

RSA_541-A Rulemaking Petition

Thank you for the opportunity to speak on the matter of establishing Division of Ports and Harbors administrative rules for private businesses operating on state-owned property.

Our state operates by statutes established by the legislature and administrative rules created by state agencies to implement those statutes. Administrative rules carry the force of law.

The legal basis for administrative rulemaking powers is derived from the "*delegation doctrine*" whereby the legislature grants state agencies the power to make rules. Those rules provide the basis for each agency to operate consistently, efficiently and transparently.

The director of legislative services publishes on-line all agency effective administrative rules adopted on its Internet web site [<https://gc.nh.gov/rules/>].

The Pease Development Authority is required to create "*Pda*" administrative rules governing the operation of the Division of Ports and Harbors, pursuant to **RSA 12-G:42 IX, X & XI** and **RSA 12-G:53 III & IV**, and, except for certain fee setting rules, adopted pursuant to **RSA 541-A:3-15**, .

The problem is that none of the Division of Ports and Harbors “*Right of Entry*” and “*Concession*” agreements implemented by the Pease Development Authority comply with state law because there are no supporting “*Pda*” administrative rules for them filed with the office of legislative services.

Accordingly, additional administrative rules are needed to bring the Division of Ports and Harbors into full compliance with **RSA 12-G & RSA 541-A**.

Therefore, please consider this **RSA 541-A:4** petition as a starting point to create the missing Division of Ports and Harbors administrative rules to transition all 2025 “*Right of Entry*” and “*Concession*” agreements to 2026 “*Business Use Permits*”.

Such will result in treating all private businesses operating on “*state-owned commercial piers and associated facilities*” in a fair, just and equal manner, absent of favoritism or bias.

Please authorize the Division Director to work with this petitioner over the next sixty days to put these proposed new administrative rules into final form and present recommendations to the board thereafter.