.

(16) Letter of certification - A letter issued by the Washington state patrol that authorizes a manufacturer's ignition interlock device to be used as an ignition interlock device under this chapter; or an ignition interlock technician to install, service, calibrate, remove and monitor certified ignition interlock devices in Washington state; or a service center location to service, install, monitor, and calibrate ignition interlock devices currently certified for use in Washington state.

(17) Lockout - A period of time where the ignition interlock device will not allow a breath sample to be delivered or a vehicle's engine to be started.

(18) Manufacturer - The person, company, or corporation who produces the ignition interlock device, and certifies to the impaired driving section that a service center, vendor, or ignition interlock technician is qualified to service, install, monitor, calibrate, remove, instruct, and provide information on the manufacturer's ignition interlock device.

(19) OAC - Office of the administrator of the court.

(20) Patrol - The Washington state patrol as defined in RCW 43.43.010.

(21) Restricted operator - A person whose driving privileges are restricted by court order or the department of licensing to operating only motor vehicles equipped with an approved, functioning ignition interlock device.

(22) Service center - A location certified by the impaired driving section to service, install, monitor, remove and calibrate certified ignition interlock devices in Washington state.

(23) Tampering - Any act or attempt to disable or circumvent the legal operation of an ignition interlock device.

(24) Vendor - An impaired driving section approved company, business, or distributor who is contracted by a manufacturer to manage service centers and/or technicians.

(25) Violation reset - An unscheduled service of the ignition interlock device which includes the following:

(a) Calibration as outlined in WAC 204-50-080 (3)(a);

(b) Visual inspection of wiring harness;

(c) Download of the ignition interlock device's data storage system.

(26) Wet bath simulator - A device which when filled with a certified alcohol and water simulator solution, maintained at a known temperature, provides a vapor sample of a known alcohol concentration.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-030, filed 8/22/12, effective 10/1/12; WSR 10-24-074, § 204-50-030, filed 11/30/10, effective 1/1/11. Statutory Authority: RCW 46.37.005 and 46.04.215. WSR 09-18-073, § 204-50-030, filed 8/31/09, effective 10/1/09. Statutory Authority: RCW 46.61.688(2). WSR 05-17-065, § 204-50-030, filed 8/11/05, effective 9/11/05. Statutory Authority: RCW 46.04.215 and 46.37.005. WSR 99-01-156, § 204-50-030, filed 12/23/98, effective 1/1/99. Statutory Authority: 1987 c 247. WSR 88-01-020 (Order 87-05-ESR), § 204-50-030, filed 12/9/87.]

WAC 204-50-040 Ignition interlock device certification. (1) An application must be approved and letter of certification issued by the chief or designee before a manufacturer's ignition interlock device is authorized for installation pursuant to this chapter.

(2) **Application for letter of certification for an ignition interlock device.**

(a) A manufacturer must submit an application to the impaired driving section for a letter of certification for its ignition interlock device and pay all applicable fees.

(b) In order to have an ignition interlock device certified, the applicant(s) must:

(i) Complete the application form provided by the impaired driving section.

(ii) Provide written verification that the ignition interlock device complies with all applicable standards set under RCW 43.43.395 and chapter 204-50 WAC, including written documentation from an International Organization for Standardization (ISO) certified testing laboratory that two samples of the manufacturer's ignition interlock device meets or exceeds the minimum test standards in sections one and two of the model specifications for breath alcohol ignition interlock devices (BAIID) as published in the Federal Register, Volume 57, Number 67, Tuesday, April 7, 1992, on pages 11774 - 11787, or as rules are adopted. Only a notarized statement as outlined in RCW 43.43.395 (3)(c)(i), from a laboratory that is certified by the International Organization for Standardization and is capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards.

(iii) Provide two ignition interlock devices for field and laboratory testing.

(iv) Attach to the application a declaration on the form provided by the impaired driving section that:

(A) The manufacturer, and its employees will cooperate with the impaired driving section at all times, including its inspection of the manufacturer's installation, service, repair, calibration, use, removal, or performance of ignition interlock device.

(B) The manufacturer agrees to collect and pay all applicable fees, provide all downloaded ignition interlock device data, reports and information related to the ignition interlock device to the impaired driving section in an impaired driving section approved electronic format.

(C) The manufacturer, vendor, and/or ignition interlock technician agrees to provide testimony relating to any aspect of the installation, service, repair, calibration, use, removal or performance of the ignition interlock at no cost on behalf of the state of Washington or any other political subdivision.

(v) Provide the alcohol reference value and type of calibration device used to check the ignition interlock device.

(vi) Provide the Washington state software ignition interlock device configuration profile.

(vii) Provide the impaired driving section, a letter size map of the state of Washington showing the area covered by each certified fixed site and/or mobile service center, areas and the name, address, certification number and telephone number of each service center.

(3) Issuance of a letter of certification for an ignition interlock device or renewal of letter of certification for an ignition interlock device.

(a) The chief or designee will have the authority to issue a letter of certification for a device if all the requirements have been met by the applicant.

(b) Upon receipt of an application for letter of certification, the chief or designee will:

(i) Approve an application under this section if all requirements of this section have been met; or

(ii) Deny the application if all requirements of this chapter have not been met by the applicant. If an applicant is denied, the applicant must wait ninety days before the applicant may resubmit its application for letter of certification for an ignition interlock device.

(c) The chief or designee will notify the applicant in writing if an application for a letter of certification has been denied. The notice of denial will be sent to the applicant via certified mail, return receipt requested.

(d) A letter of certification for an ignition interlock device will be effective the date stated on the letter.

(e) A letter of certification for an ignition interlock device will be valid for three years or until it is surrendered, suspended, or revoked.

(f) A letter of certification for an ignition interlock device will be subject to annual review by the impaired driving section and at its discretion during the course of the certification period.

(4) Renewal of a letter of certification for an ignition interlock device.

(a) A manufacturer must submit an application to the impaired driving section requesting a renewal of a letter of certification for an ignition interlock device and pay all applicable fees. The renewal request may be submitted ninety days prior to the expiration of a letter of certification, but a renewal request must be submitted within thirty days prior to the expiration of a letter of certification.

(b) For a manufacturer to have its letter of certification for an ignition interlock device renewed, it must submit:

(i) A written request for renewal of a letter of certification for an ignition interlock device.

(ii) Written verification that the ignition interlock device complies with all applicable standards set in RCW 43.43.395 and chapter 204-50 WAC, including a current report from an ISO certified testing laboratory that two samples of the manufacturer's ignition interlock device meets or exceeds the minimum test standards in sections one and two of the model specifications for breath alcohol ignition interlock devices (BAIID) as published in the Federal Register, Volume 57, Number 67, Tuesday, April 7, 1992, on pages 11774 - 11787, or as rules are adopted. Only a notarized statement as outlined in RCW 43.43.395 (3)(c)(i), from a laboratory that is certified by the International Organization for Standardiza-

tion and is capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards.

(iii) The ignition interlock device for field testing to be completed by the impaired driving section.

(c) The chief or designee will notify the manufacturer in writing if renewal of a letter of certification has been denied. The notice of nonrenewal will be sent to the certified holder via certified mail, return receipt requested.

(5) Revocation of a letter of certification for an ignition interlock device.

(a) The chief or designee may revoke a letter of certification for an ignition interlock device for a manufacturer's, vendor's, service center's or ignition interlock technician's violation of any of the laws or regulations related to the installation, servicing, monitoring, removal and calibration of ignition interlock devices, including but not limited to, "additional requirements" listed in WAC 204-50-120.

(b) A copy of a notice of revocation for a certification for an ignition interlock device will be provided to the DOL and to the OAC for the state of Washington.

(c) Upon revocation of a letter of certification for an ignition interlock device, the manufacturer's ignition interlock device(s) will be removed from the list of certified ignition interlock devices on the patrol's web site.

(d) If a manufacturer holding a letter of certification for an ignition interlock device is no longer in business, it shall immediately send written notification to the impaired driving section informing it that the manufacturer is no longer in business, and the impaired driving section will revoke its letter of certification.

(e) If a manufacturer holding a letter of certification wishes to voluntarily relinquish its letter of certification, the manufacturer shall send written notice to the impaired driving section advising it that the manufacturer is relinquishing its letter of certification for an ignition interlock device.

(f) Upon voluntary surrender or revocation of a letter of certification for a manufacturer's ignition interlock device, the impaired driving section shall notify all vendors and/or service centers that all of a manufacturer's uncertified ignition interlock devices must be removed and replaced by a certified ignition interlock device within sixty-five days of the effective date of such surrender or revocation. The service center will notify all affected lessees of the revocation of the manufacturer's certification and requirement that a certified service center install and/or replace the ignition interlock device.

(g) The impaired driving section will maintain a file of all current, revoked, and voluntarily surrendered letters of certification for the time period required by the patrol records retention schedule.

(h) The chief or designee will notify the manufacturer in writing if a letter of certification has been revoked. The notice of revocation will be sent to the certificate holder via certified mail, return receipt requested.

(6) All ignition interlock devices must employ fuel cell technology on or before June 10, 2015. An ignition interlock device that does not employ fuel cell technology after June 10, 2015, will not be an approved device in Washington state and will have its letter of certification denied or revoked.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-040, filed 8/22/12, effective 10/1/12; WSR 10-24-074, §

204-50-040, filed 11/30/10, effective 1/1/11. Statutory Authority: RCW 46.37.005 and 46.04.215. WSR 09-18-073, § 204-50-040, filed 8/31/09, effective 10/1/09. Statutory Authority: RCW 46.61.688(2). WSR 05-17-065, § 204-50-040, filed 8/11/05, effective 9/11/05. Statutory Authority: RCW 46.04.215 and 46.37.005. WSR 99-01-156, § 204-50-040, filed 12/23/98, effective 1/1/99. Statutory Authority: RCW 46.20.730. WSR 88-15-050 (Order 88-04-ESR), § 204-50-040, filed 7/18/88. Statutory Authority: 1987 c 247. WSR 88-01-020 (Order 87-05-ESR), § 204-50-040, filed 12/9/87.]

WAC 204-50-042 Service center certification and inspection. (1) An application must be approved, all applicable fees paid and a letter of certification issued by the chief or designee before a fixed or mobile service center may repair, install, remove, or service a certified ignition interlock device pursuant to this chapter.

(2) Application for certification for a fixed site service center.

(a) A manufacturer must submit an application to the impaired driving section for a letter of certification for a fixed service center. A manufacturer may approve a vendor to submit an application for a fixed service center on a case-by-case basis.

(b) In order to have a fixed service center certified, the applicant(s) must:

(i) Complete the application form provided by the impaired driving section. In the application form the applicant shall disclose:

(A) The physical address of the service center;

(B) The days and hours of operation for the service center;

(C) The type of the certified ignition interlock device it will service;

(D) The type of calibration device it will use for the ignition interlock device(s) it will service.

(ii) Submit a copy of the ignition interlock device data reader download procedures.

(iii) Submit a written statement from a manufacturer that authorizes the service center to install the manufacturer's certified ignition interlock device.

(iv) Submit a list of all fees that may be charged to the lessee to install the manufacturer's certified ignition interlock device.

(3) Renewal of certification for a fixed site service center. The impaired driving section will conduct an annual inspection of all certified fixed site service centers. Upon successful completion of the inspection and payment of all applicable fees the certification will be renewed.

(4) Application for certification for a mobile site service center.

(a) A manufacturer must submit an application to the impaired driving section for a letter of certification for a mobile service center. A manufacturer may approve a vendor to submit an application for a mobile service center on a case-by-case basis.

(b) In order to have a mobile service center certified, the applicant(s) must:

(i) Submit the information required in subsection (1)(b)(i) through (iii) of this section.

(ii) Submit a copy of liability insurance for all vehicles to be used as a mobile service center.

(iii) Submit certification number(s) of the fixed site service center(s) overseeing the mobile service center and the

technician(s) that will work from the mobile service center(s).

(iv) Submit a list of all fees or rates that may be charged to a lessee to install, remove, repair, or service an ignition interlock device by a mobile service center.

(5) Inspection of fixed and/or mobile service center. A vendor or manufacturer must agree to allow access for a representative from the impaired driving section to conduct an inspection at any time during scheduled business hours to ensure compliance as required in chapter 204-50 WAC.

(6) Service center requirements. To receive and maintain a letter of certification, a fixed site service center must:

(a) Be located in a facility which properly accommodates installing, inspecting, downloading, calibrating, repairing, monitoring, maintaining, servicing, and/or removing of ignition interlock devices.

(b) Have posted a current copy of all fees and rates a lessee may be charged to install, remove, repair or service an ignition interlock device by a fixed or mobile service center. The fees and rates must be plainly visible and capable of being read at all times by the public.

(c) Provide lessees a statement of charges clearly specifying warranty details, monthly lease amount, any additional charges anticipated for routine calibration and service checks and what items, if any, are provided without charge.

(d) Provide the lessee written notice of any changes in the statement of charges regardless of what person or agency requested the change, prior to the implementation of such changes.

(e) Comply with all municipal and/or county zoning regulations for commercial businesses and provide a corresponding business license.

(f) Have and maintain a designated waiting area that is separate from the installation area for the lessee. The designated waiting area must be shielded from the installation area so a lessee or any other unauthorized person cannot witness the installation or service of the ignition interlock device.

(g) Have an area and the electronic equipment available for restricted drivers to view training videos provided by the impaired driving section or manufacturer.

(7) Issuance of letter of certification for a fixed and/or mobile service center.

(a) The chief or designee will have the authority to issue a letter of certification to a fixed and/or mobile service center if all qualifications outlined in this chapter have been met by the applicant.

(b) A letter of certification or a service center must be posted and visible to the public.

(c) The chief or designee will notify the manufacturer in writing if a letter of certification has been denied. The notice of denial will be sent to the applicant via certified mail, return receipt requested.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-042, filed 8/22/12, effective 10/1/12; WSR 10-24-074, § 204-50-042, filed 11/30/10, effective 1/1/11.]

WAC 204-50-046 Ignition interlock technician certification. (1) **The chief or designee will have the authority to issue a letter of certification for an ignition interlock technician.** An application must be approved and letter of certification issued by the impaired driving section before an

ignition interlock technician may repair, install, remove, or service a certified ignition interlock device pursuant to this chapter.

(2) Application for letter of certification for an ignition interlock technician.

(a) A manufacturer must submit an application to the impaired driving section for a letter of certification for each ignition interlock technician employed at a fixed or mobile service center and pay all applicable fees to the state of Washington. A manufacturer may approve a vendor to submit an application for an ignition interlock technician on a case-by-case basis.

(b) In order to receive a letter of certification for an ignition interlock technician, the applicant shall:

(i) Complete the application form provided by the impaired driving section.

(ii) Have its employee complete the knowledge and skills examination administered by the impaired driving section. An applicant's employee must score eighty percent or higher on the knowledge and skills examination to be eligible for a letter of certification.

(iii) Submit, at the expense of the manufacturer, service center, vendor or applicant, a criminal history report conducted within the preceding thirty days of the date on the application. The criminal history report shall be attained from either the patrol's identification and criminal history section if the employee has lived in Washington for five years immediately preceding the date of the application or, a criminal background check from the agency responsible for keeping criminal history in the state or states of the previous residence of an employee who has not lived in Washington for the five years immediately preceding the date of application.

(c) The chief or designee will refuse to issue or may revoke a letter of certification for the ignition interlock technician if the ignition interlock technician:

(i) Has been convicted of:

(A) Any alcohol related traffic offense within the last three years;

(B) A DUI, as defined in chapter 46.61 RCW, two or more times within the last five years;

(C) Any offense classified as a class B or C felony within the five years prior to the date of the applicant filing an application for certification as an ignition interlock technician;

(D) Any class A felony or any "sex offense" as defined in RCW 9.94A.030, regardless of the date of conviction; or

(E) Any gross misdemeanor within the last three years.

(ii) The chief or designee may refuse to issue or may revoke a letter of certification for the ignition interlock technician if the ignition interlock technician has been convicted of:

(A) Any misdemeanor within the last year; or

(B) Has demonstrated a willful disregard for complying with ordinances, statutes, administrative rules or court orders, whether at the local, state or federal level;

(iii) Fails to demonstrate character and general fitness sufficient to command the confidence of the impaired driving section and warrant a belief that the duties of a technician will be conducted honestly, fairly and efficiently in the conduct of ignition interlock service. In determining character and general fitness, the impaired driving section may consider:

(A) Prior contacts with law enforcement;

(B) Criminal record;

(C) Reputation in the community;

(D) Associations; and

(E) Current driver's license status and abstract driving record.

(iv) Has been granted a deferred prosecution under chapter 10.05 RCW for an alcohol related traffic offense within the last three years.

(v) Is not at least eighteen years of age.

(vi) Does not possess a valid Washington driver's license if:

(A) The ignition interlock technician is employed by a service center that provides a mobile service center; or

(B) The ignition interlock technician must operate a lessee's vehicle to provide services in accordance with this chapter.

(d) The term "conviction" as used in this section will have the same meaning as used in chapter 9.94A RCW.

(3) Issuance of letter of certification for an ignition interlock technician.

(a) The chief or designee will have the authority to issue a letter of certification for an ignition interlock technician if an application has been approved and all qualifications set out in this chapter have been met by the applicant.

(b) A letter of certification for an ignition interlock technician will be effective the date stated in the letter and contain a certification number specific to the ignition interlock technician.

(c) A letter of certification for an ignition interlock technician will be valid for one year or until suspended, superseded, or revoked by the impaired driving section.

(d) A letter of certification for an ignition interlock technician will be subject to review by the impaired driving section at its discretion during the course of the certification period.

(e) The chief or designee will deny an application for a letter of certification for an ignition interlock technician if all qualifications are not met by the applicant, and it will notify the manufacturer and vendor, if submitted for approval by the vendor with approval of the manufacturer, within ten days of such determination.

(f) The chief or designee will notify the manufacturer in writing if an application for letter of certification has been denied. The notice of denial will be sent to the applicant via certified mail, return receipt requested.

(4) Renewal of a letter of certification for an ignition interlock technician.

(a) A letter of certification for an ignition interlock technician certification must be renewed and all applicable fees paid on an annual basis.

(b) An application to renew a letter of certification for an ignition interlock technician must be submitted to the impaired driving section at least thirty days prior to the expiration of the certification.

(c) An incomplete or untimely application may result in the expiration of a letter of certification for an ignition interlock technician. If a letter of certification for an ignition interlock technician expires, the ignition interlock technician identified in the expired letter of certification shall immediately stop working as an ignition interlock technician until a new letter of certification is issued by the chief or designee.

(d) Renewal of a letter of certification for an ignition interlock technician will be the same as the process outlined in this section, except the submission of a criminal history report may be submitted by the ignition interlock technician.

(e) If there is pending action against an ignition interlock technician for any violation of the rules outlined in this chapter, an application for the renewal of a letter of certification will not be processed until the pending action has reached a final resolution.

(f) The chief or designee will notify the manufacturer and vendor, if submitted for approval by the vendor with approval of the manufacturer, in writing if renewal of a letter of certification has been denied. The notice of nonrenewal will be sent to the certificate holder via certified mail, return receipt requested.

(5) Surrender of a letter of certification for an ignition interlock technician.

(a) An ignition interlock technician letter of certification may be surrendered upon written request from the vendor, manufacturer, or an ignition interlock technician or if the impaired driving section receives written notification that the ignition interlock technician is no longer certified by the same manufacturer under which the current ignition interlock technician certification was issued.

(b) The original letter of certification must be returned to the impaired driving section. If the original certification is not provided with the written notification the impaired driving section will instruct an inspector to obtain the original certification.

(6) Suspension or revocation of a letter of certification for an ignition interlock technician.

(a) The chief or designee may suspend or revoke certification of an ignition interlock technician who no longer meets all of the requirements outlined under the Revised Code of Washington or this chapter.

(b) The chief or designee will notify the ignition interlock technician, manufacturer and vendor in writing if a letter of certification has been suspended or revoked. The notice of suspension or revocation will be sent to the certificate holder via certified mail, return receipt requested.

(c) During a period of suspension of a letter of certification for an ignition interlock technician, the suspended ignition interlock technician shall cease any and all activities related to the repair, installation, removal, or service of a certified ignition interlock device in the state of Washington.

(d) If a letter of certification for an ignition interlock technician is suspended or revoked the ignition interlock technician shall, on demand, surrender the certification and return it to the impaired driving section.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-046, filed 8/22/12, effective 10/1/12; WSR 10-24-074, § 204-50-046, filed 11/30/10, effective 1/1/11.]

WAC 204-50-050 Modifications to a certified ignition interlock device. (1) A manufacturer shall immediately notify the impaired driving section, in writing, of any material modification. A material modification is any addition or reduction in features, software version changes, configuration profile changes or alteration in the components and/or the design of the certified ignition interlock device. Written notification of a material modification may be submitted to

the impaired driving section in an electronic format approved by the impaired driving section.

(2) A manufacturer must resubmit evidence of compliance as required in WAC 204-50-040 to the impaired driving section within thirty days of notifying the impaired driving section of a material modification.

(3) The impaired driving section will determine if the device must be submitted for recertification.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-050, filed 8/22/12, effective 10/1/12; WSR 10-24-074, § 204-50-050, filed 11/30/10, effective 1/1/11. Statutory Authority: RCW 46.37.005 and 46.04.215. WSR 09-18-073, § 204-50-050, filed 8/31/09, effective 10/1/09. Statutory Authority: RCW 46.61.688(2). WSR 05-17-065, § 204-50-050, filed 8/11/05, effective 9/11/05. Statutory Authority: RCW 46.04.215 and 46.37.005. WSR 99-01-156, § 204-50-050, filed 12/23/98, effective 1/1/99. Statutory Authority: RCW 46.20.730. WSR 88-15-050 (Order 88-04-ESR), § 204-50-050, filed 7/18/88. Statutory Authority: 1987 c 247. WSR 88-01-020 (Order 87-05-ESR), § 204-50-050, filed 12/9/87.]

WAC 204-50-070 Variable calibration of an ignition interlock device. To be certified, an ignition interlock device must be capable of being preset, by only the manufacturer, at any fail level from .02 through .09 g/210L BrAC (plus or minus .005 g/210L BrAC). The actual setting of each ignition interlock device, unless otherwise mandated by the originating court, must be .025 g/210L BrAC. The capability to change this setting must be made secure, by the manufacturer.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-070, filed 8/22/12, effective 10/1/12; WSR 10-24-074, § 204-50-070, filed 11/30/10, effective 1/1/11. Statutory Authority: RCW 46.37.005 and 46.04.215. WSR 09-18-073, § 204-50-070, filed 8/31/09, effective 10/1/09. Statutory Authority: RCW 46.61.688(2). WSR 05-17-065, § 204-50-070, filed 8/11/05, effective 9/11/05. Statutory Authority: RCW 46.04.215 and 46.37.005. WSR 99-01-156, § 204-50-070, filed 12/23/98, effective 1/1/99. Statutory Authority: 1987 c 247. WSR 88-01-020 (Order 87-05-ESR), § 204-50-070, filed 12/9/87.]

WAC 204-50-080 Certified ignition interlock device maintenance, calibration and reports. (1) Each restricted operator shall have the ignition interlock device installed in the restricted operator's vehicle(s) examined by the manufacturer, vendor, service center or ignition interlock technician for correct calibration and evidence of tampering at intervals not to exceed sixty-five days, or more often as may be ordered by the originating court.

(2) The restricted driver must pay a calibration fee at least once every sixty days.

(3) An ignition interlock device must be calibrated for accuracy by using a wet bath simulator or dry gas alcohol standard with an alcohol reference value between .030 and .050 g/210L.

(a) The calibration process will consist of the following procedures:

(i) Prior to introducing a reference sample into a device, a three second purge must be expelled from the wet bath simulator or dry gas standard.

(ii) An "as found" check to introduce the sample into the device without adjustment for accuracy. The test must be conducted prior to any adjustment for accuracy and the results must be recorded on the data logger.

(iii) The accuracy check will consist of two consecutive reference checks with the result of each individual check being within plus or minus ten percent of the reference value

introduced into the ignition interlock device. The time period from the first accuracy check to the second consecutive accuracy check must not exceed five minutes.

(iv) Any ignition interlock device not passing calibration must be removed from service and the serial number of the device kept on record for three years. An ignition interlock device removed from service for not passing calibration may be placed back in service only if it is repaired to meet the standards as outlined in this chapter and all repairs are documented and kept in the record for three years.

(b) Wet bath simulators must:

(i) Use a mercury in glass or digital thermometer. These thermometers must read 34 plus or minus .2 degrees Centigrade during analysis and be certified annually using a National Institute of Standards and Technology (NIST) traceable digital reference thermometer.

(ii) Be found on the current National Highway Traffic Safety Administration confirming products list of calibrating units for breath alcohol testers.

(iii) Use alcohol reference solutions prepared and tested in a laboratory such that their reference value is shown to be traceable to the National Institute of Standards and Technology. The 500 ml bottles containing simulator solution must be tamper proof and labeled with the following: Lot or batch number, value of the reference sample in g/210L, and date of preparation and/or the expiration which must not be longer than one year from the date of preparation.

(c) Dry gas alcohol standards must be certified to a known reference value and traceable to National Institute of Standards and Technology - NIST Traceable Reference Material (NIST-NTRM) ethanol standards. The reference value will be adjusted for pressure changes due to elevation to which the dry gas is being used.

(i) Dry gas alcohol standard tanks must:

(A) Be stored in an environment where the temperature range remains between 50-104 degrees Fahrenheit.

(B) Have a label which will contain the following: Components and concentration of the reference value of the gas, expiration date which must not be longer than three years from the date of preparation, and the lot or batch number.

(ii) Each service center using a dry gas alcohol standard will have:

(A) An elevation chart which will be used to determine the proper reference value for the elevation for which the gas standard is being used.

(B) The certificate of analysis from the dry gas standard manufacturer.

(4) The results of any circumvention or bypass attempt and each calibration including the reference value, "as found" check, calibration check(s), and any adjustments made for accuracy and/or elevation pressure must be recorded on the ignition interlock device data logger and/or data base.

(5) Data contained in an ignition interlock device's memory or data logger must be downloaded and the manufacturer, vendor and/or service center must make an electronic copy of the client data and the results of each examination.

(6) Data downloaded by a manufacturer, vendor and/or service center from an ignition interlock device must be:

(a) Reviewed by the manufacturer, vendor, ignition interlock technician, and/or service center. Any evidence of noncompliance, violations, or signs of tampering and/or cir-

cumvention must be reported as requested by, and in a format acceptable to the originating court, impaired driving section and/or DOL.

(b) All information obtained as a result of each calibration or inspection must be retained by the manufacturer, vendor or service center for three years from the date the ignition interlock device is removed from the vehicle.

(7) The manufacturer, vendor and/or service center must provide, upon request, additional reports in a format acceptable to and at no cost to DOL, impaired driving section and/or the originating court.

(8) A service center must maintain records documenting all calibrations, downloads and any other services performed on an ignition interlock device, including service of a violation reset. Charges for installations, calibrations, downloads and service must be made using a numbered billing invoice. The billing invoice must contain the date of service and all fees for service must be itemized.

(9) Retention of the record of installation, calibrations, downloads, service and associated invoices must be maintained on site for a minimum of three years.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-080, filed 8/22/12, effective 10/1/12; WSR 10-24-074, § 204-50-080, filed 11/30/10, effective 1/1/11. Statutory Authority: RCW 46.37.005 and 46.04.215. WSR 09-18-073, § 204-50-080, filed 8/31/09, effective 10/1/09. Statutory Authority: RCW 46.61.688(2). WSR 05-17-065, § 204-50-080, filed 8/11/05, effective 9/11/05. Statutory Authority: RCW 46.04.215 and 46.37.005. WSR 99-01-156, § 204-50-080, filed 12/23/98, effective 1/1/99. Statutory Authority: 1987 c 247. WSR 88-01-020 (Order 87-05-ESR), § 204-50-080, filed 12/9/87.]

WAC 204-50-090 Ignition interlock device security.

(1) A manufacturer and its vendors, service center(s), and ignition interlock technicians must take all steps necessary to prevent tampering or physical circumvention of an ignition interlock device. These steps must include:

(a) Special locks, seals, and installation procedures that prevent or record evidence of tampering and/or circumvention attempts;

(b) Installation and/or use of all anticircumvention features required under this chapter;

(c) Breath anticircumvention features such as alternating breath flow, hum tone, breath temperature and any other impaired driving section approved anticircumvention features must be activated during all start up and random breath tests;

(d) Changes in software and ignition interlock device configuration, including anticircumvention features and the Washington state configuration profile will only be administered by the manufacturer.

(2) In addition, a service center or ignition interlock technician will affix to the ignition interlock device a label containing the following notation: "Warning - This ignition interlock device has been installed under the laws of the state of Washington. Attempts to disconnect, tamper with, or circumvent this ignition interlock device may subject you to criminal prosecution. For more information, call (insert manufacturer, vendor or service center's toll free number)."

(3) No owner or employee of a manufacturer, vendor or service center may authorize or assist with the disconnection of an ignition interlock device, or enable the use of any "emergency bypass" mechanism or any other "bypass" proce-

sure that allows a person restricted to use the vehicle equipped with a functioning ignition interlock device, to start or operate a vehicle without providing all required breath samples. Doing so may subject the person to criminal prosecution under RCW 46.20.750 and may cause the revocation of a manufacturer's, vendor's, service center, and/or ignition interlock technician's certification under chapter 204-50 WAC.

(4) The sale or use of any type of remote code allowing a restricted driver to bypass a lockout condition or any user to not provide a breath sample on vehicle start up is prohibited.

(5) All known ignition interlock device circumventions or tampering must be reported to the impaired driving section in an impaired driving section approved electronic format within seven days of determining that an ignition interlock device was circumvented or tampered with.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-090, filed 8/22/12, effective 10/1/12; WSR 10-24-074, § 204-50-090, filed 11/30/10, effective 1/1/11. Statutory Authority: RCW 46.37.005 and 46.04.215. WSR 09-18-073, § 204-50-090, filed 8/31/09, effective 10/1/09. Statutory Authority: RCW 46.61.688(2). WSR 05-17-065, § 204-50-090, filed 8/11/05, effective 9/11/05. Statutory Authority: RCW 46.04.215 and 46.37.005. WSR 99-01-156, § 204-50-090, filed 12/23/98, effective 1/1/99. Statutory Authority: 1987 c 247. WSR 88-01-020 (Order 87-05-ESR), § 204-50-090, filed 12/9/87.]

WAC 204-50-100 Installation of ignition interlock devices. (1) An ignition interlock device can only be installed by a certified ignition interlock technician.

(2) The installation verification fee will be collected from the lessee by the manufacturer, vendor, service center, or ignition interlock technician at the time of installation and recorded in a log.

(3) An ignition interlock technician shall not install an ignition interlock device on a vehicle unless the restricted operator is:

(a) Successful in completing all training provided by the impaired driving section and/or manufacturer prior to initially using the ignition interlock device;

(b) The registered owner of the vehicle or has a signed "Non-owned Installation Approval Form" approving the ignition interlock device installation; and

(c) Provided ignition interlock device training by the manufacturer, vendor, service center, and/or certified technician. If the impaired driving section and/or DOL provides educational materials to the manufacturer, vendor, service center and/or technician, those training materials will be provided to and completed by the restricted operator and/or lessee in addition to the training required under this section.

(4) An ignition interlock technician shall:

(a) Record the following information before installing an ignition interlock device:

(i) The full name, current address, phone number, driver's license number of the lessee and/or restricted operator.

(ii) The vehicle license registration number for the vehicle in which the ignition interlock device is to be installed.

(iii) The unique serial number of the ignition interlock device installed and corresponding vehicle license registration number of the single vehicle in which it was installed.

(b) Ensure that no restricted operator, lessee or other unauthorized person witnesses the installation, service or removal of an ignition interlock device.

(c) Inspect all vehicles prior to installation of an ignition interlock device to determine if parts of a vehicle affected by an ignition interlock device are in acceptable condition and an ignition interlock device shall not be installed until the vehicle is in acceptable condition.

(d) Follow the manufacturer's instructions and regulations outlined in this chapter for the installation, servicing and removal of ignition interlock devices.

(e) Install the following physical anti-tampering measures:

(i) Place all connections and associated wiring between an ignition interlock device and a vehicle in an area of the vehicle not immediately accessible or visible to the lessee or restricted operator.

(ii) Cover with a unique and easily identifiable seal, epoxy, resin, shrink wrap, sheathing, or tamper proof tape:

(A) Any portion of an ignition interlock device that can be disconnected;

(B) Any wires used to install the ignition interlock device that are not inside a secured enclosure; and

(C) Mark points likely to be accessed when attempting to tamper with the ignition interlock device with other material unless the ignition interlock device is capable of recording such attempts to tamper with it.

(5) A service center or ignition interlock technician will:

(a) Thoroughly train a restricted operator on the proper use and functionality of an ignition interlock device;

(b) Provide a user reference, operation, and problem-solving guide in English or Spanish to the restricted operator when an ignition interlock device is installed; and

(c) Upon installation of the ignition interlock device, take a digital reference image or photograph of the restricted driver which must be accessible at the service center from a secure storage location for the duration of the installation.

(6) A service center or ignition interlock technician will be available during all posted hours of operation to answer all questions and handle any problems related to a restricted operator's ignition interlock device, including repair or replacement of an inoperable or malfunctioning ignition interlock device.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-100, filed 8/22/12, effective 10/1/12; WSR 10-24-074, § 204-50-100, filed 11/30/10, effective 1/1/11.]

WAC 204-50-110 Mandatory requirements for an ignition interlock device. (1) Notwithstanding other provisions of this chapter, a certified ignition interlock device must:

(a) Be designed to permit a "restart" within two minutes of a stall or when the ignition has been turned off, except a "restart" will not be permitted during a violation reset condition.

(b) Automatically and completely purge residual alcohol before allowing subsequent tests.

(c) Allow a minimum of 1500 ml or 1.5 L of breath for an acceptable breath sample.

(d) Allow a minimum of three minutes and a maximum of six minutes for random breath tests to be initiated prior to

an indication of a missed test and a violation reset. The device must be capable of notifying the restricted driver of this time period. Acceptable forms of notification are use of an indicator light, audible tone, voice modulation and/or countdown timer.

(e) Be installed in such a manner that it will not interfere with the normal operation of the vehicle after it has been started.

(f) Include a supply of two disposable mouth pieces upon installation, designed to minimize the introduction of saliva into an ignition interlock device, and an additional mouth piece with every sixty to sixty-five day calibration period.

(g) Have all primary components as identified by the impaired driving section uniquely serial numbered, which includes, but may not be limited to, the storage device, handset, and camera.

(h) Uniquely identify and record each time the vehicle is attempted to be started and/or started, the results of all tests, retests or failures as being a malfunction of the device or from the operator not meeting the requirements, how long the vehicle was operated, and any indication of bypassing or tampering with the ignition interlock device, or tests.

(i) On or before June 10, 2015, require a restricted operator to wait five minutes before attempting to start the vehicle a second or third time and thirty minutes prior to the fourth or subsequent attempts to initially start the vehicle when the initial start failure occurs.

(j) Require the operator of the vehicle to submit to a random retest within ten minutes of starting the vehicle. A random retest must continue at variable intervals ranging from ten to forty-five minutes after the previous retest for the duration of the travel. If a bypass is recorded at start up, the random breath testing procedure will continue for the duration of travel.

(k) Be equipped with a method of immediately notifying law enforcement officers if a violation reset occurs from a random retest or the result of the retest exceeds the lower of .025 g/210L BrAC or the alcohol concentration as prescribed by the originating court or any disconnection of the ignition interlock device control head for longer than one minute after vehicle start up. Acceptable forms of notification are repeated honking of the vehicle's horn or the use of an audible signaling device. Such notification may be disabled only by switching the engine off, or by the achievement of a retest at a level the lower of .025 g/210L BrAC or the maximum allowable alcohol concentration as set by the originating court.

(l) Enter into violation reset when the restricted operator has:

- (i) Recorded a random test failure;
- (ii) Disconnected the control head after start up;
- (iii) Failed to submit to a random retest;
- (iv) Failed to have the ignition interlock device serviced within the time period described in this chapter.

(m) Enter into a lockout if a violation reset occurs unless the vehicle is serviced at a mobile or fixed site service center by a certified technician where it will be calibrated, downloaded and the wiring harness physically inspected within five days of when the violation reset occurred.

(n) When reasonably available, contain a digital image identification device as prescribed in RCW 43.43.395. The digital image device will not distract or impede the driver in

any manner from safe and legal operation of the vehicle and will:

(i) Encode a digital or photographic image of the vehicle driver including the time, date and BrAC level of all breath attempts. All images and data for a sixty-five day use period must be stored in the device's memory to be downloaded and stored by the manufacturer for three years.

(ii) Capture a digital image or photograph of the driver:

(A) Within five seconds after starting the vehicle.

(B) Upon initial notification that a random retest is required.

(C) When a violation reset condition is initiated.

(D) Randomly at the discretion of the manufacturer.

(ii) Produce a digital image, identifiable verification or a photograph of the restricted driver in all lighting conditions; extreme brightness, darkness and low light conditions.

(2) The digital image identification device reference in subsection (1)(n) of this section and RCW 43.43.395 is considered reasonably available in the area of Washington state. The digital image identification device must be incorporated into:

(a) Any new ignition interlock device installation and any user in violation of RCW 46.20.720(4) by January 1, 2013.

(b) Any ignition interlock device issued to a user under a five or ten year restriction by June 10, 2013.

(c) All ignition interlock devices by June 10, 2015.

(3) The manufacturer, vendor, ignition interlock technician or service center shall notify the originating court (if any) of such violation reset conditions within five days of servicing the ignition interlock device in a format acceptable to the originating court. The manufacturer, vendor or service center must provide notification to DOL and impaired driving section in an acceptable electronic format should DOL or impaired driving section promulgate rules requiring such notification of a violation reset condition.

(4) In addition to any other information required by DOL, the impaired driving section, or by an originating court, all reports to DOL, the impaired driving section or to an originating court concerning a particular ignition interlock device must include:

(a) The full name, address, and driver's license number of the restricted operator, lessee, and registered owner;

(b) The vehicle license registration number of the single vehicle in which the ignition interlock device was installed;

(c) The unique serial number of the ignition interlock device; and

(d) The toll free telephone number, and certification number of the installing service center and ignition interlock technician who installed and prepared the report for the ignition interlock device.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-110, filed 8/22/12, effective 10/1/12; WSR 10-24-074, § 204-50-110, filed 11/30/10, effective 1/1/11. Statutory Authority: RCW 46.37.005 and 46.04.215. WSR 09-18-073, § 204-50-110, filed 8/31/09, effective 10/1/09. Statutory Authority: RCW 46.61.688(2). WSR 05-17-065, § 204-50-110, filed 8/11/05, effective 9/11/05. Statutory Authority: RCW 46.04.215 and 46.37.005. WSR 99-01-156, § 204-50-110, filed 12/23/98, effective 1/1/99. Statutory Authority: 1987 c 247. WSR 88-01-020 (Order 87-05-ESR), § 204-50-110, filed 12/9/87.]

WAC 204-50-120 Additional requirements. (1) Notwithstanding other provisions of this chapter, each manufacturer of a certified ignition interlock device, either on its own or through a vendor approved to do so by the manufacturer shall:

(a) Guarantee repair or replacement of a defective ignition interlock device within the state of Washington within a maximum of forty-eight hours of receipt of a complaint or known failure of an ignition interlock device.

(b) Demonstrate to the satisfaction of impaired driving section, a service delivery plan under which any restricted operator may obtain installation and routine service of that manufacturer's ignition interlock device within a seventy-five mile radius of his or her place of residence.

(c) Receive written approval from impaired driving section and require mobile service ignition interlock technicians to sign an agreement to abide by all aspects of WAC 204-50-080 before mobile service centers may work outside of the umbrella of their overseeing fixed site service center(s) to provide service in rural counties of the state. Qualifying rural counties under the Washington state department of health guidelines include: Jefferson, Pacific, Wahkiakum, Klickitat, San Juan, Columbia, Garfield, Adams, Lincoln, Pend Oreille, Stevens, Ferry, and Okanogan counties.

(d) Provide written notification of any changes to a manufacturer's service center network to the impaired driving section within seven days of such change.

(e) Maintain a twenty-four hour, three hundred sixty-five days a year toll-free telephone number for lessees and/or restricted operators to call if they have problems with the ignition interlock device they have leased from the manufacturer, vendor or service center. Calls must either be answered by an ignition interlock technician qualified to service the manufacturer's ignition interlock devices, or the call must be returned by a qualified technician within thirty minutes of the original call.

(2) The manufacturer shall provide to the impaired driving section proof on or before the expiration date listed on the current valid insurance on file with the impaired driving section that the manufacturer has products liability insurance coverage with minimum liability limits of one million dollars per occurrence, and three million dollar aggregate. Liability covered must include, but not limited to: Defects in product design, materials, and workmanship during manufacture, calibration, installation, removal, and all completed operations. Such insurance must be provided by a company authorized to offer such coverage in the state, and such company must include the state of Washington as an additional insured, and must agree to notify the impaired driving section not less than thirty days before the expiration or termination of such coverage. Insurance coverage required in this subsection must be in addition to, and not considered a replacement for coverage required in subsection (3) of this section.

(3) A manufacturer or vendor approved by the manufacturer shall provide the impaired driving section proof on or before the expiration date listed on the current valid insurance on file with the impaired driving section that each and every service center has:

(a) Garage keepers liability insurance coverage with minimum liability limits of fifty thousand dollars. Liability covered must include, but not be limited to, damage to les-

see's vehicle and personal property while in the care and/or custody of the service center.

(b) Operations insurance coverage with minimum liability limits of one million dollars per occurrence, and two million dollars aggregate. Liability covered must include, but not be limited to, defects in materials and workmanship during installation, removal, service, calibration, and monitoring.

(c) Insurance provided by a company authorized to offer such coverage in the state, and such company must include the state of Washington as an additional insured, and must agree to notify the impaired driving section not less than thirty days before expiration or termination of such coverage.

(d) Insurance coverage required in this subsection must be in addition to and not considered a replacement for other coverage required in this section.

(4) A vendor or service center shall notify the DOL in an acceptable format and if so requested by the originating court, notify the originating court, if any, of the removal of an ignition interlock device under any circumstances other than:

(a) Immediate ignition interlock device repair needs.

(b) Removal of the ignition interlock device in order to switch it to a replacement vehicle to be operated by the restricted operator. Report of such a vehicle switch including the license of the vehicle must be transmitted to the DOL, and the originating court within two business days of such a switch, if so requested by the originating court at the time of initial installation of the ignition interlock device. Report of such a vehicle switch must be transmitted to the DOL within two business days of such a switch, if so requested by the DOL. **NOTE:** Whenever an ignition interlock device is removed for repair, and cannot be immediately reinstalled, a substitute ignition interlock device must be utilized. Under no circumstances will a manufacturer, service center or ignition interlock technician knowingly permit a restricted operator to drive a vehicle not equipped with a functioning ignition interlock device.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-120, filed 8/22/12, effective 10/1/12; WSR 10-24-074, § 204-50-120, filed 11/30/10, effective 1/1/11. Statutory Authority: RCW 46.37.005 and 46.04.215. WSR 09-18-073, § 204-50-120, filed 8/31/09, effective 10/1/09. Statutory Authority: RCW 46.61.688(2). WSR 05-17-065, § 204-50-120, filed 8/11/05, effective 9/11/05. Statutory Authority: RCW 46.04.215 and 46.37.005. WSR 99-01-156, § 204-50-120, filed 12/23/98, effective 1/1/99. Statutory Authority: 1987 c 247. WSR 88-01-020 (Order 87-05-ESR), § 204-50-120, filed 12/9/87.]

WAC 204-50-130 Requirements for removing an ignition interlock device.

(1) A manufacturer will determine a restricted operator's compliance of this section in accordance with RCW 46.20.720. A manufacturer may approve a vendor to determine a restricted operator's compliance of this section in accordance with RCW 46.20.720 on a case-by-case basis.

(2) The manufacturer or its service center must return the vehicle in normal operating condition after it removes an ignition interlock device.

(3) An ignition interlock technician or service center can only remove an ignition interlock device for which they have been certified to service, unless an ignition interlock technician or service center has received approval from the impaired driving section allowing it to remove an ignition interlock device that it has not been certified to service.

(4) An ignition interlock device will be removed from the vehicle in which it is installed when a restricted driver or lessee becomes sixty days past due on their account. If the restricted driver does not appear for a removal appointment and makes no attempt to contact the manufacturer, the replacement cost of the ignition interlock device may be added to the lessee's account.

(5) A manufacturer or its service center shall provide any final report requested by the originating court, impaired driving section and/or requested by DOL to the requestor once the ignition interlock device has been removed from a restricted operator's vehicle(s).

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-130, filed 8/22/12, effective 10/1/12; WSR 10-24-074, § 204-50-130, filed 11/30/10, effective 1/1/11. Statutory Authority: RCW 46.37.005 and 46.04.215. WSR 09-18-073, § 204-50-130, filed 8/31/09, effective 10/1/09. Statutory Authority: RCW 46.61.688(2). WSR 05-17-065, § 204-50-130, filed 8/11/05, effective 9/11/05. Statutory Authority: RCW 46.04.215 and 46.37.005. WSR 99-01-156, § 204-50-130, filed 12/23/98, effective 1/1/99. Statutory Authority: 1987 c 247. WSR 88-01-020 (Order 87-05-ESR), § 204-50-130, filed 12/9/87.]

WAC 204-50-135 Fees. (1) The impaired driving section will maintain a fee schedule in accordance with section 15, chapter 183, Laws of 2012. Fees outlined in this fee schedule will be:

(a) Collected and recorded by vendors, service centers, ignition interlock technicians and manufacturers.

(b) Submitted to the manufacturer within fifteen days of the end of the calendar month in which they were collected along with the record on a form provided by the patrol, if they are collected by vendors, service centers or ignition interlock technicians.

(c) Submitted electronically by the manufacturer to the patrol within thirty days of the end of the calendar month in which they were collected along with the record on a form provided by the patrol.

(2) Annual fees will be added to the record for the month in which the certification or renewal is due and paid to the patrol as outlined in subsection (1) of this section.

(3) The record provided to the manufacturer will include the type of fee collected, name or driver's license number of customer (if applicable), total amount paid, name and certification number of vendor, service center or ignition interlock technician who collected payment.

(4) The patrol may review financial records to ensure compliance with this chapter and may revoke or suspend a certification for nonpayment of fees and/or any financial discrepancies found.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 12-17-153, § 204-50-135, filed 8/22/12, effective 10/1/12.]

WAC 204-50-140 Review of denial, suspension or revocation of certification. (1) The chief or designee may deny, suspend, or revoke a letter of certification for an ignition interlock device, service center, or ignition interlock technician upon receiving evidence that any letter of certification holder has failed to comply or no longer complies with any requirement or provision of law or this chapter. The following process will be used:

(a) The chief or designee will give the applicant or certificate holder notice of the action and an opportunity to be

(8/22/12)

heard as prescribed in chapter 34.05 RCW, prior to denial, suspension, or revocation of the letter of certification, except as provided in subsection (2) of this section.

(b) Upon receiving notice of the action, the applicant, or certificate holder may request an administrative hearing to contest the decision. A request for an administrative hearing must:

(i) Be made in writing and mailed to the Washington State Patrol Impaired Driving Section, 811 East Roanoke St., Seattle, WA 98102; and

(ii) Be received by the patrol's impaired driving section within twenty business days after the date of the notice of action.

(2) The chief or designee may, without prior notification, suspend a letter of certification for a device, service center, or ignition interlock technician if the chief or designee finds that there is danger to the public health, safety, or welfare that requires immediate action. For every summary suspension of a letter of certification, an order signed by the chief or designee must be entered in accordance with the provisions of RCW 34.05.479.

(3) Failure to request a hearing or failure to appear at a hearing, a prehearing conference, or any other stage of an adjudicative proceeding may constitute default and result in the entry of a final order under RCW 34.05.440.

(4) Administrative proceedings consistent with chapter 34.05 RCW for revocation or other action will be promptly instituted and determined. The chief or designee must give notice as practicable to the letter of certification holder.

(5) Unless the chief or designee finds the immediate revocation is necessary or unless the certificate holder timely requests a hearing as provided under this section, a decision to revoke or suspend will be effective thirty days from the date of the notice of action decision unless the chief or designee finds that immediate revocations is necessary.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 10-24-074, § 204-50-140, filed 11/30/10, effective 1/1/11.]

WAC 204-50-150 Hearing procedure. (1) Hearings under this chapter will be pursuant to chapters 34.05 RCW and 10-08 WAC as supplemented by this section.

(2) A presiding officer will conduct a hearing and any prehearing conference(s).

(3) The burden of proof in any hearing will be on the applicant seeking the letter of certification, or on the person or agency seeking the suspension or revocation of a letter of certification or other action by the chief or designee.

(4) Oral proceedings must be recorded by the method chosen by the chief or designee and such recording will become part of the hearing record.

(5) The following process applies to administrative hearings under this chapter:

(a) The patrol will notify the assistant attorney general of the petitioner's request for an administrative hearing.

(b) The assistant attorney general will draft an administrative complaint and send it to the petitioner and to the office of administrative hearings.

(c) The office of administrative hearings will schedule a hearing date, and will notify the petitioner, assistant attorney general, and patrol in writing of the hearing date, time, and location.

(d) The hearing will be conducted by an administrative law judge assigned by the office of administrative hearings.

(e) At the hearing, the assistant attorney general will present witnesses and other evidence on behalf of the patrol.

(f) At the hearing, the petitioner may be represented by an attorney or may choose to represent himself or herself. The petitioner or his/her attorney will be allowed to present witnesses and other evidence.

(g) Nothing in this section will prevent the parties from resolving the administrative matter by settlement agreement prior to conclusion of the administrative hearing.

(6) Initial and final order. At the conclusion of the hearing, the administrative law judge will prepare an initial order and send it to the petitioner and the assistant attorney general.

(a) Either the petitioner or the assistant attorney general, or both, may file a petition for review of the initial order with the patrol within twenty days of the date of service of the initial order. A petition for review must:

(i) Specify the portions of the initial order to which exception is taken;

(ii) Refer to the evidence of record which is relied upon to support the petition; and

(iii) Be filed with the patrol within twenty days of the date of service of the initial order.

(b) A party on whom a petition for review has been served may, within ten days of the date of service, file a reply to the petition. Copies of the reply must be mailed to all other parties or their representatives at the time the reply is filed.

(c) The administrative record, the initial order, and any exceptions filed by the parties will be submitted to the chief or his/her designee for review. Following this review, the chief or his/her designee will enter a final order that is appealable under the provisions of chapter 34.05 RCW.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 10-24-074, § 204-50-150, filed 11/30/10, effective 1/1/11.]

WAC 204-50-160 Appeal. Any person aggrieved by the decision of the chief or designee denying, suspending, or revoking a certification may appeal such decision to the superior court under the provisions of chapter 34.05 RCW.

[Statutory Authority: RCW 43.43.395, 46.37.005, and 46.04.215. WSR 10-24-074, § 204-50-160, filed 11/30/10, effective 1/1/11.]