

TITLE LV, PROCEEDINGS IN SPECIAL CASES, Chapter 541-A, ADMINISTRATIVE PROCEDURE ACT**Section 12-G:53 Construction and Effect of Other Laws. –**

- I. All actions and proceedings of the authority shall be governed by the provisions of RSA 91-A.
- II. Purchases and contracts of the authority may be made or let without regard to any provision of law relating to public purchases or contracts *[note: excludes the Executive Council]*.
- III. Except for rules adopted pursuant to RSA 12-G:42, X, which shall be subject to the provisions of RSA 541-A:3 through RSA 541-A:15, the authority shall be exempt from the provisions of RSA 541-A and may adopt rules and bylaws in accordance with its own procedures, including, but not limited to, rules regulating the conduct of hearings. Except for rules adopted pursuant to RSA 12-G:42, X, the authority shall file in the office of legislative services a copy of all rules and bylaws adopted, amended, or repealed by the authority. All such rules and bylaws shall be filed in the office of legislative services within 7 days of such adoption, amendment, or repeal.
- IV. Any rule adopted by the authority pursuant to RSA 12-G:47 *[Pilots]* shall be adopted in accordance with the provisions of RSA 541-A; any rule adopted by the authority pursuant to RSA 12-G:42, X shall be adopted in accordance with the provisions of RSA 541-A:3 through RSA 541-A:15.
- V. The provisions of this chapter shall be liberally construed in order to effect its purpose.
- VI. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

12-G:42 Additional Powers and Duties. –

The authority, acting through its division of ports and harbors, shall be responsible for the former functions, duties, and responsibilities of the port authority and shall have the following powers and duties in addition to any other powers and duties set forth in this chapter:

- IX. Have the responsibility for and jurisdiction over state-owned commercial piers and associated facilities, including the establishment of permit programs and wait lists for vessels securing to or berthing at state-owned piers and associated facilities, and the establishment of fees associated with the implementation of such permit programs, including fees for vessels secured to or berthed at state-owned commercial piers in a manner not authorized under rules of the division adopted under this chapter. The authority shall also operate, maintain, and manage the parking facilities at all state-owned commercial piers and associated facilities and shall be authorized to establish permit programs and fees or to otherwise charge for the use of parking at such piers and facilities, including fees or charges for

vehicles or trailers parked at state-owned commercial piers or associated facilities in a manner not authorized under rules of the division adopted under this chapter.

X. Adopt rules, pursuant to RSA 541-A, relative to:

- (a) Port captains, pilots, and pilotage.
- (b) Harbors and harbor masters.
- (c) The terms, conditions, and procedures under which the division shall issue, suspend, revoke, deny, or approve permits required under this chapter for moorings and state-owned slips.
- (d) State-owned commercial piers and associated facilities, including without limitation the terms, conditions, and procedures under which the division shall issue, suspend, revoke, deny, or approve permits authorized under this chapter relative to the use of state-owned commercial piers and associated facilities and such other rules as the division deems necessary for the proper and safe use, operation, and management of such commercial piers and associated facilities.

XI. Adopt rules, after obtaining prior approval by the board, relative to the setting and collecting of fees authorized under RSA 12-G:38 [*Authorization to Seek Designation as Port of Entry or International Airport and to Establish Foreign Trade Zones*], relating to foreign trade zones; RSA 12-G:42, IV [*port terminal operating firm (Pda 100)*] and V [*port terminal operator and stevedore*], relating to wharfage, dockage, and other marine terminal operations; RSA 12-G:42, VI [*permit programs for moorings (Pda 500) and state-owned slips (pda 700)*], relating to moorings, state-owned slips, and wait lists; RSA 12-G:42, IX [*parking fees & permit programs/wait lists for vessels (Pda 600)*], relating to state-owned commercial piers and associated facilities; RSA 12-G:49-a [*Pilotage Fees (Pda 300)*], relating to pilotage; and any other matter necessary for the proper administration of the division with respect to the setting and collecting of fees. The rules adopted under this paragraph shall not be subject to the provisions of RSA 541-A, so as to provide the authority with the ability to maximize revenues and to adjust fees according to market conditions and trends as is the common practice in private industry. Fees established pursuant to this paragraph shall be consistent with the following criteria:

- (a) Fees relating to the establishment and operation of foreign trade zones shall be designed to recover a reasonable portion of budget expenses consistent with the purposes of RSA 12-G:38. The general court does not intend that such fees cover all of the budget expenses associated with the implementation of RSA 12-G:38 [*Authorization to Seek Designation as Port of Entry or International Airport and to Establish Foreign Trade Zones*].
- (b) Fees relating to wharfage, dockage, and other marine terminal operations shall be comparable with the fees for wharfage, dockage, and other marine terminal operations assessed by other port authorities and other marine terminal operators and stevedores in the United States.
- (c) Fees relating to the mooring permits, including temporary seasonal moorings, and mooring wait lists shall be designed to recover all of the budget expenses

RSA 12-G and RSA 541-A Citations

Exhibit #1

associated with implementation of the mooring permit and wait list system as well as a reasonable portion of the budget expenses consistent with the purposes of RSA 12-G:42, III, VI, and VII; RSA 12-G:43, I(a) and (c); and RSA 12-G:50.

- (d) Fees relating to slips shall be designed to be proportional to the fees for moorings established under subparagraph (c).
- (e) Fees relating to state-owned commercial piers and associated facilities shall be established giving due consideration to the fees for use of similar privately-owned facilities.
- (f) Fees relating to pilotage shall be comparable with the pilotage fees assessed by other port authorities in the United States.