

IRP CANCELLATIONS

TOFINO RCMP

MANDATE: Public Safety

TOP 3 MESSAGES:

- British Columbians have come to expect vigilance in quickly removing drinking drivers from B.C.'s roads – but they also expect fairness.
- While certainly not an ideal situation, this case shows our system is robust:
 - the RCMP found a standard was not met, confirmed the mistake, and deemed a small number of IRPs to be invalidly issued.
 - The RCMP notified RoadSafetyBC of this procedural error, and
 - RoadSafetyBC contacted the affected drivers and cancelled their prohibitions and penalties.
- Quality officer quality training helps to ensure instances like these are very rare.

IF NEEDED RE: RECTIFYING THE MATTER AT THE POLICING END:

- s.16

IF NEEDED RE: COST TO THE PROVINCE OF THE CANCELLATIONS:

- Our commitment to fairness in this matter includes compensating the affected drivers, which I understand will cost approximately s.17

ADVICE TO MINISTER
Aug. 10, 2015

IRP CANCELLATIONS

TOFINO RCMP

- That said, it bears repeating that instances like these are very rare – and the lifesaving benefits of our IRP regime and related enforcement far outweigh these costs.

Formatted: Font: 16 pt, Bold, Small caps

Formatted: List Paragraph, Space After: 12 pt, Bulleted + Level: 1 + Aligned at: 0 cm + Indent at: 0.63

ADVICE TO MINISTER
Aug. 10, 2015

IRP CANCELLATIONS

TOFINO RCMP

TWO SUPPORTING FACTS:

- This case was unrelated to calibration of the approved screening devices (ASDs) used. Rather, it relates to the gas used to perform an ASD accuracy check, which in this small number of cases was not certified per the standards of the RCMP policy.
- RoadSafetyBC has cancelled 31 ninety-day IRPs and eight shorter prohibitions – 39 prohibitions in all – in this case, which originated in Tofino.

ADVICE TO MINISTER

Aug. 10, 2015

IRP CANCELLATIONS

TOFINO RCMP

BACKGROUND:

The RCMP has identified a situation where, due to an administrative error, uncertified gas was used to perform an approved screening device accuracy check between January 23, 2015 and July 31, 2015. Certified gas needs to be used per RCMP policy standards and the uncertified gas could not be retroactively certified. This led the RCMP to request cancellation of 39 IRPs by RoadSafetyBC, which will issue letters to the affected drivers the week of Aug. 10, 2015.

Of the affected IRPs, 31 involved 90-day prohibitions; fee, towing and storage refunds for all 39 are expected to total approximately s.13,s.17. The RCMP has advised that enhancement of its documentation and records processes will prevent a recurrence.

s.13,s.16

The number of IPRs affected make up 0.4% of IRPs issued. Approximately 18,800 IRPs are issued per year.

| The breakdown of the estimated cost for reimbursing Tofino drivers (approximately s.17 is:
s.13,s.17

ADVICE TO MINISTER
Aug. 10, 2015

Wilkinson, Anita JAG:EX

From: Burchnall, Shelly K JAG:EX
Sent: Tuesday, August 11, 2015 9:29 AM
To: Esposito, Tony JAG:EX
Subject: FW: Invalid IRPs Tofino and Vernon
Attachments: Messaging to Drivers - IRPs issued by Tofino RCMP.docx

FYI

From: Burchnall, Shelly K JAG:EX
Sent: Tuesday, August 11, 2015 9:28 AM
To: Barber, Martha F JAG:EX; Carbone, Rose JAG:EX; Dailly, Michelle JAG:EX; Goudy, Fiona R JAG:EX; Handgraaf, Harjeet JAG:EX; Harrison, Jackie P JAG:EX; Hughes, Caroline J JAG:EX; Jarison, Eva JAG:EX; Kumar, Manni JAG:EX; Lepine, Belinda JAG:EX; Mason, Sheree JAG:EX; Mathiesen, Sarah H JAG:EX; Ramsey, Ashley JAG:EX; Simpson, Linda M JAG:EX; Daviss, Lisa JAG:EX
Subject: Invalid IRPs Tofino and Vernon

Good Morning,

Please find attached the messaging concerning the Tofino and Vernon cancelled IRPs. As discussed, the problem with the calibration of the ASD devices impacted a low number of drivers, and only those impacted will receive letters from RoadSafetyBC advising that the IRP has been cancelled.

Please feel free to connect with me should you have any questions.

Thanks,
Shelly

Shelly Burchnall
Director, Administrative Justice
RoadSafetyBC
Ministry of Justice

Tel: 250-356-0601 | Fax: 250-356-5577



RoadSafetyBC

This communication and all attachments are intended only for the addressee and are privileged and confidential. Any distribution, disclosure, copying or other use by anyone else is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and destroy all electronic and printed versions. Thank you.

Invalidly issued IRPs by RCMP in Tofino and Vernon

- The Superintendent of Motor Vehicles has been notified by the RCMP that 39 Immediate Roadside Prohibitions (IRPs) served by the Tofino RCMP detachment between January 23, 2015 and July 31, 2015 and 13 IRPs served by the Vernon RCMP detachment between June 13, 2015 and August 3, 2015, were issued invalidly.
- The 52 IRPs have been determined invalid as a result of a police procedural error in conducting the Approved Screening Device (ASD) calibration accuracy check with non-certified dry gas.
- There was previously no requirement for dry gas to be certified, the RCMP introduced the requirement for all dry gas to be certified in November 2014.
- Although the ASD's were subsequently found to be operating correctly,^{s.14} the RCMP deemed the IRP's issued using the non-certified dry gas to be invalid and has informed the Superintendent of Motor Vehicles of such.
- Starting on August 10, 2015, letters will be sent to the 39 affected drivers served by the Tofino RCMP detachment advising them that the IRP has been cancelled and removed from their driving record.
- A second letter will outline the reimbursement of money paid to the Province in error including reimbursement of review fees, monetary penalties, licence reinstatement fees, remedial program fees. Registered owners of the affected vehicles will be reimbursed for direct costs associated with the wrongful impoundment.
- Letters to the 13 affected drivers served by the Vernon RCMP detachment are expected to be sent around August 14, 2015.
- The RCMP is currently undertaking a province-wide review to determine if there are other detachments that have been inappropriately using the non-certified dry gas.
- Drivers contacting RoadSafetyBC who confirm they received a letter regarding the invalid IRPs can be put through to Shelly Burchnell, Director Administrative Justice (Tel. 250 356-0601) who is co-ordinating licensing actions and refunds.
- Drivers who have not received a letter should be told that if they are one of the very small number of drivers impacted then they will receive notice in writing.

Wilkinson, Anita JAG:EX

From: MacLeod, Sam JAG:EX
Sent: Wednesday, August 5, 2015 6:56 PM
To: Roberts, Steven JAG:EX
Subject: Re: Invalid Tofino ASD BN

Steve

The issue with North Okanagan Traffic Services is not mentioned. Where do we stand with the independent municipal agencies? We can discuss in the morning.

Sam

Sent from my iPhone

On Aug 5, 2015, at 5:15 PM, Roberts, Steven JAG:EX <Steven.Roberts@gov.bc.ca> wrote:

This is where we got to by end of day.

I talked to Lisa a couple of times and we filled in some police info we knew but she will add in anything further and then it should be ready for you and Clayton to review tomorrow.

s.14

Steve

Steven Roberts

Deputy Superintendent of Motor Vehicles

RoadSafetyBC

Ministry of Justice

Tel. 250-953-3818

Follow us on Twitter @RoadSafetyBC (<http://twitter.com/roadsafetybc>)

Watch us on You Tube at RoadSafetyBCGov (www.youtube.com/RoadSafetyBCGov)

From: Roberts, Steven JAG:EX

Sent: Wednesday, August 5, 2015 5:13 PM

To: Anderson, Lisa R JAG:EX

Subject: Invalid Tofino ASD BN

Importance: High

This is where we got to by end of day. If you want to review and add any edits/additional information from the PSD side in the morning then we can see if we can get this approved in time.

Steve

Steven Roberts

Deputy Superintendent of Motor Vehicles

RoadSafetyBC

Ministry of Justice

Tel. 250-953-3818

Follow us on Twitter @RoadSafetyBC (<http://twitter.com/roadsafetybc>)

Watch us on You Tube at RoadSafetyBCGov (www.youtube.com/RoadSafetyBCGov)

Wilkinson, Anita JAG:EX

From: MacLeod, Sam JAG:EX
Sent: Thursday, August 6, 2015 1:43 PM
To: Hoskins, Jeannie JAG:EX
Cc: Roberts, Steven JAG:EX; Anderson, Lisa R JAG:EX
Subject: RE: 511375 - Status of DRAFT BN re Tofino ASD Calibration Issue

We'll call Lisa from the Minister's office when we start to discuss this – it will be a verbal briefing only.

Sam

From: Hoskins, Jeannie JAG:EX
Sent: Thursday, August 6, 2015 1:16 PM
To: MacLeod, Sam JAG:EX; Cornett, Kathy M JAG:EX
Cc: LeBlanc, Catherine JAG:EX
Subject: RE: 511375 - Status of DRAFT BN re Tofino ASD Calibration Issue

Clayton has asked that Lisa Anderson dial in, what time do you suggest?
Will need to let Nikki know what's going on.

Thanks.

From: MacLeod, Sam JAG:EX
Sent: Thursday, August 6, 2015 1:15 PM
To: Cornett, Kathy M JAG:EX
Cc: LeBlanc, Catherine JAG:EX; Hoskins, Jeannie JAG:EX
Subject: Re: 511375 - Status of DRAFT BN re Tofino ASD Calibration Issue

Kathy

We'll give the Minister a verbal briefing as Clayton would like further PSD info in the note
Sam
Sent from my iPhone

On Aug 6, 2015, at 12:59 PM, Cornett, Kathy M JAG:EX <Kathy.Cornett@gov.bc.ca> wrote:

Hi Sam, I haven't heard back from you or Cathy L with further direction on the attached briefing note.
Please note that I have not forwarded it to the Minister's office. Lori has approved the draft version and you may want to take a hard copy with you to your 2:30 pm briefing this afternoon.

Thank you, Kathy

From: Pecknold, Clayton JAG:EX
Sent: Thursday, August 6, 2015 10:26 AM
To: LeBlanc, Catherine JAG:EX
Cc: Cornett, Kathy M JAG:EX; Hoskins, Jeannie JAG:EX; Anderson, Lisa R JAG:EX; MacLeod, Sam JAG:EX; Engelbrecht, Karen JAG:EX
Subject: Re: CLIFF 511375 Tofino ASD Calibration Issue

I think the BN is missing some key information that we will need to add and brief the minister verbally today. In order to move it along though I suggest it go as draft for the purposes of today's briefing and we will have a more complete one soon.

Can you please ensure Lisa Anderson is provided a call in number for the briefing?

From: LeBlanc, Catherine JAG:EX
Sent: Thursday, August 6, 2015 9:38 AM
To: Pecknold, Clayton JAG:EX
Cc: Cornett, Kathy M JAG:EX; Hoskins, Jeannie JAG:EX
Subject: CLIFF 511375 Tofino ASD Calibration Issue

Good morning,

As per your earlier conversation with Sam please see attached BN for your approval for the Minister's briefing this afternoon.

Thank you,
Catherine

Catherine LeBlanc
Executive Assistant to the Superintendent of Motor Vehicles
RoadSafetyBC
Ministry of Justice
250-387-5692

Wilkinson, Anita JAG:EX

From: MacLeod, Sam JAG:EX
Sent: Thursday, August 6, 2015 1:15 PM
To: Cornett, Kathy M JAG:EX
Cc: LeBlanc, Catherine JAG:EX; Hoskins, Jeannie JAG:EX
Subject: Re: 511375 - Status of DRAFT BN re Tofino ASD Calibration Issue

Kathy

We'll give the Minister a verbal briefing as Clayton would like further PSD info in the note

Sam

Sent from my iPhone

On Aug 6, 2015, at 12:59 PM, Cornett, Kathy M JAG:EX <Kathy.Cornett@gov.bc.ca> wrote:

Hi Sam, I haven't heard back from you or Cathy L with further direction on the attached briefing note. Please note that I have not forwarded it to the Minister's office. Lori has approved the draft version and you may want to take a hard copy with you to your 2:30 pm briefing this afternoon.

Thank you, Kathy

From: Pecknold, Clayton JAG:EX
Sent: Thursday, August 6, 2015 10:26 AM
To: LeBlanc, Catherine JAG:EX
Cc: Cornett, Kathy M JAG:EX; Hoskins, Jeannie JAG:EX; Anderson, Lisa R JAG:EX; MacLeod, Sam JAG:EX; Engelbrecht, Karen JAG:EX
Subject: Re: CLIFF 511375 Tofino ASD Calibration Issue

I think the BN is missing some key information that we will need to add and brief the minister verbally today. In order to move it along though I suggest it go as draft for the purposes of today's briefing and we will have a more complete one soon.

Can you please ensure Lisa Anderson is provided a call in number for the briefing?

From: LeBlanc, Catherine JAG:EX
Sent: Thursday, August 6, 2015 9:38 AM
To: Pecknold, Clayton JAG:EX
Cc: Cornett, Kathy M JAG:EX; Hoskins, Jeannie JAG:EX
Subject: CLIFF 511375 Tofino ASD Calibration Issue

Good morning,

As per your earlier conversation with Sam please see attached BN for your approval for the Minister's briefing this afternoon.

Thank you,
Catherine

Catherine LeBlanc

Executive Assistant to the Superintendent of Motor Vehicles
RoadSafetyBC
Ministry of Justice
250-387-5692



DATE

«First_Name» «Last_Name_proper_case»
«Address_Line_1»
«Address_Line_2»
«City» BC «Postal_Code»

RE: IRP # «IRP_NO» issued «Date»

I am writing to you with respect to the above-noted Immediate Roadside Prohibition (IRP) that was served to you by a Peace Officer working out of the Tofino detachment of the Royal Canadian Mounted Police (RCMP).

Our office has been informed by the RCMP that the Prohibition was invalidly issued by the Tofino detachment. Accordingly, the IRP has been cancelled and we are removing the IRP from your driving record. In addition, you are no longer required to participate in remedial programs. A follow up letter will be sent to you shortly addressing the refund of fees associated with the invalid IRP including any applicable remedial program fees.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. You are responsible for paying all outstanding fines and penalties as well as meeting all standard licensing requirements. Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please take this letter with you when you attend the Driver Licensing Office. You will also need to take two pieces of acceptable ID; for a list of acceptable ID please see:
<http://www.icbc.com/driver-licensing/id>

Should you have any questions or concerns, please contact me directly at 250-356-0601.

Regards,

Shelly Burchnell
Director, Administrative Justice
RoadSafetyBC
Ministry of Justice



DATE

«First_Name» «Last Name proper case»
«Address_Line_1»
«Address_Line_2»
«City» BC «Postal_Code»

RE: IRP # «IRP NO» issued «Date»

I am writing to you with respect to the above-noted Immediate Roadside Prohibition (IRP) that was served to you by a Peace Officer working out of the Tofino detachment of the Royal Canadian Mounted Police (RCMP).

Our office has been informed by the RCMP that the Prohibition was invalidly issued by the Tofino detachment. Accordingly, the IRP has been cancelled and we are removing the IRP from your driving record. In addition, you are no longer required to participate in remedial programs. A follow up letter will be sent to you shortly addressing the refund of fees associated with the invalid IRP including any applicable remedial program fees.

Please contact the Insurance Corporation of British Columbia (ICBC) to determine your eligibility for a driver's licence in British Columbia or to arrange for your foreign/out-of-province driver's licence to be returned to you. You must call ICBC Customer Contact at 250-978-8300, or toll free at 1-800-950-1498. Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please take this letter with you when you attend the Driver Licensing Office. You will also need to take two pieces of acceptable ID; for a list of acceptable ID please see:
<http://www.icbc.com/driver-licensing/id>

Should you have any questions or concerns, please contact me directly at 250-356-0601.

Regards,

Shelly Burchnell
Director, Administrative Justice
RoadSafetyBC
Ministry of Justice



DATE

«First_Name» «Last_Name_proper_case»
«Address_Line_1»
«Address_Line_2»
«City» BC «Postal_Code»

RE: IRP # «IRP NO» issued «Date»

I am writing to you with respect to the above-noted Immediate Roadside Prohibition (IRP) that was served to you by a Peace Officer working out of the Tofino detachment of the Royal Canadian Mounted Police (RCMP).

Our office has been informed by the Tofino detachment of the RCMP that the Prohibition was invalidly issued. Accordingly, the IRP has been cancelled and we are removing the IRP from your driving record. A follow up letter will be sent to you shortly addressing the refund of fees associated with this IRP and any remedial referrals.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Should you have any questions or concerns, please contact me directly at 250-356-0601.

Regards,

Shelly Burchnall
Director, Administrative Justice
RoadSafetyBC
Ministry of Justice

Page 14 to/à Page 16

Withheld pursuant to/removed as

s.14

Wilkinson, Anita JAG:EX

From: Roberts, Steven JAG:EX
Sent: Thursday, August 6, 2015 9:16 AM
To: MacLeod, Sam JAG:EX
Cc: LeBlanc, Catherine JAG:EX; Burchnall, Shelly K JAG:EX; Kirby, Katherine JAG:EX; Coburn, David JAG:EX
Subject: 511375 - Tofino ASD Calibration Issue FINAL
Attachments: 511375 - Tofino ASD Calibration Issue FINAL.docx

Final BN for your approval

Steven Roberts
Deputy Superintendent of Motor Vehicles
RoadSafetyBC
Ministry of Justice
Tel. 250-953-3818



RoadSafetyBC

Follow us on Twitter @RoadSafetyBC (<http://twitter.com/roadsafetybc>)
Watch us on You Tube at RoadSafetyBCGov (www.youtube.com/RoadSafetyBCGov)

From: Roberts, Steven JAG:EX
Sent: Thursday, August 6, 2015 9:15 AM
To: Anderson, Lisa R JAG:EX
Subject: RE: 511375 - Tofino ASD Calibration Issue FINAL

Final version then – I'll send to Sam and If you want to send to Clayton.

Lori confirmed we should brief the Minister on it this afternoon.

Steve

Steven Roberts
Deputy Superintendent of Motor Vehicles
RoadSafetyBC
Ministry of Justice
Tel. 250-953-3818



RoadSafetyBC

Follow us on Twitter @RoadSafetyBC (<http://twitter.com/roadsafetybc>)
Watch us on You Tube at RoadSafetyBCGov (www.youtube.com/RoadSafetyBCGov)

From: Anderson, Lisa R JAG:EX
Sent: Thursday, August 6, 2015 9:12 AM
To: Roberts, Steven JAG:EX
Subject: RE: 511375 - Tofino ASD Calibration Issue FINAL

That works.

From: Roberts, Steven JAG:EX
Sent: Thursday, August 6, 2015 9:11 AM
To: Anderson, Lisa R JAG:EX
Subject: RE: 511375 - Tofino ASD Calibration Issue FINAL

We could amend this line to include reference further to what Brian Sampson reported on the conference call;
s.14,s.16

•

Steven Roberts
Deputy Superintendent of Motor Vehicles
RoadSafetyBC
Ministry of Justice
Tel. 250-953-3818



RoadSafetyBC

Follow us on Twitter @RoadSafetyBC (<http://twitter.com/roadsafetybc>)
Watch us on You Tube at RoadSafetyBCGov (www.youtube.com/RoadSafetyBCGov)

From: Anderson, Lisa R JAG:EX
Sent: Thursday, August 6, 2015 8:50 AM
To: Roberts, Steven JAG:EX
Subject: 511375 - Tofino ASD Calibration Issue FINAL

Hi....two minor edits within. Is there any information from a legal perspective that should get included? I imagine that will be a questions that will come up.

Otherwise I'm good with the BN.

Thanks

Wilkinson, Anita JAG:EX

From: Maxwell, Carolyn JAG:EX
Sent: Friday, August 7, 2015 8:53 AM
To: Burchnall, Shelly K JAG:EX
Cc: Sasvari, Frances JAG:EX
Subject: Tofino IRPs
Attachments: Tofino DRAFT Invalid IRPs Updated.xlsx

Good morning Shelly, attached is the spreadsheet with comments on remedial requirements added.

The files that will have remedial refunds implications are:

s.22

This file still has remedial requirements for a previous referral, so the removal of the most recent IRP will not impact these requirements.

s.22

There are 7 files where the driver has been referred to the RDP but has not yet registered. It is important that we get notice to these drivers and/o^{s.22} quickly so that they don't register and then we have to deal with refunds.

I will be making sure DFCMS is update on these files to keep any further work from taking place.

Thank you

Carolyn Maxwell
Manager, Remedial Programs
Ministry of Justice
Phone: 250 953-3290



Please be advised that the email method to contact RoadSafetyBC is not a secure connection. Therefore, it is possible that your email could be intercepted by unintended parties. If you have any concerns about submitting personal information by email you should choose a more secure method of submitting that information.

This email is confidential and is not intended for use by anyone other than the recipient(s). If you have received this email in error please inform the sender of the error and delete it. M290

Page 20

Withheld pursuant to/removed as

s.14;s.16

Page 21

Withheld pursuant to/removed as

s.14;s.16;s.22

Wilkinson, Anita JAG:EX

From: Caldwell, Arlene M JAG:EX
Sent: Monday, August 10, 2015 12:56 PM
To: Burchnall, Shelly K JAG:EX
Subject: RE: Tofino

That should be it, yes. (All the rest would have been cancelled and he would have received a letter indicating that we will pay towing/storage upon proof of payment.)

From: Burchnall, Shelly K JAG:EX
Sent: Monday, August 10, 2015 12:54 PM
To: Caldwell, Arlene M JAG:EX
Subject: RE: Tofino

Thanks Arlene! I assume then that the only issue to resolve with him will be the refund of the review fee... ?

From: Caldwell, Arlene M JAG:EX
Sent: Monday, August 10, 2015 12:48 PM
To: Burchnall, Shelly K JAG:EX
Subject: Tofino

Hi Shelly. FYI: There was one on the list that had absolutely nothing in the system to remove s.22
s.22

Arlene Caldwell
Team Lead, Administrative Justice
Ministry of Justice
Phone (250) 356-0909 Fax (250) 387-4891

Think like a taxpayer

Wilkinson, Anita JAG:EX

From: Maxwell, Carolyn JAG:EX
Sent: Friday, August 7, 2015 2:59 PM
To: Burchnall, Shelly K JAG:EX
Cc: Esposito, Tony JAG:EX; Sasvari, Frances JAG:EX
Subject: Tofino IRPs

Hi Shelly,

Just an update on the Tofino IRPs. I have now updated all our systems to remove all remedial requirements. A few follow up items for you:

1. There are a number of drivers who have been referred to the Remedial Programs but not yet registered or who have requested a reconsideration of their remedial requirement. Will you be advising drivers in your letters that if they were referred to Remedial Programs they are no longer required to participate and if they have already registered they will be hearing about a refund separately? If you are not advising drivers that they are no longer required to participate then we will have to send a separate letter to them.
2. As I was going through these files to update our systems I noticed 1 driver who had her DL cancelled because she didn't register for the RDP. I will go ahead and ask ICBC to uncanceled this DL but I thought you might want to mention this in your letter to this particular driver^{s.22}

If you have any questions or concerns about any of these items just let me know.

Thank you

Carolyn Maxwell
Manager, Remedial Programs
Ministry of Justice
Phone: 250 953-3290



RoadSafetyBC

Please be advised that the email method to contact RoadSafetyBC is not a secure connection. Therefore, it is possible that your email could be intercepted by unintended parties. If you have any concerns about submitting personal information by email you should choose a more secure method of submitting that information.

This email is confidential and is not intended for use by anyone other than the recipient(s). If you have received this email in error please inform the sender of the error and delete it. M200

Page 24 to/à Page 28

Withheld pursuant to/removed as

s.14

MINISTRY OF JUSTICE
RoadSafetyBC/Policing and Security Branch
BRIEFING NOTE

PURPOSE: For INFORMATION for Honourable Suzanne Anton, QC
Attorney General, Minister of Justice

ISSUE: Immediate Roadside Prohibitions (IRP) issued by Tofino RCMP using Approved Screening Devices (ASDs) that were not accuracy checked in accordance with RCMP policy.

SUMMARY:

- The RCMP has identified a procedural issue with an ASD calibration accuracy check that affects the validity of 39 IRPs served by the Tofino detachment from January 23, 2015 to July 31, 2015.
- The RCMP has determined that because the ASD accuracy check was not conducted with certified dry gas as per RCMP policy, that to maintain the integrity of the program, the IRP's served using the ASD's were invalidly issued.
- As a result of this notification from the RCMP the Superintendent of Motor Vehicles will be taking immediate action to cancel all 39 IRPs and remove them from the driver's record.
- All money paid to the Province resulting from these invalidly issued IRPs, including, review fees, monetary penalties, remedial program fees, etc. will be refunded to the driver under section 16 of the *Financial Administration Act* (FAA).
- In addition, as authorized by section 266 of the *Motor Vehicle Act*, the Superintendent will exercise his discretion to reimburse the registered owner of the vehicle for direct costs incurred as a result of the wrongful impoundment.

BACKGROUND:

- ASDs are prescribed under the Approved Screening Device Regulation. Under this regulation the following devices are approved for use in British Columbia (BC): Alcolmeter S-L2; Alco-Sensor IV DWF; and Alco-Sensor FST.
- The RCMP and many of the municipal police agencies have moved to the new Alco-Sensor FST as their approved screening device, replacing the "Alco-Sensor IV DWF".
- To ensure the accuracy of the 2,000 plus ASDs used by BC police agencies, police policy requires each ASD undergo extensive calibration accuracy checks by a

qualified ASD calibrator once every four weeks.

- On November 4, 2014, RCMP released a province-wide bulletin directing all RCMP qualified ASD calibrators to use certified dry gas when performing accuracy checks on the new Alco-Sensor FST instruments. Previously, there was no requirement for the dry gas to be certified.

DISCUSSION:

- On July 31 2015, the RCMP proactively contacted RoadSafetyBC to inform the Superintendent of Motor Vehicles about a calibration accuracy check issue impacting a number of ASD's from the Tofino detachment.

- s.16

-

-

- s.14,s.16

- s.16

- The RCMP has identified 39 IRPs that have been invalidly served from January 23, 2015 to July 31, 2015 due to the calibration check issue at Tofino. These include:
 - 8 warn-range 3 day IRPs
 - 26 fail-range 90 day IRPs
 - 5 refuse 90 day IRPs
- The Superintendent of Motor Vehicles will be in a position to issue letters to the affected drivers cancelling their IRPs, removing them from their records and providing them with their updated licence status as of August 10, 2015. A separate

letter will follow regarding the reimbursement of money paid to the Province in error and other costs incurred as a result of the IRP, including, reimbursement to the registered owner of the vehicle for direct costs incurred as a result of the wrongful impoundment.

- The estimated cost to-date for reimbursing all fees paid by the 39 drivers is estimated to be ^{s.13,s.17} The breakdown of costs includes:
s.13,s.17
- The costs associated with reimbursing the registered owners of vehicles of wrongfully impounded or destroyed vehicles will be determined by obtaining receipts from the tow lot operators involved but is expected to be around ^{s.13,s.17}
- s.16
-
-
- On August 5, 2015, communication was sent through the Impaired Driving Advisory Committee (IDAC), a sub-committee of the BC Association of Chiefs of Police Traffic Safety Committee (BCACP-TSC), to all municipal police departments who are using the Alco-Sensor FST to confirm their use of certified dry gas. Subsequent confirmation has been received that all departments using the Alco-Sensor FST are using certified dry gas in accordance with policy.
- On August 7, 2015, the RCMP advised it will direct all detachments to confirm whether any non-certified dry gas cylinders remain on site and, if so, to advise the RCMP Impaired Driving coordinators to arrange for safe removal. These cylinders are considered "Dangerous Goods" and must be moved and safely disposed of by a qualified individual.
- Both RoadSafetyBC and Policing and Security Branch (PSB) are represented on the BCACP-TSC, Administration, Training and Recognition Sub-Committee and IDAC and provide input on impaired driving enforcement and training issues, as well as monitor quality assurance processes.
- The IDAC monitors Approved Screening Device (ASD) calibration issues and documentation, as well as police training, operational policies and procedures that

support police in their use of BC's Immediate Roadside Prohibition (IRP) legislation in particular, and impaired driving in general. PSB, working with IDAC, helped develop and implement a new standardized provincial training process for recertifying Qualified Breath Technicians (QT), which was implemented in BC in 2014. PSB continues to monitor the currency and required annual recertification of all Qualified Breath Technicians in the province.

- Additionally, through the Enhanced Traffic Enforcement Program, PSB annually contributes funding for enhanced traffic training at the Justice Institute and Pacific Regional Training Centre for specialized police training in Standard Field Sobriety Testing, Intox EC/IR II Conversion and Certification Training, as well as Drug Recognition Evaluators.
- A new Quality Assurance (QA) measure for BCs breath test program will be implemented province-wide in August at which time a customized RCMP database will be implemented to support the 'smart form' presently used to record and track all police ASD calibrations in BC.
- Once calibration information is entered onto the form, the calibrator uploads the form to the new computer data base/management system. Through the use of linked form tools such as drop down menus and internal automatic calculation functions, the new process will help ensure that, amongst other things, only information about 'certified' dry gas can be entered onto the calibration form (other gas codes will show as 'Invalid'), as well as allowing only correct dates, calibration ranges and other administrative requirements and prompts to be entered. Any errors or anomalies that may occur will result in real-time notification to the Provincial Impaired Driving Coordinator for immediate attention. It was through the use of the 'smart form' that the ASD issue in Tofino was discovered.
- A letter to all police agencies will be issued by the Director of Police Services to coincide with the introduction of the fully operational database, emphasizing the vital importance of maintaining vigilance in police training, administration and delivery of impaired driving enforcement procedures in BC.

OTHER MINISTRIES IMPACTED/CONSULTED:

- Policing and Security Branch
- Legal Services Branch

Prepared by:
David Coburn
Policy Analyst
RoadSafetyBC
250-356-8070

Reviewed by:
Steven Roberts
Deputy Superintendent of Motor Vehicles
RoadSafetyBC
250-953-3818

Recommended by:

Lisa Anderson
Executive Director
and Deputy Director of Police Services
Policing and Security Branch
604-660-1741

Approved by:

Sam MacLeod
Superintendent of Motor Vehicles
RoadSafetyBC
250 387-5692

Approved by:

Clayton Pecknold
Assistant Deputy Minister
and Director of Police Services
Policing and Security Branch
250-387-1292

Page 34 to/à Page 35

Withheld pursuant to/removed as

s.22