

RYE HARBOR MARINE FACILITY



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TABLE OF CONTENTS

Introduction	1
Rye Harbor History	2
Business Activity	3
Commercial Fishing Activity	4
First Responder Support	5
Jurisdiction and Authority	5
General Financial Situation	6
Rye Harbor Access Agreements	7
Pier Related Permits	7
Parking Related Permits	12
Fuel Sales and Vessel Storage	14
Environmental Challenges	15
Potential Infrastructure Improvements	20
Executive Summary	22

Introduction

Written following discussions with numerous Rye Harbor business owners, recreational and commercial mooring holders, Town of Rye officials, PDA-DPH employees, and members of the Port Advisory Council, this report has been compiled in order to capture the information to identify:

1. The existing uses of the Rye Harbor Marine Facility;
2. The facility's general economic impact;
3. Options to improve current business operations;
4. Potential infrastructure improvements to increase efficiencies;
5. Aspirational options to improve business operations within the facility; and,
6. Environmental / site challenges.

Rye Harbor History



Rye Harbor Circa 1940

Prior to 1962, the vast majority of the Rye Harbor Marine Facility was a wetlands marsh, similar to the area found between the access road and Harbor Road to the south. The spoils from the dredging that occurred in the harbor in 1962 were placed on shore in the then existing marsh which created a facility measuring approximately 8.52 acres.



Rye Harbor 1962 – Post Dredge

In 2002, the roughly 3.75 acres between the access road and Harbor Road to the south, were subject of a marsh reclamation project, leaving just under 5 acres of usable space for all of the operations within the facility. The facility was originally owned and managed by the NH Department of Resources and Development (DRED) until it was transferred to the Division of Ports and Harbors (DPH) in 2005.



Business Activity

Rye Harbor is best described as a marine transportation facility that primarily supports the New Hampshire commercial fishing industry. The Harbor also supports tourism and transportation charters, two businesses that sell prepared food, and a number of other maritime businesses, such as businesses that buy catch from the commercial fishing fleets and vessel maintenance companies. The Harbor provides direct ocean access to recreational boaters who launch their vessels from the facility's launch ramp and supports year round vessel storage and fueling capabilities for both recreational and commercial vessels.

The businesses in the harbor that appear to attract the most customers are Granite State Whale Watch (GWW) and its affiliated snackbar / food service business known as Rye Harborside (RHS), and the Rye Harbor Lobster Pound (RHLP). GWW is a large scale whale watch business that attracts over 12,000 visitors during the season, which generally runs from June through early October. GWW is the only large scale whale watch business providing this kind of excursion on a full-time basis in New Hampshire. GWW's snackbar / foodservice operation, RHS, sees approximately 900 transactions¹ in a given season. On a yearly basis, about 800 of those transactions are with one-time visitors. The remaining 100 transactions are generally with repeat customers. RHLP runs a business selling live lobsters and restaurant style meals from the two-shacks it operates on the main access road. Though its 2022 seasonal transaction count is not available at this time, RHLP's seasonal transaction average between 2018 and 2021 was 14,367 transactions over an average of 139 days of operation per season.²

¹ A "transaction" is any single customer sale, regardless of the size of the order.

² Information on transactions was provided by the referenced businesses.

Charter Boat Activity: There are twelve charter boat businesses operating at Rye Harbor providing fishing excursions, sightseeing tours, and transportation services to the Isles of Shoals. These businesses do the majority of their business in late May through early September each season. Six of the twelve businesses provided information on the numbers of trips and passengers they saw during that time frame.

Respondent	Trips	Passengers (Avg.)
#1: Charter Fishing	30	6 Per Trip; 180 +/-
#2: Charter Fishing, Tours	40	3 Per trip; 120 +/-
#3: Charter Fishing, Tours	45	3 Per trip; 135 +/-
#4: Charter Fishing	50	8 Per trip; 400 +/-
#5: Charter Fishing, Tours	96	5 Per trip; 480 +/-
#6: Sight Seeing and Transportation	224	Sightseeing; 70 Per Trip x 140 trips; 9,800 +/- Transportation; 17 Per Trip x 84 trips; 1428 +/-
Totals (May – September)	485	12,543 Passengers over 100+/- days

Commercial Fishing Activity

Data provided by New Hampshire Fish and Game (NH F&G) illustrates the impact commercial fishing activity has on the fleet using the commercial pier and the local economy. Commercial fishermen are required to report their landings, which NH F&G tracks by weight and total market value.

There has been an increase in fish landings at all three facilities DPH manages since 2018. Renee Zobel, who administers the Marine Resources Program for NH F&G, advises that lobster harvesting has stayed fairly consistent in New Hampshire state waters over time and that the majority of increases are catch being landed from federal waters. Ms. Zobel was not able to provide a breakdown of species caught by weight as that information is confidential, but she was able to provide a table showing the diverse number of species of fish being harvested in area waters. This information can be provided if there is interest in reviewing. She also offered that some of the species other than lobster harvested represent species identified in emerging fisheries / markets.

Year	Fishers	Dealers	Lobster (lbs.)	All other (lbs.)	Total weight	Value
2018	49	29	171,487	545,529.34	717,016.34	\$1,173,924.62
2019	66	31	101,324	914,572.33	1,015,896.33	\$1,096,983.83
2020	56	25	285,364	808,990.96	1,094,354.96	\$1,926,641.18
2021	62	26	345,118	804,555.70	1,149,673.70	\$3,253,642.95
2022	44	22	268,705	<i>compiling</i>	<i>compiling</i>	\$2,212,200.54*

* To date as of 12/12/2022

It should be noted that the fishermen in this report landing in Rye Harbor pay a Pier Use Permit fee in order to land their catch. The dealers purchasing those lobsters from the fishermen do not. Requiring dealers to enter in to a right of entry (ROE) for use of the facility and requiring that they provide proof of insurance would be wise. Charging a fee for use of the facility also represents an opportunity to increase revenues in order to support the operation of this public facility.

First Responder Support

Rye Harbor also supports numerous First Responder agencies, to include the New Hampshire Marine Patrol, NH F&G, and the Department of Environmental Services, which uses the facility to launch, recover, and fuel its vessels. The United States Coast Guard frequents Rye Harbor and considers Rye Harbor a potential alternate fueling location should its system at Station Portsmouth Harbor go down for maintenance or otherwise. Rye Fire Department stores its Search and Rescue Jet Ski at Rye Harbor, which it uses to respond to maritime search and rescue calls. A video link which shows how the Jet Ski is used can be found below this paragraph.

The Rye Fire Department is the primary provider of medical aid at the Isle of Shoals and the responding department for Rye Harbor. In 2022, Rye Fire Department responded to four medical aid calls in Rye Harbor and nine medical aid calls involving Star Island where Rye Harbor factored in to the response, e.g. an injured person being transported to the dock where the Fire Department met the boat and provided treatment. An additional 14 calls for service requiring the use of the Fire Department's Jet Ski occurred during the year as well. These calls generally involved persons stranded on the rocks while at sea in smaller watercraft.

Video Link to Rye FD Jet Ski demonstration:

<https://www.facebook.com/RyeFireRescue/videos/307046134556863>

Jurisdiction and Authority

The PDA, acting through DPH, has;

“...the responsibility for and jurisdiction over state-owned commercial piers and associated facilities, including the establishment of permit programs...wait lists ... [and] fees. (RSA 12-G: 42, Additional Powers and Duties, Para. IX). Additionally, as it related to fees, PDA/DPH with the approval of the Board may set and collect fees related to “wharfage, dockage...mooring permits and waitlists... [and] Fees relating to state-owned commercial piers and associated facilities...” (RSA 12-G: 42, XI).

Further, DPH's statutory charge under 12-G:43 provides that DPH shall...

“Plan for the maintenance and development of the ports ... in order to foster and stimulate commerce and ... commercial and industrial interests that may depend on the sea for transport of products, including such interests as may be desirous of locating in tidewater areas of the state; as well as to encourage the establishment of accommodations for the boat traveler, the area boat owners, the pleasure fishermen, and others who pass up and down our coast line or in its tributaries. [RSA 12-G 43, (a)]

Aid in the development of salt water fisheries and associated industries. [Id at (b)]

Cooperate with any agencies or departments of the federal government in planning the maintenance, development, and use of the state ports and state tidal waters. [Id at (c)]

[and] Perform such other duties and functions relating to the administration, management, and operation of division property and division projects as are assigned to the division by the authority. [Id at (f)].”

General Financial Situation

With the exception of FY 2022, Rye Harbor as its own business unit within DPH, has generally operated in the black over the last five years, with revenues being directed to capital improvements at the facility that are non-grant related. Some outliers for consideration are identified here:

- Rye Harbor’s net income increased in FY 20 because of the funding related to the Army Corps of Engineers (ACOE) dredging of Hampton Harbor.

Note: PDA-DPH’s statutory charge requires DPH to collaborate with federal agencies as it relates to the maintenance of navigation channels in the tidal waters as the State sponsor. PDA-DPH’s ability to receive funding from the federal government through the ACOE relies heavily on the commercial nature of the activity in Portsmouth, Rye, and Hampton Harbors. Though the state pays a cost match generally set at 25%, the federal government absorbs a large majority of the costs and the federal administrative requirements.

- In 2021, Rye Harbor saw an increase in weather related maintenance and a spike in snow removal costs.
- Rye Harbor saw more weather related repairs in FY 2022, the additional costs of the installation of a dedicated fire lane, and increased snow removal costs.

	FY 2018	FY 2019	FY 2020 ¹	FY 2021 ²	FY 2022 ³
Revenue	\$243,981.00	\$303,871.00	\$904,091.00	\$337,885.00	\$335,091.00
Expenses	\$187,133.00	\$250,733.00	\$828,353.00	\$312,457.00	\$409,011.00
Net	\$ 56,848.00	\$ 53,138.00	\$ 75,738.00	\$ 25,428.00	-\$ 73,920.00

¹ Includes \$585,000.00 of funding and expenses related to the Rye dredging project.

² \$37,000 in repairs and \$19,500 in increased snow removal costs.

³ \$53,800 in repairs; \$46,000 to convert 30-minute parking to a Fire Lane; \$21,575 in increased snow removal costs; \$121,375 in increased total expenses. Note: But for these increases, Rye would have seen a \$47,455.00 net profit.

Rye Harbor Access Agreements Pier Related Permits

DPH administers a variety of pier related permits within Rye Harbor that authorize certain uses of the facility's piers, as further described below:

Permit Fees	2018	2019	2020	2021	2022
Annual Pier Use	\$15,600 (50 Vessels)	\$22,480 (60 Vessels)	\$26,154 (63 Vessels)	\$29,316 (70 Vessels)	\$25,202 (59 Vessels)
Single Use Pier Permits	\$ 1,314	\$ 227	\$ 440	\$ 216	-0-
Skiff Permits (Rec)	30/\$1,500	28/\$1,400	30/\$1,500	30/\$1,500	30/\$1,500
Skiff Permits (Com)	43/\$2,150	51/\$2,550	51/\$2,550	52/\$2,600	49/\$2,450

Pier Use Permits:

An Annual Pier Use Permit allows the permit holder to utilize space on the pier on a non-exclusive temporary basis during the permit's term. The Pier Use permit may be issued to an applicant engaged in commercial fishing, charter, or cargo operations. Off-site businesses may apply for a Pier Use Permit by articulating the needed pier use and what facility or facilities they need access to.

A Single Use Pier Use Permit allows use of the pier on specific occasion and is issued to the owners or operators of transient commercial fishing vessels only.

Examples of Pier Use Permit Fees:

- DPH:** The permit fee for an Annual Pier Use Permit is \$12.00 per foot of the vessel the permit is being issued for. A \$200 minimum fee is also established within the fee structure so for example, if a person sought Pier Use for a vessel that is 14' in length, PDA-DPH would collect the \$200 minimum fee rather than \$168 using the \$12 per foot fee.

The Single Use Pier Use Permit fee is calculated at \$6 per foot of the permitted vessel.
- Kittery, ME** – Kittery charges \$10 per foot for a resident and \$20 per foot for a non-resident for annual pier-use. Kittery charges a \$50 single pier-use fee for residents with non-residents paying \$100.
- Bar Harbor, ME:** Bar Harbor's "*Commercial Use Fee*" generally mirrors the PDA-DPH Pier Use Permit. It is exclusive to those engaged in commercial fishing, granting use of hoists, docks, ramps, dumpsters, and a parking permit for \$250.

Like the PDA-DPH Pier Use Permit, Bar Harbor will grant off-site businesses limited pier use through a permit. Their "Seafood Buyers Permit" grants off-site business the right to enter the facility and use the loading zones and hoists for \$5,000.00 annually.

Skiff Permits: A Skiff Permit allows those holding a commercial mooring permit or recreational mooring permit at Rye Harbor to secure a skiff to the skiff dock. Skiffs are used by mooring holders to travel from the dock to their mooring in the mooring field. In the past five years, the harbor has seen an average of 78 commercial and recreational skiffs in the harbor.

Examples of Skiff Fees:

- **DPH:** DPH charges an annual \$50 fee which appears to be fairly average based on a review of other facilities, with some notable outliers.
- **Kittery, ME** – Kittery charges \$50 for a resident skiff permit and \$120 for non-residents.
- **Newburyport, MA** – Newburyport charges \$250 for a skiff permit which they refer to as a “Dinghy Permit”.

Moorings, Mooring Permits and Waitlists

Types of moorings and general rules – As a primer for this section, it is helpful to briefly review the several types of moorings that DPH permits and how they are impacted by the mooring waitlist.

DPH currently permits 1,532 moorings in 29 mooring fields within the tidal waters of New Hampshire. There are seven different types of moorings, all of which have slightly different requirements as it relates to application, reapplication, and permitting.

- Types of Moorings:

- General use mooring permit: A general use mooring permit may only be held by an individual who is *an owner* of the vessel the permit is issued for and cannot be held by a corporation or a trust. The phrase “*an owner*” is important as many people co-own vessels because of the expense. Regardless of how many “owners” there are of a vessel, only one can be named on the general use mooring permit.

A general use mooring permit holder may submit an application to change the category of his or her existing mooring to a commercial use mooring permit at any time during the permit year provided he or she meets all of the commercial mooring application requirements contained within the Commercial Use Mooring Permit requirements found in Pda 506.08. Should they do so the permit must remain commercial and cannot return to general use.

- Commercial use mooring permit: The holder of a commercial use mooring permit must produce documentation upon application or annual reapplication showing that the mooring was in fact used commercially. In the case of a fisherman he or she must produce the current boat registration and fishing license, as well as proof of the sale of licensed species during the previous year. A charter boat permit holder must produce a captain’s license, two forms of advertising, and documentation showing good standing with the Secretary of State.
- Commercial mooring for hire mooring permit: A commercial mooring for hire permit must be held by a shorefront property owner. In most cases this is a marina or yacht club. A landlord that rents the property may also qualify and allow the occupying tenant the use of the mooring. The authority to grant a commercial mooring for hire belongs to the Board of Directors, which has delegated that authority to the Executive Director.
- General use and commercial nearshore moorings: A nearshore mooring can generally be placed anywhere within the high water-mark at the shoreline and the low water-mark in the nearshore area of any mooring field or sub-filed. These moorings are not as desirable as those found in the main mooring field as the vessel on the mooring is quite often unusable at low-tide. Other than being closer to shore

in shallower and sometimes less navigable water, the requirements for obtaining this type of mooring are identical to moorings found in the main mooring field.

- Temporary seasonal use mooring permits: Temporary seasonal use mooring permits are moorings at the location of an existing general use, commercial use, or shorefront property mooring, which the permittee has elected not to use for the season. The next person on the waitlist is entitled to apply for the use of that location for that season. It cannot be done for consecutive seasons and must be applied for during reapplication. To date none has ever been issued by DPH.
- Shorefront property owner mooring permit: The owner of shorefront property is entitled to one mooring permit exempt from the waitlist. It must be in the shorefront property mooring area, which essentially means in front of the property. The permittee must produce a copy of the deed, tax map, and recent tax bill, as well as the boat registration upon initial application. Upon reapplication the deed and tax map are not required.
- Non-revenue mooring permit: Non-revenue mooring permits are issued to State agencies and do not require the payment of the fee. The majority are held by UNH and DES. There is one non-revenue mooring located in Rye Harbor reserved for the use of DPH.
- Waitlists and general rules – Unless one is the owner of shorefront property it is necessary to apply for the waitlist to obtain a mooring permit. An applicant remains on the waitlist as long as they reapply each year. The length of time one must wait varies by location, with Rye Harbor being one of the longest waits at about 30 years. There are some areas in State tidal waters with no waitlist, such as some areas of Little Bay or the Piscataqua River. When an opening occurs in a waitlisted area it is offered to the top 5 on the waitlist by certified mail. The mooring permit(s) are then issued in that order. The application is reviewed by a staff member who coordinates the permit process. It is then reviewed by the local harbormaster and the Chief and Deputy Chief Harbormasters to ensure it is a complete application and that the applicant is entitled to that permit.

A mooring permit is for a specific location. It allows the permittee to place their property, the block, chain, and ball, in State waters. It is the permittee's responsibility to ensure that the equipment is adequate and that it stays in the assigned location.

Moorings cannot be loaned out. The assigned boat is the only one allowed on a mooring unless it is a skiff used to access that mooring. If a permit holder wishes to change the assigned boat they must produce the registration and pay the difference in fee, if any.

Mooring balls must be labelled with the permit holder's last name and the permit number. Reapplications are sent out at the first of the year and must be returned complete to the DPH by March 1st or within 10 business days if accompanied by the late filing fee. The review process is the same as that for a new application.

- Transferability – A mooring permit may be transferred in only two instances:
 - Transfer to Spouse: A general use mooring permit, commercial use mooring permit, or shorefront property mooring permit may be transferred to the surviving spouse in the event of the death of the permit holder.
 - Commercial Mooring Transfers: It is possible to apply for the transfer of a commercial use or commercial for hire permit concurrent with the sale of a business or business unit. The Board of Directors has delegated the authority to approve such a transfer to the Executive Director who then reports that transfer to the Board. In such a case the application is subject to the DPH internal review process, but then is

reviewed by the Division Director and PDA legal counsel before consideration by the Executive Director.

Moorings in Rye Harbor – There are a total of 152 moorings in Rye Harbor. The break down is 63 commercial, 83 general use, 5 shorefront, 1 non-revenue.

Moorings Data	2018	2019	2020	2021	2022
General Use Moorings	46	49	50	45	46
Commercial Use Moorings	63	61	59	62	60
Non-Revenue Moorings	0	0	0	0	0
Shore Front Moorings	3	4	4	4	5
General Use - Nearshore	43	40	39	39	37
Non-Revenue - Nearshore	1	1	1	1	1
Commercial - Nearshore	4	5	5	4	3
REVENUE					
Rye Harbor Moorings	\$30,670	\$38,564	\$37,528	\$36,522	\$37,208
Rye Near Shore Moorings	\$ 7,910	\$10,496	\$10,292	\$ 9,896	\$ 9,380
Total	\$38,580	\$49,060	\$47,820	\$46,418	\$46,588
Fees by Year	\$10 flat fee	(\$12 LOA or \$200) Eff. Apr. 1. 2019	(\$12 LOA or \$200)	(\$12 LOA or \$200)	(\$12 LOA or \$200)

Note: DPH does not give preference to New Hampshire residents for a mooring in New Hampshire tidal waters. The primary reason for this is that all structures within the state’s tidal waters fall under the ACOE General Permit (GP). The ACOE allows the state the ability to administer docks and moorings in tidal waters provided they follow certain rules, one being that the state may not discriminate against a person from another state seeking to hold a mooring within New Hampshire waters. A violation of this provision within the GP could result in revocation of the GP, or the refusal to perform any dredging in the State.

Right of Entry Agreements (ROE): A Right of Entry (ROE) is a written license agreement between PDA-DPH and a business that authorizes the business to conduct certain business activities on DPH property. The agreement, revocable at will by DPH, reflects the rights, privileges, and responsibilities of both parties for a specific period of time.

There are 17 businesses in Rye Harbor that have formalized 19 ROE’s with PDA/DPH. The terms found in these documents are generally consistent, with minor differences related to the nature of the allowed business. Some are engaged in charter operations only, while some sell souvenirs, bait, tackle, live lobsters, etc. These businesses have access to DPH provided restrooms, as well as the on-site dumpster for trash disposal. Shack owners can tap into the DPH water line at their own expense and subject to the installation of their own water meter.

10 of the businesses with ROE’s in Rye Harbor combine a water-based business having a Pier Use Permit with a land based structure or “shack”. The ROE terms specify the allowed use at the shack. All ROE holders with shacks pay a \$1,000 per year fee for the space the shack occupies, calculated between July 1st and June 30th and have insurance and other requirements. All Rye Harbor ROE’s are currently set to expire on June 30, 2023.

Concession Contract: One Rye Harbor business, RHS, a snack bar operated by GSWW, also holds a food concession contract in the harbor. RHS sells restaurant style food items such as breakfast sandwiches, lobster rolls, burgers, and hotdogs.

The concession contract contains the same \$1,000 rental fee for the space that ROE holders must pay and has the same general terms as the ROE's, with a handful of additional requirements, which include:

- Section 19 of the contract titled, "Accounting Methods and Payments" states in part that "All gross income received by the operator shall be recorded by cash registers" and that "register tapes shall be available to PDA-DPH for audit and inspection purposes." The concessionaire is also required to "maintain...permanent books of accounts and records, including inventories...expense[s], receipts and disbursements and other information...available at all times for inspection [audit] by PDA-DPH".
- Section 21 of the contract titled, "Personnel" empowers PDA-DPH to take certain actions concerning the concessionaire's personnel. The section states in part, "...whenever PDA-DPH shall notify the concessionaire in writing that any person employed on the premises, in its opinion, is incompetent, disorderly, unsanitary or otherwise unsatisfactory, such conditions shall be corrected or such person shall be discharged and shall not again be employed without consent of the PDA-DPH."

There is one other business at Rye Harbor that sells restaurant style food items, RHLF. RHLF currently sells these items (lobster rolls, chowder, steamed clams) pursuant a waiver under its ROE, which, as drafted, permits the operation of a lobster pound.

Currently, there is no additional fee associated with the right to sell restaurant style food items at Rye Harbor, whether it be under the RHS concession contract or the waiver under RHLF's ROE.

Looking ahead, it would be advisable for any ROE holder who desires to sell restaurant style, ready to eat, food items to have a corresponding concession agreement with PDA-DPH. A concession agreement should contain a provision ensuring an appropriate fee is paid for the right to operate a restaurant style business from and on property of the State of New Hampshire. This fee would support facility upkeep and operations. Toward that end, examples of such agreements are discussed below.

Comparable State Contracts

Department of Natural and Cultural Resources (DNCR) – DNCR is responsible for the operations and management of Odiorne Point State Park which, like Rye Harbor, is located in Rye, New Hampshire. DNCR was interested in allowing limited food concession services at Odiorne Point State Park. Using the Request for Proposal (RFP) process, DNCR identified and assessed applicants, then entered into a contract for "food concession services" at Odiorne on March 25, 2022 for the 2022 season. The concessionaire, a catering company operating out of Newmarket, NH, entered into a five month contract (May 15, 2022 – October 15, 2022) with DNCR, agreeing to pay DNCR \$1,000 per month to rent an existing food concession space, as well as 10% of total gross sales, both payments being due on the 15th of each month. The caterer was also granted a renewal option for the same time period with the same terms for the 2023 season.

The terms and conditions in the DNCR contract and the concession contract PDA-DPH currently has with Rye Harborside are similar. Noted differences, however, are that where DPH mandates the methods used by Rye Harborside to record their sales and reserves the right to inspect and audit the concessionaire's books, DNCR requires the concessionaire to prepare daily sales reports and submit a statement of gross receipts by the 15th of each month. Additionally, DNCR requires the concession fees noted above; PDA-DPH does not require Rye Harborside pay a percentage of their profits and its base fee is quite a bit lower.

Pease Development Authority – The Pease Development Authority has a food concession contract with Great Circle Catering in the airport terminal building at Pease International Airport and with Galley Hatch Catering which operates Grill 28 in the golf course clubhouse. Both contracts closely mirror the requirements related to records review, cleanliness, rules, regulations, quality of services, pricing based on prevailing market conditions and licensing found in the RHS and DNCR contracts.

Both PDA contracts are set for a term of years with the ability to extend the contracts in one-year increments. Though neither concessionaire pays rent or utilities, each pays a percentage fee based on their gross revenues:

- Great Circle concession fee – In the first three years of the contract Great Circle is required to pay 10% of its gross revenues, computed monthly, excluding sales tax and gratuities. Years four and beyond see increases in this fee up to 14% in option years beyond the seven years outlined in the contract. These incremental increases also take enplanements into consideration. If enplanements year to year increase, the percentage fee increases accordingly based on the year of the contract. If enplanements remain flat or drop, the fee remains the same as the preceding year. If at any time during the life of the contract after the initial three year time period enplanements drop below 50,000, the percentage fee reverts to 10%.
- Galley Hatch concession fee – PDA first entered this agreement with Galley Hatch in April of 2009. Since November 2017, the concession fee paid to the PDA has been set at 17% of gross revenue.

Parking Related Permits

Rye Harbor has seen an average of 5,662 cars parked in the facility's parking lot per season since 2018. In 2018, 6,962 paying vehicles were recorded as parking at the facility, with the recorded low being 2021 with 5,138 vehicles parked. In 2021, out of the 5,138 vehicles parked, no fees were collected for 1,274 "*Complementary 30-Minute Parking Permits*" that parked within the facility's lot.

The majority of visitors parking at the facility are primarily visiting GSWW and RHLP. There are also a number of recreational boaters who launch their vessel then park their vehicle and trailer in a designated area within the lot. The five year average for launching and trailer parking stands at 749.

Customers enjoying GSWW, RHLP, or a charter generally travel on foot directly from the parking lot to the Recreational Pier, but a significant number find themselves walking on the access road to visit the shacks that run along it or, across the intersection at the parking lot entrance to get to RHS or the bathroom facilities. The pedestrians traveling on the access road sometimes impede motor vehicle traffic and could find themselves in danger should a driver become distracted. At times, activity at RHLP, whether it be customers ordering or eating food,

as impeded traffic flow at the harbor entrance. Efforts have been made to remedy this situation, but this issue should be addressed in all ROE's moving forward.

In response to public safety concerns in the Harbor, the 30-minute free parking area along the guardrail was converted to a Fire Lane in 2022. The elimination of the 30-minute parking area worked to cut down on accidents and near misses on the access road, generally solved the vehicle and pedestrian congestion problem along the access road, and, most importantly, provided a place for emergency vehicles to operate should an emergency arise. Parking for the businesses within the Harbor is now exclusively located within the facility parking lot and is available for the requisite \$5 parking fee, which appears to be very low when compared to other locations along the seacoast.

Examples of Parking Fees Charged by Similar Facilities

- Parking for Hampton Beach State Park and Wallis Sands State Park;
 - \$15 for Cars
 - \$30 for an RV, Empty Bus or Van.
- Parking for Maudslay State Park, Newburyport;
 - MA Resident Vehicle - \$5
 - Non-MA Resident Vehicle - \$20

Parking Activity	2018	2019	2020	2021	2022
General Parking Fees	\$34,810	\$31,155	\$26,020	\$19,320	\$28,480
Daily Seasonal Parking Permit and Sticker	\$ 2,175	\$ 1,500	\$ 2,025	\$ 1,350	\$ 1,425
Overnight Parking (Rec)	Not Avail.	Not Avail.	Not Avail.	\$ 4,285	\$ 4,540
Overnight Parking Permit (Season)	\$ 6,065	\$ 6,830	\$ 5,550	\$ 1,925	\$ 3,795
Seasonal Overnight Parking Permit and Sticker	\$ 750	\$ 3,600	\$ 600	\$ 2,100	\$ 2,250

General Daily Parking, Trailer Parking and Boat Launching (Pda 604.08): A daily parking ticket allows the holder to park one vehicle on the day of purchase between sunrise and 11:59 p.m. in the lot.

A daily combination parking ticket allows the holder to park one vehicle and one trailer in the lot on the day of purchase between sunrise and 11:59 p.m. The ticket holder is also permitted to launch and recover their vessel between sunrise and 11:59 p.m. at the boat launch.

Daily parking and daily combination parking tickets are nontransferable.

Daily Seasonal Parking Permits (Pda 604.09): A daily seasonal vehicle only parking permit allows the holder to park one vehicle in the lot between sunrise and 11:59 p.m. on a space available basis. Generally, about 25 people who hold moorings in the Harbor apply for these permits on an annual basis.

Daily seasonal combination parking permits allow the holder to park one vehicle and one trailer in the lot between sunrise and 11:59 p.m. The permit holder is also permitted to launch and recover their vessel at the boat launch area.

Daily seasonal parking permits and stickers are nontransferable and are valid only for the single vehicle specified in the permit application.

Overnight Parking Permits (Pda 604.10): Overnight vehicle only parking permits allow the holder to park one vehicle from 6:00 p.m. of one day to 6:00 p.m. of the following day for up to 6 consecutive nights during the season in the lot on a space available basis. Only one multi-night permit under this paragraph shall be issued for any one vehicle during the season but, there are no limits on the number of overnight vehicle only parking permits that can be purchased for non-consecutive nights. A majority of these permits are held by Star Island staff with the remainder being held by Rye mooring holders who take multi-day trips on their vessels.

Overnight combination parking permits allow parking from 6:00 p.m. of one day to 6:00 p.m. of the following day for up to 6 consecutive nights during the season for a vehicle and trailer, including the right to launch and recover the vessel from the boat launch. Only one multi-night permit under this paragraph shall be issued for any one vehicle during the season but, there are no limits on the number of overnight vehicle only parking permits that can be purchased for non-consecutive nights.

Seasonal Overnight Parking Permits for Seasonal Overnight Parking at Rye Harbor (604.11): A seasonal overnight vehicle only parking permit allows the holder to park one vehicle for any period of time at any time during the season, on a space available basis in the parking lot. Seasonal overnight parking permits are nontransferable and are valid only for the single vehicle specified in the permit application. As with the standard overnight parking permit in 604.10, the majority of these permits are held by Star Island staff with the remainder being held by Rye mooring holders who take multi-day trips on their vessels.

Looking ahead, it appears appropriate to look at ways to better manage the limited motor vehicle parking area and Rye Harbor and to leverage technology to make parking more efficient, safer, and enhance its revenue generating capabilities in order to ensure funds are available for facility maintenance and improvements.

Fuel Sales and Vessel Storage

Fuel Sales: There are two fueling points in Rye Harbor with unleaded and diesel fuels available. Another fueling option available to commercial vessel owners is to purchase fuel directly from vendors who maintain a ROE with the division and pay a flowage fee of \$.10 per gallon. In order to purchase fuel directly from one of the two approved vendors, the boat owner must have DPH's permission, the permission of the local fire department, a pier use permit, and approved variance from the State Fire Marshal's office. Presently, there are 16 approved variances in Rye Harbor.

	2018	2019	2020	2021	2022
Fuel Flowage Fees (Trucks)	\$ 4,316.82	\$ 4,302.78	\$ 4,688.49	\$ 8,831.35	\$ 4,417.14
Fuel Sales (Pumps)	\$110,232.50	\$171,114.13	\$185,149.16	\$159,267.34	\$194,860.24

You will note that there are a number of spikes and drops in revenue over the last five years. The Portsmouth Fish Pier seawall collapse in 2019 had a large impact on the increase in fuel sales in Rye as those who normally fueled at the fish pier shifted to Rye for their fuel. The pumps at the Portsmouth fish pier remained out of service due to reconstruction of the wall until early 2021 which in part, accounts for the increased sales at the pump. Additionally, the pumps in Hampton were down for a time during the same time frame due to difficulties with the installation of a new dispenser, which also increased sales in Rye Harbor.

The 2021 dip in Rye's commercial unleaded sales was due to the pump on the commercial side being placed out of service by DES until extensive repair work was done. That pump was down until summer of 2022 due to the nature and complexity of the required repairs. That pump came back online just before Rye's recreational unleaded pump went down in late June 2022. The money to repair the pump and replace the fueling station as a whole has been approved and plans for that work are being completed now.

The near 100% spike in Flowage fees from the previous three year average of \$4,436.03 in 2021 occurred during the dredge in Rye Harbor that year. The dredging contractor (Prock Marine) took on all of its fuel exclusively from the approved vendors.

Vessel Storage: Vessel storage within the facility is done on a "space available" basis. In FY 2022 PDA-DPH saw 55 boats stored within the facility over winter. The rate for winter storage is \$18 per foot using only the vessels length indicated on the registration, not the total length of the vessel and trailer combination. PDA-DPH collected \$23,584.00 in winter storage fees this past FY.

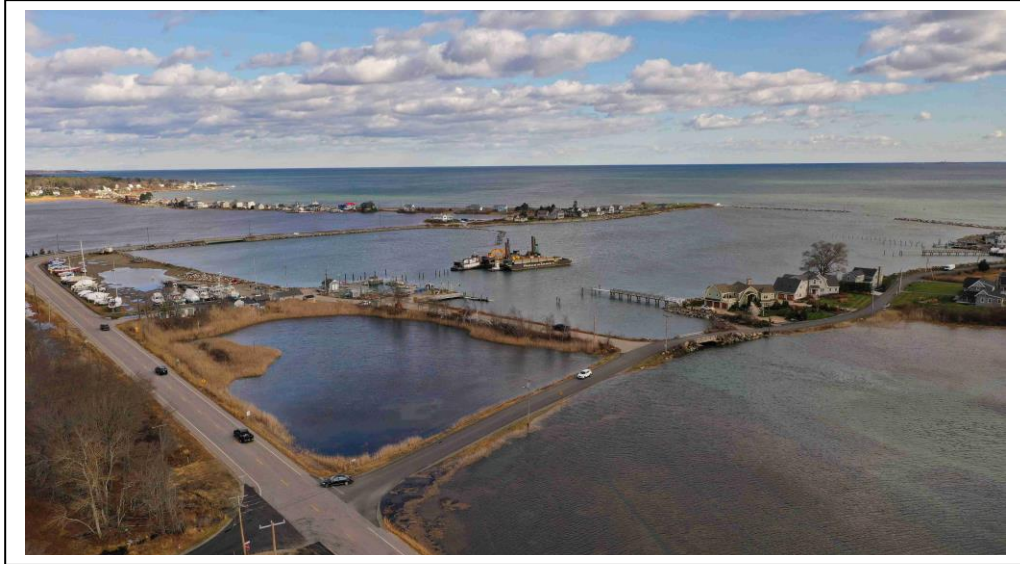
Over the summer, the division saw 63 vessels stored within the facility at a rate of \$36 per foot. PDA-DPH collected a total of \$48,979.00 in storage fees. The total vessel storage revenue collected for the FY was \$72,563.00.

The number of vessels stored within the facility stays relatively steady, which provides for a predictable revenue stream. The five year average for vessel storage sits at \$66,082.00 with the high being the 2022 FY after a storage rate increase went in to effect in CY 2021. The low was in FY 19 when Rye Harbor saw total vessel storage income of \$61,811.00.

Environmental Challenges

Rye Harbor is continuously challenged by severe weather events that strike the seacoast of New Hampshire. These challenges must be considered as plans for the future are contemplated. Unlike Ragged Neck and Odiorne State Park, Rye Harbor sits at or just slightly above sea-level. While all three state facilities see the effects of the severe winds that accompany these weather events, mostly in the form of Nor-Easters, Rye Harbor also sees significantly more flooding.

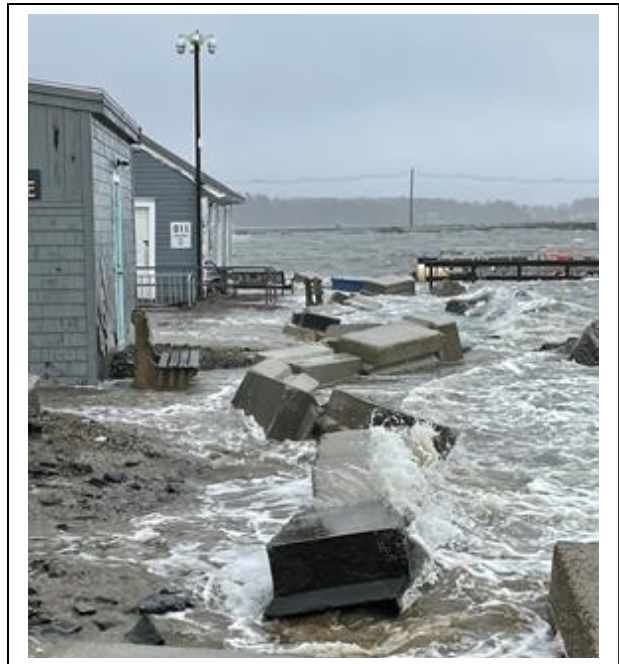
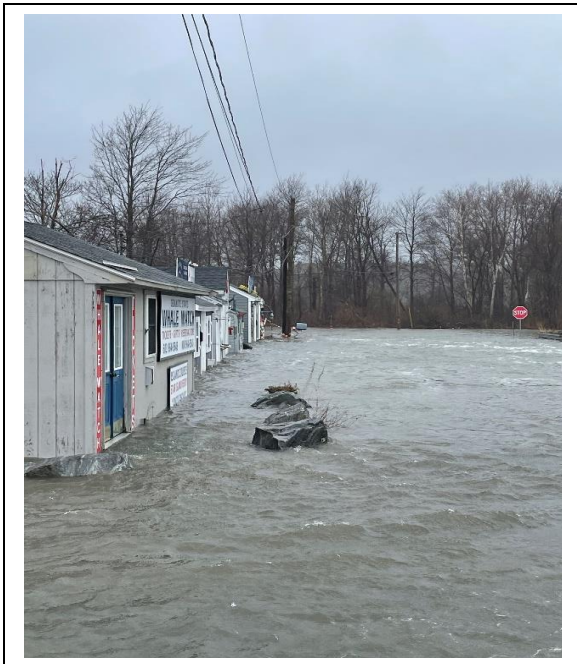
Even when there is no storm activity, the facility will see some flooding an average of twice per month during spring tides (sometimes referred to as King tides). The following pictures were taken as part of the 2020 dredge of Rye Harbor.



The picture above was taken at approximately 12:30pm on November 17, 2020. This was a 12.1 ft. Spring or “King” tide. Note the “pond” in the center of the lot that enters the facility from the drainage swale located in the middle of the seawall. The next Spring tide will occur on Monday, January 23, 2023, where Rye Harbor will see a 13.06’ tide.



For comparison, this picture was taken on March 3, 2021 at 8:14am. This was a -1.1 ft. “Neap” tide.



The picture of the storm surge on December 23, 2022 was taken at approximately 11:00am. The predicted time of high tide was 10:38am. The tide was projected at 11.60 ft.



A review of the State of New Hampshire Hazard Mitigation Plan and the National Oceanic and Atmospheric Administration's Storm Events Database indicates that Rye Harbor and the seacoast in general has seen the effects of high winds and extreme flooding in reportable storms on 10 occasions since January of 2018. Though all of the storms caused some level of damage in the seacoast area, the back to back storms in March of 2018 were significant enough that a federal disaster was declared. The disaster caused \$709,508.47 of damage between Hampton and Rye Harbors. Rye Harbor saw \$82,894.82 of that damage to the access road and parking lot, launch ramp, seawall, fuel system and a storage building that was damaged beyond repair and had to be replaced.

The effects of climate change and sea-level rise are also concerns in Rye and in the seacoast of New Hampshire as a whole. NOAA's predictions, which also appear in the State of New Hampshire Hazard Mitigation Plan, are that the New Hampshire seacoast may see a 1' to 1.5' increase in sea-level by 2050. If NOAA's data and predictions hold true, that equates to a rise in sea-level of approximately 0.44" – 0.66" per year between 2023 and 2050.

A rise in sea-level would certainly compound the damage the Rye Harbor facility currently sees from storms that impact the harbor. In fact, if one observes the Table of Significant Weather Events included with this report which shows storm information collected from NOAA and the NH Division of Homeland Security and Emergency Management, an interesting increase in storm frequency and severity has developed since 2018. The last significant reportable coastal

flooding event NOAA and HSEM felt rose to the level that it should be reported occurring prior to 2018 was Superstorm Sandy in November 2012. However, since 2018 there have been multiple reportable storms each year. This apparent increase in storm frequency and severity is a factor that should be considered in any improvements made to infrastructure and the division's overall business model in the future. Toward that end, the importance of revenue generation to support continued facility capital improvements and hardening against these environmental conditions cannot be overstated.

WMUR article link featuring Rye Harbor:

<https://www.wmur.com/article/rising-sea-levels-new-hampshire-seacoast-83122/41046015#>

Rye Harbor is the DPH facility that has seen the majority of damage from these increasing storm conditions. The outline provided here was taken directly from the Initial Damage Assessment (IDA) form submitted to New Hampshire Homeland Security and Emergency Management following storm Elliott in late 2022;

Roadway cleanup/repairs: \$12,000.

Seawall Repairs: \$10,000 (Minimum)

-Potentially upwards of \$100,000 if substantial mitigation is called for.

Pre-storm preparations: \$5,000 (Approximation)

Emergency Line Handling: \$4,000

Building Inspection: \$2,600

-Potential repair costs upwards of \$10,000 should environmental concerns be identified.

-\$800 per month cost for a temporary construction building should the office be found to have more significant structural or environmental damage.

Flooring, Trim/Structural repairs; \$3,000 (Approximation)

Fuel System Inspection: \$2,500 for both Rye and Hampton Harbor facilities.

-Potential replacement of fuel controls in Hampton - \$12,000

-Potential costs for fuel line repairs/replacement - \$15,000

Hoist control handles: \$1,125.00

Actual costs: \$34,725.00+/-

Potential costs: \$147,000.00+

Note: The actual end costs may vary significantly in either direction. These estimations are being made on a very compressed time line at the request of NH HSEM. PDA-DPH reserves the right to amend these estimations at any time after submission if new cost information or errors in calculation come to light.

Potential Infrastructure Improvements

With the foregoing in mind, DPH has identified a number of projects that, subject to funding, would work to improve infrastructure within the facility as it relates to existing environmental concerns, potential climate change concerns, and general improvements to operations and service to our customers.

Rip Rap Seawall: The seawall works to protect the State office, fuel pumps, septic system and businesses operating within the facility. Severe storms over the last decade where seawater flowed over the top of the seawall into the facility has degraded the wall by pulling the smaller supporting rip rap and finer elements of the wall into the sea as the water has receded. The loss of the smaller elements within the structure has caused it to drop several feet thereby lessening its effectiveness and increasing the risk of damage to and failure of infrastructure within the facility.

Should PDA-DPH receive funding to repair / reconstruct the seawall, the proposal would be to raise it at least to the vertical and seaward dimensions that existed prior to the last presidentially declared disaster that greatly impacted the seawall in 2018.

Vessel Launch Ramp: Though the division has made efforts to extend the life of the structure over the years, time and the harsh conditions existing in the harbor, has brought it to near end of serviceability.

PDA-DPH would propose to deconstruct the existing 35'x120' launch ramp, replacing it with an 80'x150' structure that would allow for side by side launching with a central float system dividing the two launching areas. The larger ramp would better facilitate the launch and recovery of large fishing vessels and sailboats. The addition of the float system dividing the ramp creates a safer and more convenient experience for recreational boaters who trailer their vessels to the facility.

Recreational Pier and Float System Replacement: The existing Recreational Pier that handles all of the foot traffic of passengers and recreational boaters making their way to the floating docks is sound, but is showing signs of deterioration. It is a timber structure that is 15' x 75'. PDA-DPH would propose replacing this structure with a 20' x 80' structure constructed of steel jacket piles and a concrete deck for durability.

The floats attached to this pier used for loading and offloading passengers and equipment are over 20-years old and are showing the wear and tear that is to be expected in the harsh marine environment. PDA-DPH would propose replacing them with newly constructed two 12' x 15' and 10' x 30' concrete floats.

Commercial Float and Pile system Replacement: The floats that service the commercial pier have been in use for in excess of 20-years, and while still serviceable, are nearing the end of their useful life. The piles that keep the floats in place have been used much longer than the floats and are also showing the effects of decades of use. The floats support the gangways used by commercial fishermen and some charter and recreational users to get to the commercial pier for cargo operations, refueling, and loading of supplies.

PDA-DPH proposes to replace the current dock structure with eight steel jacket piles and seven newly constructed and substantially stronger wooden floats. This change will increase the longevity of the system and lower the amount of required maintenance.

Elevated Retail and Storage Deck system: PDA proposes the design and construction of elevated retail and storage space to support commercial pier use holders with shacks and retail concessionaires. This controlled space will support charter vessel ticket sales, bait and tackle sales and storage, and food concessionaire space, as permitted.

Subject to PDA Board approval, engineering and permitting, PDA would propose the construction of a 16' x 120' deck that is elevated a minimum of 3' to avoid flooding that occurs within the facility, building small shack like structures of varying sizes on the deck with utilities. The shacks will be owned and maintained by PDA-DPH and vendors will operate through Right of Entry, Pier Use License Agreement, and/or Concessionaire Agreement.

Potential Funding Streams –

- **ARPA:** On November 14, 2022, DPH made application through the Governor's Office for Emergency Relief and Recovery (GOFERR) for funding to make infrastructure improvements in Rye Harbor. Should PDA-DPH receive funding, DPH would seek to create a raised deck-like structure that the shacks contemplated in the project would be placed upon to keep them above the level of flood waters.
- **FEMA Disaster Mitigation Funding:** There are presently nine (9) open presidentially declared disasters in the State of New Hampshire. The latest storm which occurred over Christmas is currently in the Damage Assessment phase with over \$10m of damage being reported throughout the state. Just over \$1.2m of that damage has been reported in Rockingham County and it is very likely that an application for FEMA public assistance will be made sometime within the next 30-days.

Whether a disaster is declared for this most recent storm or not, PDA-DPH qualifies to apply for disaster mitigation funding through the two most recent disasters declared in July of 2021. Presently, that funding split is set at 75% Federal to 25% State.

Note: There was a period of time in the two disasters declared in July of 2021 where the funding split was set at 90% Federal and 10% State. It would be wise to wait and see what transpires with this latest storm to see if that favorable rate is applied before considering this approach.

- **FEMA Building Resilient Infrastructure and Communities (BRIC) grant:** The Building Resilient Infrastructure and Communities (BRIC) grant program supports state, local, tribal and territorial entities undertaking hazard mitigation projects. It does not require a declared disaster in the jurisdiction making the application, just that there is problem related to past disasters or natural hazards that requires prevention or mitigation.

The benefit of the BRIC program is that it fully considers creative solutions to recurring events identified in a qualified applicants plan. FEMA still requires a detailed Benefit / Cost Analysis but, unlike FEMA Public Assistance programs, it appears to consider the totality of an applicant's situation to include long range aspirational goals.

Executive Summary

PDA-DPH recommends the following short term and long term aspirational actions at the Rye Harbor facility.

Short-Term Recommendations:

- **Credit Card payments for parking:** Presently, DPH only accepts cash at the parking kiosk which has been inconvenient for customers using the facility and creates cash management issues, such as daily bank deposit runs. User friendly equipment exists where, after a limited amount of training, division personnel will be able to accept credit cards for parking and launching.

The implementation of this capability will allow for the automated collection of parking transactions which will lead to more efficient record keeping. It will also allow DPH to capture potential lost parking revenue from potential customers who might choose not to park at the facility because they have no cash on hand.

PDA-DPH currently accepts credit card payments for fuel at all of its facilities, so this is something DPH already has experience with.

DPH has conducted a preliminary investigation into the possibility of implementing the program immediately should this be considered a viable option, with full consideration of Payment Card Industry Data Security Standard requirements in mind.

- **Parking lot and Parking Enforcement considerations:** In the late summer of 2022, DPH restructured the parking situation in the lot. The area that had been considered employee and crew parking, which was closest to the access road, the kiosk, and the state office, was changed to “Short-Term” parking. A portion of the Short Term parking area was reserved for those with walking disabilities who possessed a Handicapped Placard. The remainder of the Short Term area was reserved for those visiting the shacks or the DPH office.

The next area heading north in the facility and just beyond the launch ramp was considered “Long Term” parking. This area was reserved for customers taking advantage of the Whale Watch, charters, and other businesses in the area where they would be in the facility for greater than one-half hour.

The next area north and just before the area reserved for trailers being turned within the facility was the “Employee and Crew” parking area. This area was used by PDA-DPH employees and the employees of the businesses at the Rye Harbor Marine Facility during the business day.

The final area to the north was considered the “Star Island and Overflow” parking area. Generally, those travelling to Star Island as a guest or an employee required parking for several days and as such, this was considered the best solution for their parking needs. PDA-DPH recommends that we continue this parking scheme for the 2023 season.

Historically, enforcement of the parking rules relied completely on the cooperation of the facility’s tenants. On numerous occasions tenants would dismiss the rules established by DPH and the official signs placed on the access road and in other areas within the

facility. When tenants saw what they perceived as preferential treatment being afforded to another tenant, or blatant disregard for the rules and official signage, they felt empowered to engage in similar activity. This has created a great deal of conflict between the tenants, the staff, and PDA-DPH. Uniform treatment and enforcement of parking requirements must become the norm at Rye Harbor.

The Chief Harbor Master (CHM) and the Deputy Chief Harbor Master (DCHM) are certified police officers in the State of New Hampshire. Their positions require that they “...hold a valid and current certification as a full-time police officer in accordance with RSA 106-L:6 and any rules adopted thereunder” (RSA 12-G:42, III). Further, the CHM and DCHM are further empowered “enforce, investigate, and prosecute [any] “[o]ffense under New Hampshire law occurring on division property [or] on vessels secured to or immediately adjacent to division property.” (RSA 12-G:51).

Historically, the CHM and the DCHM have limited their enforcement actions to the laws contained within RSA 12-G and the administrative rules directly associated with the divisions operations. That said, the CHM and DCHM could take on an expanded enforcement role as it relates to the enforcement of the motor vehicle laws contained within the New Hampshire Statutes, specifically those found within RSA 265:68, Stopping, Standing or Parking. Consultation with the New Hampshire Attorney General’s Office may be necessary before taking any increased enforcement action.

- **Potential changes to Right of Entry and Concession contract terms:** Presently, as outlined in the “*Rights of Entry and Contracts*” section of this report, there are 17 businesses in Rye Harbor that have ROE’s and one food concession agreement with PDA-DPH. 16 of those businesses combine a water-based business with a land based structure or “shack”. These ROE’s all expire on June 30, 2023.

The \$1,000 per season fee charged for a general ROE within the Rye Harbor Marine Facility has not been increased in many years and an increase should be considered in future years. Additionally, any new ROE’s should include, but not be limited to, provisions relating to the following:

- 1) Holders of a ROE agree to comply with the parking scheme designed and enforced by DPH and understand that failure to do so will result in a loss of driving and parking privileges at the Rye Harbor Marine Facility and / or a summons for the violation of the parking laws outlined in section RSA 265 of the NH Revised Statutes Annotated; and
- 2) Use of the shack facility is strictly limited to the permitted use under the ROE. Any amendment to that use requires permission from the PDA-DPH and the negotiation of additional ROE terms to support the activity.

PDA-DPH recommends that RHS and RHLP along with any other entity that wishes to sell restaurant style, ready to eat food items at Rye Harbor, be required to enter into Food Concession Contracts that include the standard per year rental fee contained in the general ROE (historically \$1,000) and the payment of a percentage of gross profits based on their gross receipts, similar to the agreements identified in the “*Concession Contracts*” section of this report. This would treat these food service businesses in a manner consistent with similar operations on other state property, generate revenue for facility maintenance and improvements, and recognizes that state property should not be used to potentially put these food service businesses at a competitive advantage to similar operations on private property. Additionally, the ROE’s must address clear requirements for waste collection and provide a single area within the facility for the location of picnic tables where purchased food could be consumed.

As it relates to a concession fee, PDA-DPH recommends a 10% of gross revenue rate, which is consistent with the rate charged by DNCR just up the road at another state-owned facility, but somewhat lower than the rates charged at the Pease International Tradeport.

Finally, PDA-DPH recommends that these new ROE's and Concession Contracts run from July 1, 2023 through April 30, 2025. This term would allow an opportunity to see how these new provisions work, allow for adjustments in future ROE's, and result in putting these ROE's on terms that more closely align with seasonal operations (May 1 through April 30).

- **Expand Pier Use Permit requirements to include Vendors conducting business with the commercial fishing fleet.** DPH is in the process of amending and readopting Section Pda 600 in the Pease Development Authority's administrative rules. PDA-DPH proposes to require those companies purchasing catch from fishermen landing their catch at DPH facilities to apply for a Pier Use Permit covering their business activities, including the use of the facility's piers and hoists, and to indemnify PDA-DPH for any related loss.

Long-Term Recommendations:

- **Parking:** PDA-DPH will engage in a continued review of facility parking management to determine the most appropriate and cost effective way of managing the limited parking resource at the facility, with consideration of things such as nature of use, graduated rates, limited temporary free parking, increased use of technology, and parking impact fees.
- **Physical Improvements to the facility's infrastructure:** PDA-DPH has the option of investing in the projects identified in the "*Potential Infrastructure Improvements*" section of this report. Should it be determined that any of these projects should be undertaken, any one of the funding sources could be considered to potentially fund the planning, permitting, and construction. PDA-DPH also has the option of seeking funding directly from the State of New Hampshire as part of a capital improvement effort.
- **Implement recommendations made in the Rye Harbor Parking Study:** PDA-DPH has the option of fully considering the plans contained within the parking study, potentially adopting one of the four conceptual plans, a portion of one or several plans or continuing operations as they are now and adopting the optional parking scheme with enhanced requirements added into the ROE's and enforcement options.
- **Boat Storage:** PDA-DPH will evaluate seasonal boat storage policies/procedures in regards to the facility space occupied and monetary return.