

STATE OF NEW HAMPSHIRE
Inter-Department Communication

DATE: June 9, 2022

FROM: Michael A. Morrell
Acting Administrative Rules Director

AT (OFFICE): Legislative Services

SUBJECT: Final Proposal 2022-7 Ignition Interlock Program Rules

To: File

Attached are Kim Reeve's comments on Final Proposal 2022-28 from the Real Estate Commission

There are few substantive and editorial issues remaining, and some could be resolved with a conditional approval.

There is a note to the Committee on page 1 because the amending, adopting, and repealing language does not indicate that the rules expired on 1-31-22 and they are currently effective as emergency rules, Document #13222, expiring 6-28-22.

There is a legislative intent comment on page 19 because the rules uses "may" rather than "shall" which indicates agency discretion and the concern is that a lack of criteria may result in oral rulemaking in violation of RSA 541-A:22.

There are also legislative intent/unclear comments on pages 20 and 22 because the rule section references RSA 541 rather than RSA 541-A for appeals of financial hardship.

Finally, on page 23 there is a legislative intent comment because the rule improperly delegates the commissioner's statutory authority as the statute says that it is the commissioner who, after the hearing, determines that the violations are significant and the commissioner also may then revoke any vehicle registrations. The rule says the hearing examiner may revoke vehicle registrations, if there is a determination that the violation's scope was significant but does not stipulate who makes the decision on whether the violation was "significant".