

**DIVISION OF PORTS AND HARBORS**

**NOTICE OF PUBLIC HEARING**

The Pease Development Authority, Division of Ports and Harbors will hold a public hearing for the purpose of accepting public comment on proposed Administrative Rules:

**Pda 500 Moorings and Anchorages**

The meeting will be held on Wednesday, March 16, 2011 at 6:00 p.m. in the Conference Room at:

Pease Development Authority  
Division of Ports and Harbors  
555 Market Street  
Portsmouth, NH 03801

Written comments will be accepted through the close of business (4:00 p.m.) on March 28, 2011 by mail sent to:

Geno Marconi, Division Director  
Division of Ports and Harbors  
555 Market Street  
Portsmouth, NH 03801

Or by email sent to: [g.marconi@peasedev.org](mailto:g.marconi@peasedev.org)  
Or by fax: (603) 436-2780

Proposed rules may be reviewed on the Division website:  
[www.portofnh.org](http://www.portofnh.org) or at the Division office: 555 Market St., Portsmouth, NH 03801.

For further information, please contact the Pease Development Authority, Division of Ports and Harbors at (603) 436-8500

**\*\*\*PLEASE POST IMMEDIATELY\*\*\***

# Pda 500 Moorings & Anchorages Amendments

Initial Proposal 12-16-10 1

Readopt Pda 501.01 – Pda 501.02, effective 8-23-03 (Document #7940), to read as follows:

Pda 501.01 Purpose. The purpose of Pda 500 is to establish provisions for administering a system for permitting moorings to be set and used in state tidal waters.

Pda 501.02 Scope. Pda 500 shall apply to all mooring permits issued. Any person who sets, seeks to set, or uses a mooring in state tidal waters shall comply with Pda 500.

Readopt Pda 502.01 – Pda 502.02, effective 8-23-03 (Document #7940), to read as follows:

Pda 502.01 “Business organization” means any enterprise, whether corporation, partnership, limited liability company, proprietorship, association, business trust, real estate trust or other form of organization, that is organized for gain or profit, carrying on any business activity within the state, except such enterprises as are expressly made exempt from income taxation under the United States Internal Revenue Code as defined in RSA 77-A:1, XX.

Pda 502.02 “Channel” means the portion of a waterway delineated by navigational aids as designated by the federal government or by the division.

Readopt Pda 502.04 – Pda 502.05, effective 8-23-03 (Document #7940), and renumber as Pda 502.03 and Pda 502.04, respectively, to read as follows:

~~[Pda 502.04]~~ **Pda 502.03** “Collective mooring area” means the shorefront property mooring area of a marina or condominium within which the holder of a commercial mooring for hire mooring permit(s) is authorized to set commercial moorings for hire in accordance with a mooring plan approved by the authority pursuant to Pda 506.09(h).

~~[Pda 502.05]~~ **Pda 502.04** “Commercial entity” means a business organization engaged for profit in a fishing or charter boat business or water-dependent business.

Readopt Pda 502.07 , effective 8-23-03 (Document #7940), as amended effective 10-1-04 (Document #8184), and renumber as Pda 502.05, to read as follows:

~~[Pda 502.07]~~ **Pda 502.05** “Commercial mooring for hire” means a mooring permitted by the division pursuant to Pda 500 and owned by a:

(a) Marina duly registered to do business in the state of New Hampshire or a condominium, which in turn rents, leases, or otherwise authorizes use of the mooring, if a marina, to a member of the general public or, if a condominium, to a member of the condominium unit owners’ association, on a daily or seasonal basis; or

(b) Shorefront property owner who in turn rents or leases the mooring to a tenant of the shorefront property who occupies the shorefront property.

Readopt Pda 502.08 – Pda 502.12, effective 8-23-03 (Document #7940), and renumber as Pda 502.06 - Pda 502.10, respectively, to read as follows:

~~[Pda 502.08]~~ **Pda 502.06** “Commercial use mooring” means a mooring permitted by the division pursuant to Pda 500 and owned by a commercial entity for use only by the commercial entity.

~~[Pda 502.09]~~ **Pda 502.07** “Commercial vessel” means:

(a) A commercial fishing vessel or charter boat used primarily for commercial use purposes, which use is verified by a commercial vessel affidavit and issuance to the vessel owner of a commercial vessel registration by the New Hampshire department of safety; or

(b) A vessel used primarily for commercial use purposes to further the purposes of a water-dependent business.

~~[Pda 502.10]~~ **Pda 502.08** “Commercial vessel affidavit” means the notarized documentation submitted to and accepted by the New Hampshire department of safety pursuant to RSA 270-E:2, II(e).

~~[Pda 502.11]~~ **Pda 502.09** “Condominium” means real property and any interests therein, with frontage located on state tidal waters that has lawfully submitted to regulation as a condominium in accordance with RSA 356-B.

~~[Pda 502.12]~~ **Pda 502.10** “General use mooring” means a mooring permitted by the division pursuant to Pda 500 and owned by a member of the general public for use only by the mooring permit holder.

Readopt Pda 502.14, effective 8-23-03 (Document #7940), and renumber as Pda 502.11, to read as follows:

~~[Pda 502.14]~~ **Pda 502.11** “Marina” means a shorefront location including, but not limited to, a boat yard or yacht club, with access to the water and parking, providing anchorage, docks, or moorings and open to the general public.

Readopt Pda 502.15 – Pda 502.16, effective 12-16-06 (Document #8775), and renumber as Pda 502.12 - Pda 502.13, respectively, to read as follows:

~~[Pda 502.15]~~ **Pda 502.12** “Mean high-water mark” means “mean high water” as determined by the United States National Geodetic Survey, and indicated on maps of the United States National Geodetic Survey.

~~[Pda 502.16]~~ **Pda 502.13** “Mean low water line” means the “mean low water line” as determined by the United States National Geodetic Survey, and indicated on National Oceanic Atmospheric Administration (NOAA) Coast Survey Charts, United States – East Coast, Maine – New Hampshire, North American Datum of 1983, published by the United States Department of Commerce in 1984.

Readopt Pda 502.17, effective 8-23-03 as Pda 502.15 (Document #7940) and renumbered as Pda 502.17 by Document #8775, and renumber as Pda 502.14, to read as follows:

~~[Pda 502.17]~~ **Pda 502.14** "Moor" means to attach, make fast, or otherwise secure a vessel to a mooring.

Readopt Pda 502.18, effective 8-23-03 as Pda 502.16 (Document #7940) and renumbered as Pda 502.18 by Document #8775, and renumber as Pda 502.15, to read as follows:

~~[Pda 502.18]~~ **Pda 502.15** "Mooring field" means an area or areas within state tidal waters where the chief harbor master or designee has determined that 3 or more moorings can be set.

Readopt Pda 502.19, effective 8-23-03 as Pda 502.17 (Document #7940) and renumbered as Pda 502.19 by Document #8775, and renumber as Pda 502.16, to read as follows:

~~[Pda 502.19]~~ **Pda 502.16** "Mooring location" means the place in state tidal waters where a mooring is set.

Readopt Pda 502.20, effective 8-23-03 as Pda 502.18 (Document #7940) and renumbered as Pda 502.20 by Document #8775, and renumber as Pda 502.17, to read as follows:

~~[Pda 502.20]~~ **Pda 502.17** "Mooring subfield" means an area of a subdivided mooring field, as provided in Pda 509.01.

Readopt Pda 502.21, effective 12-16-06 (Document #8775), and renumber as Pda 502.18, to read as follows:

~~[Pda 502.21]~~ **Pda 502.18** "Nearshore area" means that portion of a mooring field or mooring subfield, as described in (a) or (b) below, whichever is the greater:

- (a) The portion within 50 feet of the mean high-water mark; or
- (b) The portion from the mean high-water mark to the mean low water line.

Readopt Pda 502.22, effective 8-23-03 as Pda 502.19 (Document #7940) and renumbered as Pda 502.22 by Document #8775, and renumber as Pda 502.19, to read as follows:

~~[Pda 502.22]~~ **Pda 502.19** "Non-revenue mooring" means a mooring permitted by the division pursuant to Pda 500 and owned by a state agency as defined in RSA 21-G:5, III, and for which the division waives the mooring permit fee.

Readopt Pda 502.23, effective 8-23-03 as Pda 502.20 (Document #7940) and renumbered as Pda 502.23 by Document #8775, and renumber as Pda 502.20, to read as follows:

~~[Pda 502.23]~~ **Pda 502.20** "Not-for-profit entity" means any enterprise, whether corporation, partnership, limited liability company, proprietorship, association, business trust, real estate trust or other

form of organization carrying on any activity within the state consistent with the stated purposes of such organization and operating on a nonprofit basis, including, but not limited to, such enterprises as are expressly made exempt from income taxation under the United States Internal Revenue Code as defined in RSA 77-A:1, XX.

Readopt Pda 502.24, effective 8-23-03 as Pda 502.21 (Document #7940) and renumbered as Pda 502.24 by Document #8775, and renumber as Pda 502.21, to read as follows:

~~[Pda 502.24]~~ **Pda 502.21** "Open to the general public" means that any person is allowed the use of facilities with or without the payment of a fee or other consideration, subject to applicable health and safety restrictions.

Readopt Pda 502.25, effective 8-23-03 as Pda 502.22 (Document #7940) and renumbered as Pda 502.25 by Document #8775, and renumber as Pda 502.22, to read as follows:

~~[Pda 502.25]~~ **Pda 502.22** "Pennant" means a line by which a vessel is made fast to a mooring buoy.

Readopt Pda 502.26, effective 8-23-03 as Pda 502.23 (Document #7940) and renumbered as Pda 502.26 by Document #8775, and renumber as Pda 502.23, to read as follows:

~~[Pda 502.26]~~ **Pda 502.23** "Shorefront property":

(a) Means:

- (1) Any property recognized as a legal building lot by a municipality with shore frontage on state tidal waters;
- (2) A lot on state tidal waters that is divided by a road so that the buildable portion of the lot is on the opposite side of the road from the state tidal waters or divided by an exclusive right-of-way which has been acquired as a result of an eminent domain proceeding which resulted in the break or loss of property between the property owner's residence and the portion of the lot with shore frontage; or
- (3) A lot of record with shore frontage on state tidal waters.

(b) The term does not include:

- (1) A deeded right-of-way;
- (2) A right-of-way or right of access granted by lease or any other type of agreement; or
- (3) Lots not contiguous to the shore.

Readopt Pda 502.27, effective 8-23-03 as Pda 502.24 (Document #7940) and renumbered as Pda 502.27 by Document #8775, and renumber as Pda 502.24, to read as follows:

~~[Pda 502.27]~~ **Pda 502.24** "Shorefront property owner" means an individual, trust, business organization, or not-for-profit entity owning shorefront property. This term does not include a marina, condominium, condominium unit owners' association, or any of their individual members, owners, tenants, or related associations.

Readopt with amendments Pda 502.28, effective 8-23-03 (Document #7940), and renumbered as Pda 502.28 by Document #8775, and renumber as Pda 502.25, to read as follows:

~~[Pda 502.28]~~ **Pda 502.25** "Shorefront property mooring" means a mooring ~~[owned by a shorefront property owner and]~~ permitted by the division pursuant to Pda 500 within a shorefront property mooring area **and owned by a shorefront property owner.**

Readopt Pda 502.29, effective 8-23-03 as Pda 502.26 (Document #7940), as amended effective 10-1-04 (Document #8184) and renumbered as Pda 502.29 by Document #8775, and renumber as Pda 502.26, to read as follows:

~~[Pda 502.29]~~ **Pda 502.26** "Shorefront property mooring area" means a water surface area relating to the shorefront property of a shorefront property owner, marina, or condominium, determined by extending the side boundary lines of the property owner's, marina's, or condominium's lot perpendicular to the shoreline into the state tidal waters out to, but not to cross, the channel, or, if there is no channel, to a line midway between the low water mark of the shorefront property and the low water mark of the opposite shore.

Readopt Pda 502.30, effective 8-23-03 as Pda 502.27 (Document #7940) and renumbered as Pda 502.30 by Document #8775, and renumber as Pda 502.27, to read as follows:

~~[Pda 502.30]~~ **Pda 502.27** "Shorefront property mooring location" means the place where a shorefront property mooring is allowed to be set within a shorefront mooring area.

Adopt Pda 502.28 and to read as follows:

Pda 502.28 "Temporary seasonal mooring" means a mooring permitted by the division pursuant to Pda 500 between April 1 and March 31 at the location of a general use mooring, shorefront property mooring, or commercial use mooring, which location the permit holder has made available for temporary seasonal use.

Readopt Pda 502.31, effective 8-23-03 as Pda 502.28 (Document #7940) and renumbered as Pda 502.31 by Document #8775, and renumber as Pda 502.29, to read as follows:

~~[Pda 502.31]~~ **Pda 502.29** "Used primarily for commercial use purposes" means that a commercial vessel is not utilized for noncommercial use for more than 14 days cumulatively during the period from April 1 to March 31.

Readopt Pda 502.32, effective 8-23-03 as Pda 502.29 (Document #7940) and renumbered as Pda 502.32 by Document #8775, and renumber as Pda 502.30, to read as follows:

~~[Pda 502.32]~~ **Pda 502.30** "Wait list mooring field, mooring subfield, or nearshore area" means a mooring field, mooring subfield, or nearshore area for which the division has established a mooring wait list in accordance with Pda 509.

Readopt Pda 502.33, effective 8-23-03 as Pda 502.30 (Document #7940) and renumbered as Pda 502.33 by Document #8775, and renumber as Pda 502.31, to read as follows:

~~[Pda 502.33]~~ **Pda 502.31** "Water-dependent business" means a business organization, such as, but not limited to, a restaurant, boat maintenance yard, wholesale or retail fishing business, or marine construction company, seeking a commercial use mooring for the:

- (a) Use of a commercial vessel used to further the purposes of the water-dependent business; or
- (b) Temporary use of customers, employees, subcontractors, and others who use the mooring in the course of the business operations of the water-dependent business.

Readopt with amendments Pda 503.01, effective 8-23-03 (Document #7940), to read as follows:

Pda 503.01 Mooring Permit Required. No person shall erect, install, maintain, use, have control over, or set a mooring within the state tidal waters unless a complete mooring permit application has been submitted to the division in accordance with Pda 500 and a mooring permit ~~[and mooring decals have]~~ **has** been issued by the division.

Readopt with amendments Pda 503.02, effective 8-23-03 (Document #7940), as amended effective 12-16-06 (Document #8775), to read as follows:

Pda 503.02 Mooring Use; General Terms and Conditions.

- (a) No mooring shall be set in state tidal waters unless permitted in accordance with Pda 500.
- (b) Only one vessel shall be attached to a mooring.
- (c) No vessel shall be attached to a mooring ~~[unless the vessel decal matches the mooring decal]~~ **except the vessel for which the permit was approved**, unless the vessel attached to the mooring is ~~[the]~~ **a** dinghy for the permitted vessel.
- (d) No person other than those listed below shall use a mooring:
  - (1) The holder of a permit for that specific mooring;
  - (2) The authorized temporary user of a commercial use mooring for which a commercial use mooring permit was issued to a water-dependent business;
  - (3) The renter or lessee of that specific mooring from the holder of a commercial mooring for hire mooring permit;
  - (4) The authorized member(s) of a condominium unit owners' association that holds a commercial mooring for hire mooring permit;

(5) The owner or operator of a vessel who has been directed orally, in writing, or by hand signal, by the chief harbor master, the deputy chief harbor master, a harbor master, or an assistant harbor master to secure such vessel to a mooring for which the vessel owner does not hold a permit; or

(6) Any person whose vessel is in an emergency situation when failure to secure such vessel to such mooring would otherwise present an imminent and substantial hazard to navigation or to the safety of any passenger on such vessel.

(e) The holder of a commercial use mooring permit shall not rent or lease the mooring. The holder of a commercial use mooring permit that is a water-dependent business as defined in Pda ~~[502.33]~~502.31(b) may allow temporary use of the mooring for business purposes by customers, vendors, or service providers.

(f) Only an individual shall be the holder of a general use mooring permit.

(g) The individual whose name appears on a general use mooring permit shall be an owner of the vessel identified in the permit.

(h) The individual, trust, business organization, or not-for-profit entity whose name appears on a shorefront property owner mooring permit shall be an owner of the vessel identified in the permit.

(i) All moorings shall meet the equipment requirements of Pda 510.

(j) Moorings shall be located so as not to impede navigation or endanger other vessels.

(k) All moorings shall be subject to relocation in accordance with Pda 504.02.

(l) A water-dependent business as defined in Pda ~~[502.33]~~502.31(b) shall maintain, on the premises, records of all persons making temporary use of a mooring for which the water-dependent business holds a commercial use permit. These records shall be open to inspection by the division director or designee at any time during regular business hours.

(m) A marina or condominium unit owners' association shall maintain on the premises, records of all persons making use of a *commercial* mooring for hire ~~[with a portable decal]~~ for which the marina or condominium unit owners' association holds a *commercial* mooring for hire permit. These records shall be open to inspection by the division director or designee at any time during regular business hours.

(n) A shorefront property owner who holds a permit for a commercial mooring for hire shall maintain records of all lessees occupying the shorefront property who rent or lease the mooring for hire. These records shall be produced for inspection at the division office upon written request sent to the shorefront property owner by the division director, within 10 *business* days of receipt of the request.

(o) A shorefront property owner may hold only one permit for a mooring within the shorefront property owner's shorefront property mooring area dependent upon the person's status as shorefront property owner, and that permit may be a commercial mooring for hire or a shorefront property mooring.

(p) Only one mooring permit under Pda 500 shall be issued for any one vessel, provided that 2 mooring permits may be issued for one vessel if one of the mooring permits is for a mooring location at the Isles of Shoals.

(q) The granting of a mooring permit under Pda 500 shall not constitute authority to secure any mooring or related equipment to any property above the mean high water mark.

Readopt with amendments Pda 504.01, effective 8-23-03 (Document #7940), as amended effective 12-16-06 (Document #8775), to read as follows:

Pda 504.01 Determination of Mooring Locations. The chief harbor master or designee shall determine the location of a mooring for which a mooring permit has been issued [~~and supervise the setting of the mooring~~] in accordance with the following criteria and procedures:

(a) The chief harbor master or designee shall meet the permit holder or the permit holder's representative at an agreed-upon time when the permit holder or the permit holder's representative and the chief harbor master or designee can both be present when the mooring location is set;

(b) The permit holder shall provide or arrange for the provision of the necessary mooring equipment and the means to set the mooring; and

(c) The chief harbor master or designee shall designate the location where the mooring is to be set so that:

(1) The mooring does not impede navigation or interfere with other vessels;

(2) The mooring placement accommodates the LOA and draft of the vessel; and

(3) The placement allows, to the extent practicable, the maximum use of the mooring field, mooring subfield, or nearshore area without the relocation of existing moorings.

Readopt Pda 504.02, effective 8-23-03 (Document #7940), as amended effective 12-16-06 (Document #8775), to read as follows:

Pda 504.02 Relocation of Moorings.

(a) The chief harbor master or designee shall require the owner of a mooring to relocate a mooring under the following circumstances:

(1) The mooring is required to be relocated under Pda 510.04; or

(2) The chief harbor master or designee determines that the relocation of a mooring is necessary in order to maximize, to the extent practicable, usage of a mooring field, mooring subfield, or nearshore area to allow additional vessel(s) to be moored in the mooring field, mooring subfield, or nearshore area.

(b) The owner of the mooring shall be responsible for the cost of relocating the mooring, except when a relocation is required in order to accommodate another vessel under (a)(2) above. In such a case, the owner(s) of the vessel(s) being accommodated shall be responsible for the cost of relocating the mooring(s). If the owner(s) of the vessel(s) seeking accommodation declines to be responsible for the cost of relocating the mooring(s), the existing mooring(s) shall not be relocated.

Readopt with amendments Pda 505.01, effective 8-23-03 (Document #7940), to read as follows:

Pda 505.01 Types of Mooring Permits. The following types of mooring permits shall be issued under the permit system established in Pda 500:

- (a) General use mooring;
- (b) Shorefront property owner mooring;
- (c) Commercial use mooring;
- (d) Commercial mooring for hire mooring; ~~and~~
- (e) Non-revenue mooring~~[-]~~; *and*
- (f) *Temporary seasonal mooring for a:*
  - (1) *General use mooring; or*
  - (2) *Commercial use mooring.*

Readopt Pda 505.02, effective 8-23-03 (Document #7940), to read as follows:

Pda 505.02 Granting of Mooring Permits; Duration and Transferability of Permits.

- (a) The division director or designee shall grant mooring permits pursuant to Pda 507, except as specified for commercial mooring for hire mooring permits in Pda 506.09(h).
- (b) A mooring permit shall be valid for a one-year period from April 1 to March 31 of the following year. All mooring permits issued during the time period from April 1 to March 31 shall expire on March 31.
- (c) A mooring permit shall not be transferred to any other person, except as provided in Pda 508.

Readopt with amendments Pda 505.03, effective 8-23-03 (Document #7940), as amended effective 12-16-06 (Document #8775), to read as follows:

Pda 505.03 Determination of Suitability of a Replacement or Modified Existing Vessel for a Permitted Mooring; Modification of Existing Mooring Permit.

(a) A mooring permit holder may seek a preliminary determination from the division of the suitability of a permitted mooring for a replacement vessel to be acquired by the permit holder or for an existing vessel that the permit holder seeks to modify and that is identified in a valid mooring permit in accordance with the following procedures:

- (1) The mooring permit holder may seek such preliminary determination by providing in writing to the division the information specified in (b)(1)b. or (b)(2) below, as applicable;

(2) Upon receiving such a request for preliminary determination, the division shall determine if the replacement vessel or the existing vessel after modification would meet the requirements of (c)(1) and (2) below, as applicable;

(3) If the division determines that the vessel to be acquired or modified would meet the requirements of (c)(1) and (2) below, the division shall send notice of its preliminary determination in writing to the mooring permit holder;

(4) The division shall not make any changes to the vessel information on the permit holder's mooring permit until the mooring permit holder has provided the division with the documentation required under (b)(1) below for a replacement vessel or under (b)(2) below for an existing vessel that will be modified; and

(5) The division shall withdraw its preliminary determination that a mooring would be suitable for a replacement or modified vessel, if the information submitted for the preliminary determination is incorrect or incomplete.

(b) If a mooring permit holder acquires a replacement vessel or modifies an existing vessel identified in a permit as described in (e) below, the mooring permit holder shall, before attaching such replacement or modified vessel to the permitted mooring:

(1) If the vessel is replacement vessel:

a. Notify the division in writing of the change in vessel;

b. Provide for the replacement vessel applicable information required under:

1. Pda 511.01(b)(8);

2. Pda 511.02(b)(9);

3. Pda 511.03(b)(10); or

4. Pda 511.05(b)(8);

c. Send to the division a copy of the replacement vessel registration, if the vessel is required to be registered under New Hampshire law; and

d. Send to the division a photograph of the replacement vessel, if the vessel is not required to be registered under New Hampshire law;

(2) If the existing vessel identified in the permit has been modified as described in (e) below, notify the division in writing of each specific modification made to the vessel; *and*

(3) Obtain from the division written confirmation of:

a. Approval of the use of the mooring for the replacement or modified existing vessel, under (c)(3) below; or

b. Satisfaction of the terms of conditional approval for the use of the mooring for the replacement or modified existing vessel, under (c)(4) and (5) below[~~and~~].

~~[(4) Obtain for a replacement vessel a new decal under Pda 510.03.]~~

(c) When the division receives a notification pursuant to (b) above, the division shall:

(1) Determine if the replacement vessel or the modified existing vessel named on the permit can be moored at the permitted location in compliance with the requirements of Pda 504.01(c)(1) and (2);

(2) Determine if the existing mooring equipment would comply with Pda 510.06 for the replacement or modified existing vessel;

(3) Approve the use of the permitted mooring for the replacement or modified existing vessel and modify the permit to refer to replacement or modified existing vessel, if the division determines that the mooring of the vessel and the mooring equipment would comply with the provisions cited in (1) and (2) above;

(4) Conditionally approve the use of the permitted mooring for replacement or modified existing vessel, if the division determines that the replacement or modified existing vessel would comply with provisions cited in (1) and (2) above, subject to one or both of the following:

a. A change in mooring equipment; or

b. A relocation of the permitted mooring, provided:

1. The relocation shall not reduce the total number of mooring locations existing within a mooring field, mooring subfield, or nearshore area at the time just prior to the relocation; and

2. The holder of the mooring permit sending notification to the division under (b) above shall be responsible for the cost of relocating his or her mooring and for the cost of relocating any other mooring(s) in the mooring field, mooring subfield, or nearshore area which are relocated to accommodate the changed LOA or draft of the replacement or modified existing vessel;

(5) After the holder of a mooring permit has received conditional approval under (4) above and the required conditions are met, modify the permit to refer to the replacement or modified existing vessel; and

(6) Deny approval of the use of the permitted mooring for the replacement or modified existing vessel, if the division determines that:

a. The mooring location does not accommodate the LOA and draft of the replacement or modified existing vessel and:

1. It is not possible to relocate the mooring within the mooring field, mooring subfield, or nearshore area in compliance with Pda 504.01(c)(1) and (2); or

2. The conditions for the relocation of a mooring under Pda 504.02(c) have not been met; or

b. Mooring the replacement or modified existing vessel at the permitted mooring location would impede navigation or interfere with other vessel(s) and:

1. It is not possible to relocate the mooring within the mooring field, mooring subfield, or nearshore area in compliance with Pda 504.01(c)(1) and (2); or
2. The conditions for the relocation of a mooring under Pda 504.02(c) have not been met.

(d) If the division approves the modification of an existing permit under (c)(3) or (c)(5) above, the division shall issue a modified permit to the permit holder, provided that the holder of the mooring permit shall pay to the division an amount equal to the difference in the amount, if any, that the permit fee for the modified permit exceeds the permit fee paid for the original permit. The expiration date of the modified permit shall be the same as the originally issued permit. Upon expiration of the modified permit, the permit holder may seek reissuance of the permit in accordance with Pda 506.04.

(e) Modification of an existing vessel shall consist of any change that affects vessel information for an existing vessel as described in:

- (1) Pda 511.01(b)(8);
- (2) Pda 511.02(b)(9);
- (3) Pda 511.03(b)(10); or
- (4) Pda 511.05(b)(8).

Readopt Pda 505.04, effective 8-23-03 (Document #7940), to read as follows:

Pda 505.04 Updating Certain Information in a Mooring Permit. In order to maintain updated information with the division, each permit holder shall notify the division in writing, within 30 *business* days of the change, of any changes to information in the permit relating to:

- (a) An applicant's name, address, telephone number, or contact person as described in:
  - (1) Pda 511.01(b)(1)-(7);
  - (2) Pda 511.02(b)(1)-(8);
  - (3) Pda 511.03(b)(1)-(4), (6), (8)-(9);
  - (4) Pda 511.04(b)(1)-(4), (7)-(9); or
  - (5) Pda 511.05(b)(1)-(5), (7);
- (b) Type of business organization as described in Pda 511.03(b)(7); or
- (c) Organizational structure or nature of the business as described in Pda 511.04(b)(5) or (6).

Readopt Pda 506.01, effective 12-16-06 (Document #8775), to read as follows:

Pda 506.01 Mooring Permit Initial Applications; When Fee Returned. Each person seeking to set a mooring within the state tidal waters shall submit a completed initial mooring application and permit form in accordance with Pda 506.06, Pda 506.07, Pda 506.08, Pda 506.09, or Pda 506.10. If the division determines that there are no mooring locations available in the mooring field, mooring subfield, nearshore area, or at the location requested by the applicant, the division shall return the applicant's initial application and permit form and mooring permit application fee, and the applicant may file a mooring wait list application in accordance with Pda 509 for a mooring field, mooring subfield, or nearshore area. An application for a mooring at a mooring location not previously permitted may be filed at any time.

Readopt with amendments Pda 506.02, effective 8-23-03 (Document #7940), to read as follows:

Pda 506.02 Types of Mooring Permit Applications.

(a) General use mooring permit applications shall be used by general use *and temporary seasonal general use* mooring permit applicants.

(b) Shorefront property owner mooring permit applications shall be used by shorefront property mooring permit applicants.

(c) Commercial use mooring permit applications shall be used by commercial use *and temporary seasonal commercial use* mooring permit applicants.

(d) Commercial mooring for hire mooring permit applications shall be used by commercial mooring for hire mooring permit applicants.

(e) Non-revenue mooring permit applications shall be used by state agencies.

Readopt Pda 506.03, effective 8-23-03 (Document #7940), to read as follows:

Pda 506.03 Processing of Mooring Permit Applications. The division shall record the date and time of receipt of each completed mooring permit application on the application.

Readopt with amendments Pda 506.04, effective 8-23-03 (Document #7940), as amended effective 2-1-10 (Document #9641), to read as follows:

Pda 506.04 Mooring Permit Applications for Existing Moorings.

(a) *Except as provided in (g) below*, no later than January 15 of each year, the division shall mail mooring permit applications to current mooring permit holders. The division shall pre-enter all of the permit holder's information on the permit application relating to the applicant and the vessel, as provided on the applicant's current permit, except the date the applicant is required to specify when signing the application.

(b) Applications shall be mailed to the permit holder at the address specified by the permit holder on the mooring permit then in effect, or, if none is specified, to the permit holder's permanent address.

(c) A mooring permit holder shall only be able to reapply for a mooring permit by submitting an application for the same type of mooring permit currently held, except that, if eligible:

(1) A general use mooring permit holder may submit a permit application for a commercial use mooring permit;

(2) A shorefront property mooring permit holder may submit a permit application for a commercial use or commercial mooring for hire mooring permit as described in Pda 502.07(b); ~~and~~

(3) A shorefront property owner holding a commercial mooring for hire mooring permit as described in Pda 502.07(b) may submit a permit application for a shorefront property mooring permit ~~and~~

***(4) A general use, shorefront property, or commercial use mooring permit holder may notify the division in writing at the time of a mooring permit reapplication that the:***

***a. Mooring permit holder will not be using his or her mooring location between April 1 and March 31 of the following year; and***

***b. Mooring location is available for use as a temporary seasonal mooring pursuant to Pda 506.11.***

(d) Any applicant filing a mooring permit application in accordance with this section shall return a completed application with the required information, documentation, and permit fee to the division's office no later than March 1. Failure to meet the application deadline, whether or not the applicant received an application form with information pre-entered by the division, shall result in a denial in accordance with Pda 507, unless the applicant files a completed application with the required information, documentation, permit fee, and late application fee within 10 business days after March 1. An applicant who fails to comply with the March 1 deadline or the late application deadline shall not submit an application under this section, but may make an application pursuant to Pda 506.01, including possible placement on a wait list under Pda 509, unless the reason for the late application was one of the reasons listed in Pda 514.04(d)(1)c. or Pda 514.05(d)(1)c. If the applicant fails to comply with the March 1 deadline or the late application deadline for one of the reasons listed in Pda 514.04(d)(1)c. or Pda 514.05(d)(1)c. and wishes to appeal the permit denial to the authority under Pda 514.06, the applicant shall first file his or her application for reconsideration with the division director under Pda 514.03.

(f) If an application is in compliance with Pda 506.06, Pda 506.07, Pda 506.08, Pda 506.09, or Pda 506.10, as appropriate, and the division grants a permit under Pda 507, the division shall mail, by first class mail, ~~the decals and~~ a photocopy of the permit to the mooring permit applicant within 10 business days of permit issuance. The mailing shall be sent to the mooring permit applicant at the address specified by the applicant on the mooring permit application, or, if none is specified, to the applicant's permanent address.

***(g) When a current mooring permit holder makes a mooring location available for a temporary seasonal mooring under (c)(4) above, the permit shall remain valid, provided that the permit holder continues to own the vessel named in the permit or complies with Pda 505.03 if the vessel named in the permit is modified or replaced.***

Readopt Pda 506.05, effective 8-23-03 (Document #7940), to read as follows:

Pda 506.05 Mooring Permit Application: Alteration of Information Relating to Vessel Prohibited: Correction of Certain Incorrect Pre-entered Information.

(a) When a current mooring permit holder makes an application for a mooring permit pursuant to Pda 506.04, the applicant shall not alter information pre-entered on the application by the division relating to the vessel. If any pre-entered information relating to the vessel identified in the permit in such an application requires revisions, or if the applicant has a newly-acquired vessel, the applicant shall comply with the requirements of Pda 505.03.

(b) If any pre-entered information as specified in (c) below is incorrect, the applicant shall make the necessary correction(s) on the application form. The applicant shall return the signed and complete application, the permit fee, and the vessel registration, on or before the deadline specified in Pda 506.04. All applications pursuant to Pda 506.04 shall be returned to the division on or before the deadline specified in Pda 506.04.

(c) The applicant shall correct, on the application form, any incorrect information relating to the following:

- (1) Any typographical or apparent clerical error, provided that no change to vessel information shall be considered correction of a typographical or clerical error;
- (2) An applicant's name, address, telephone number, or contact person as described in:
  - a. Pda 511.01(b)(1)-(7);
  - b. Pda 511.02(b)(1)-(8);
  - c. Pda 511.03(b)(1)-(4), (6), (8)-(9);
  - d. Pda 511.04(b)(1)-(4), (7)-(9); or
  - e. Pda 511.05(b)(1)-(5), (7);
- (3) Type of business organization as described in Pda 511.03(b)(7); or
- (4) Organizational structure or nature of the business as described in Pda 511.04(b)(5) or (6).

Readopt with amendments Pda 506.06 – Pda 506.08, effective 8-23-03 (Document #7940), as amended effective 12-16-06 (Document #8775), to read as follows:

Pda 506.06 General Use Mooring Permit: Application Requirements: Processing.

(a) An applicant for a general use mooring permit *or temporary seasonal general use mooring permit as provided in Pda 506.11(e)(1)* shall obtain a general use mooring application form:

- (1) In person, from the division office located at 555 Market Street, Portsmouth, New Hampshire; or
- (2) By sending a request in writing, including a self-addressed, stamped envelope to the division office at the following address:

Pease Development Authority  
Division of Ports and Harbors  
~~[P.O. Box 369]~~555 Market Street  
Portsmouth, NH ~~[03802-0369]~~03801

(b) The applicant shall provide the information and certifications required on the general use mooring permit form, as provided in Pda 511.01(b) and (d).

(c) The applicant shall attach to the application:

~~[(1) A copy of the current New Hampshire state tidal registration for the vessel listed on the mooring permit application, unless the vessel is not required to be registered under New Hampshire law;]~~

~~[(2)](1)~~ If the vessel is not required to be registered under New Hampshire law, a photograph of the vessel; and

~~[(3)](2)~~ Payment of the mooring permit fee, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or* "PDA-DPH."

(d) The applicant shall:

(1) Sign and certify the mooring application form; and

(2) Return the application form with the attachments specified in (c) above.

(e) Upon receipt of ~~[the]~~*an* application *for a general use mooring permit* by the division, the chief harbor master or designee shall verify that:

(1) The applicant has provided all applicable information requested on the application;

(2) Information pre-entered on the application by the division has not been altered in violation of Pda 506.05, if the application is an application submitted by a current mooring permit holder;

(3) A photocopy of the current New Hampshire state registration is attached to the application unless the vessel is not required to be registered under New Hampshire law;

(4) A photograph of the vessel is attached to the application, if the vessel is not required to be registered under New Hampshire law;

(5) The vessel information on the New Hampshire state registration is the same vessel information provided on the application, if the vessel is required to be registered under New Hampshire law;

(6) That there is a mooring location within the mooring field, mooring subfield, or nearshore area or at the location for which application is made, sufficient to accommodate the applicant's vessel;

(7) The mooring permit fee is paid, and, if paid by check or money order, is made payable to "Pease Development Authority, Division of Ports and Harbors" or "PDA-DPH" and is attached to the application;

(8) There is no reason to deny the application under Pda 507.02; and

(9) The applicant has signed and certified the application.

(f) Within 30 *business* days of receipt of ~~[the]~~*an* application *for a general use mooring permit* by the division, the chief harbor master or designee shall grant or deny the application consistent with the provisions of Pda 507.02.

(g) If the applicant is granted a *general use* mooring permit under Pda 507, and meets the requirements of (e) above, the chief harbor master or designee shall:

~~[(1)] Issue duplicate original validation decals for attachment to the mooring buoy and the vessel pursuant to Pda 510.03;~~

~~[(2)]~~(1) Record the ~~[decals]~~*permit* number on the permit;

~~[(3)]~~(2) Assign the mooring location;

~~[(4)]~~(3) Sign and date the permit; and

~~[(5)]~~(4) Mail ~~[the decals and]~~ a photocopy of the permit to the applicant at the address specified by the applicant on the mooring permit application, or, if none is specified, to the applicant's permanent address.

Pda 506.07 Shorefront Property Mooring Permits.

(a) An applicant for a shorefront property mooring permit shall obtain a shorefront property mooring application form:

(1) In person, from the division office located at 555 Market Street, Portsmouth, New Hampshire; or

(2) By sending a request in writing, including a self-addressed, stamped envelope to the division office at the following address:

Pease Development Authority  
Division of Ports and Harbors  
~~[P.O. Box 369]~~555 Market Street  
Portsmouth, NH ~~[03802-0369]~~03801

(b) The applicant shall provide the information and certifications required on the shorefront property mooring permit form, as provided in Pda 511.02(b) and (e), and, if a reapplicant, as provided in Pda 511.02(f).

(c) For an initial application for a shorefront property mooring, the applicant shall attach to the application:

- (1) A copy of the current New Hampshire state tidal registration for the vessel listed on the mooring permit application, unless the vessel is not required to be registered under New Hampshire law;
- (2) If the vessel is not required to be registered under New Hampshire law, a photograph of the vessel;
- (3) A copy of the deed for the shorefront property, from the appropriate county registry of deeds, containing the book and page number for the recorded deed;
- (4) A copy of the most recent property tax bill for the shorefront property;
- (5) A copy of the portion of the tax map of the municipality in which the shorefront property is located, including the property tax map number and lot number;
- (6) Documentation relating to the organizational structure of the applicant, if the applicant is not an individual, as required under Pda 511.02(c)(6), (7), and (8), as applicable; and
- (7) Payment of the mooring permit fee, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or* **"PDA-DPH."**

(d) An applicant who is reapplying for an existing shorefront property mooring under Pda 506.04 shall attach to the application:

- (1) A copy of the current New Hampshire state registration for the vessel listed on the mooring permit application, unless the vessel is not required to be registered under New Hampshire law;
- (2) If the vessel is not required to be registered under New Hampshire law, a photograph of the vessel;
- (3) A copy of the most recent property tax bill for the shorefront property;
- (4) Documentation relating to the organizational structure of the applicant, if the applicant is not an individual, as required under Pda 511.02(c)(6), (7), and (8), as applicable; and
- (5) Payment of the mooring permit fee, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or* **"PDA-DPH."**

(e) If the applicant is a trust, business organization, or not-for-profit entity, the mooring permit application shall be signed and certified by a duly authorized trustee, officer, partner, manager, proprietor or member of such trust, business organization, or not-for-profit entity, as applicable.

(f) If the applicant is an individual, the applicant shall sign and certify the mooring permit application form.

(g) Upon receipt of [~~the~~]an application [~~form~~]for a *shorefront property mooring permit* by the division, the chief harbor master or designee shall verify that:

- (1) The applicant has provided all applicable information and documentation requested on the application under Pda 511.02;
  - (2) Information pre-entered on the application by the division has not been altered in violation of Pda 506.05, if the application is an application submitted by a current mooring permit holder;
  - (3) The following are attached to the application:
    - a. A photocopy of the current New Hampshire state registration for the vessel listed on the mooring permit application, unless the vessel is not required to be registered under New Hampshire law;
    - b. A photograph of the vessel, if the vessel is not required to be registered under New Hampshire law;
    - c. A photocopy of the deed for the shorefront property, if applicable, from the appropriate county registry of deeds, containing the book and page number for the recorded deed;
    - d. A photocopy of the most recent property tax bill for the shorefront property;
    - e. A copy of the portion of the tax map of the municipality in which the shorefront property is located, including the property tax map number and lot number, if applicable; and
    - f. If the applicant is a trust, business organization, or not-for-profit entity, the documentation required under Pda 511.02(c)(6), (7), and (8), as applicable;
  - (4) The vessel information on the New Hampshire state registration is the same vessel information provided on the application, if the vessel is required to be registered under New Hampshire law;
  - (5) That there is a mooring location within the shorefront property mooring area sufficient to accommodate the applicant's vessel;
  - (6) The mooring permit fee is paid, and, if paid by check or money order, is made payable to "Pease Development Authority, Division of Ports and Harbors" *or* "PDA-DPH" and is attached to the application;
  - (7) There is no reason to deny the application under Pda 507.02; and
  - (8) The applicant has signed and certified the application.
- (h) Within 30 *business* days of receipt of the application by the division, the chief harbor master or designee shall grant or deny the application consistent with the provisions of Pda 507.02.
- (i) If the applicant is granted a mooring permit under Pda 507, and meets the requirements of (g) above, the chief harbor master or designee shall:

~~[(1) Issue duplicate original validation decals for attachment to the mooring buoy and the vessel pursuant to Pda 510.03;]~~

~~[(2)]~~(1) Record the ~~[decals]~~ permit number on the permit;

~~[(3)]~~(2) Assign the mooring location;

~~[(4)]~~(3) Sign and date the permit; and

~~[(5)]~~(4) Mail ~~[the decals and]~~ a photocopy of the permit to the applicant at the address specified by the applicant on the mooring permit application, or, if none is specified, to the applicant's permanent address.

(j) Marinas, condominiums, condominium unit owners' associations, or any of their individual members, owners, tenants, or related associations shall not be eligible to apply under Pda 500 for a shorefront property mooring.

(k) Only one shorefront property mooring permit shall be granted for each parcel of shorefront property.

Pda 506.08 Commercial Use Mooring Permit; Application Requirements; Processing.

(a) An applicant for a commercial use mooring permit *or temporary season commercial use mooring permit as provided in Pda 506.11(e)(2)* shall:

(1) Obtain a commercial use mooring permit application form:

a. In person, from the division office located at 555 Market Street, Portsmouth, New Hampshire; or

b. By sending a request in writing, including a self-addressed, stamped envelope to the division office at the following address:

Pease Development Authority  
Division of Ports and Harbors  
~~[P.O. Box 369]~~ **555 Market Street**  
Portsmouth, NH ~~[03802-0369]~~ **03801**

(2) Provide the information and certifications required on the commercial use mooring application form, as provided in Pda 511.03(b) and (d); and

(3) Attach to the application the following:

~~[a. A photocopy of applicant's New Hampshire state tidal registration for a commercial vessel, unless the applicant is a water dependent business as described in Pda 502.33(b); and]~~

~~[b.]~~**a.** Documentation relating to the business organization as required under Pda 511.03(c)(2)-(5), as applicable; and

~~[e.]~~**b.** Payment of the mooring permit fee, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or "PDA-DPH"*.

(b) If the applicant is engaged in commercial fishing, the applicant shall attach to the application:

(1) A photocopy of the New Hampshire fish and game saltwater fishing license or New Hampshire fish and game commercial lobster license of the applicant or, if the applicant is a business entity, of at least one officer or one member of the business entity; and

(2) Documentary evidence of the commercial sales of marine species for the prior calendar year, unless the business is starting up in the year of application.

(c) If the applicant operates a charter boat, the applicant shall attach to the application:

(1) A photocopy of the US Coast Guard Captain's license of the applicant, or, if the applicant is a business entity, of at least one officer or one member of the business entity, for the type and size of vessel of the applicant;

(2) A minimum of 2 items of business identification from the following list:

a. A business brochure;

b. A photocopy of the passenger manifest or log book for the most recent month of business operations within the last 12 months prior to the application;

c. A photocopy of receipt(s) for business advertisement(s) commissioned within the most recent 12 months prior to this application; and

d. Evidence of membership in a business or marine-related trade association, including, but not limited to:

1. A current membership card; or

2. A letter from an officer of the association attesting to the current membership of the applicant in the association.

(d) If the applicant is a water-dependent business, the applicant shall attach to the application:

(1) A minimum of 2 items of business identification from the following list:

a. A business brochure;

b. A photocopy of receipt(s) for business advertisement(s) commissioned within the most recent 12 months prior to this application; and

c. Evidence of membership in a business or marine-related trade association, including, but not limited to:

1. A current membership card; or

2. A letter from an officer of the association attesting to the current membership of the applicant in the association;

(2) If a water-dependent business as defined in Pda ~~[502.33]~~**502.31(a)**, an explanation of how the commercial vessel is used to further the purposes of the business; and

(3) If a water-dependent business as defined in Pda ~~[502.33]~~**502.31(b)**, an explanation of how the commercial use mooring is used to further the purposes of the business.

(e) If the applicant business organization is a business entity other than a sole proprietorship or partnership, the application shall be:

(1) Signed and certified by a duly authorized officer or member of such business entity; and

(2) Returned with the attachments specified in (a)(3), (b), (c), and (d), above.

(f) If the applicant business organization is a sole proprietorship or partnership, the applicant shall:

(1) Sign and certify the mooring application form; and

(2) Return the application form with the attachments specified in (a)(3), (b), (c), and (d) above.

(g) Upon receipt of ~~[the]~~**an** application ~~[form]~~**for a commercial use mooring permit** by the division, the chief harbor master or designee shall verify that:

(1) The applicant has provided all applicable information and documentation required under Pda 511.03;

(2) Information pre-entered on the application by the division has not been altered in violation of Pda 506.05, if the application is an application submitted by a current mooring permit holder;

(3) A copy of the current New Hampshire commercial vessel state registration is attached to the application;

(4) The vessel information on the New Hampshire state registration is the same vessel information provided on the application;

(5) There is a mooring location within the mooring field, mooring subfield, or nearshore area or at the location for which application is made, sufficient to accommodate the applicant's vessel;

(6) The mooring permit fee is paid, provided that fees paid by check or money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" **or "PDA-DPH"** and is attached to the application;

(7) The applicant has provided proof of bona fide commercial activity under (b), (c), or (d) above;

(8) There is no reason to deny the application under Pda 507.02; and

(9) The applicant has signed and certified the application.

(h) Within 30 **business** days of receipt of ~~[the]~~**an** application **for a commercial use mooring permit** by the division, the chief harbor master or designee shall grant or deny the application consistent with the provisions of Pda 507.02.

(i) If the applicant is granted a *commercial use* mooring permit under Pda 507, and meets the requirements of (g) above, the chief harbor master or designee shall:

~~[(1) Issue duplicate original validation decals for attachment to the mooring buoy and the vessel pursuant to Pda 510.03;]~~

~~[(2)](1)~~ Record the ~~[decals]~~*permit* number on the permit;

~~[(3)](2)~~ Assign the mooring location;

~~[(4)](3)~~ Sign and date the permit; and

~~[(5)](4)~~ Mail ~~[the decals and]~~ a photocopy of the permit to the applicant at the address specified by the applicant on the mooring permit application, or, if none is specified, to the applicant's permanent address.

Readopt with amendments Pda 506.09, effective 8-23-03 (Document #7940), as amended effective 10-1-04 (Document #8184) and 12-16-06 (Document #8775), to read as follows:

Pda 506.09 Commercial Mooring For Hire Mooring Permit: Application Requirements: Processing.

(a) An applicant for a commercial mooring for hire mooring permit shall obtain a commercial mooring for hire mooring permit application form:

(1) In person, from the division office located at 555 Market Street, Portsmouth, New Hampshire; or

(2) By sending a request in writing, including a self-addressed, stamped envelope to the division office at the following address:

Pease Development Authority  
Division of Ports and Harbors  
~~[P.O. Box 369]~~*555 Market Street*  
Portsmouth, NH ~~[03802-0369]~~*03801*

(b) The applicant shall provide the information and certification required on the commercial mooring for hire mooring permit application form, as provided in Pda 511.04(b) and (d) and, if a shorefront property owner reapplicant, as provided in Pda 511.04(e). If the applicant is a marina or condominium unit owners' association, the application may be for a collective mooring area with one or more proposed mooring locations or for an individual mooring not contained in a plan for a collective mooring area. If the applicant is a shorefront property owner, the application shall only be for one individual mooring within the shorefront property owner's shorefront property mooring area.

(c) The applicant shall attach:

(1) Documentation relating to the entity as required under Pda 511.04(c)(1)-(6), as applicable; and

(2) The mooring permit fee, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or* "**PDA-DPH**."

(d) If a marina, the applicant shall attach to the application:

(1) Documentation that demonstrates that the applicant meets the definition of a marina, such as, but not limited to, the following:

a. A business brochure or a photograph of signage relating to the marina;

b. A photocopy of receipt(s) for business advertisement(s) commissioned within the most recent 12 months prior to this application; or

c. Evidence of membership in a business or marine-related trade association, including, but not limited to:

1. A current membership card; or

2. A letter from an officer of the association attesting to the current membership of the applicant in the association; and

(2) An explanation of how the commercial mooring(s) for hire is used to further the purposes of the business.

(e) The applicant, or its duly authorized officer or member, shall:

(1) Sign and certify the mooring application form; and

(2) Return the application form with the attachments specified in (c) and (d) above, as applicable.

(f) Upon receipt of ~~the~~ *an* application ~~form~~ *for a commercial mooring for hire* by the division, the chief harbor master or designee shall verify that:

(1) The applicant has provided all applicable information and documentation required on the application;

(2) Information pre-entered on the application by the division has not been altered in violation of Pda 506.05, if the application is an application submitted by a current mooring permit holder;

(3) If the application is for a single commercial mooring for hire, that there is a mooring location within the mooring field, mooring subfield, or nearshore area or at the location for which application is made, sufficient to accommodate the maximum LOA as specified in the application;

(4) If the application is for a collective mooring area, that there is one or more mooring locations within the mooring field, mooring subfield, or nearshore area for which application is made, sufficient to accommodate the maximum LOA(s) as specified in the application;

(5) The mooring permit fee is paid, provided that fees paid by check or money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or* "**PDA-DPH**" and is attached to the application;

(6) The applicant, if a marina, has provided proof of bona fide commercial activity under (d) above;

(7) There is no reason to deny the application under Pda 507.02; and

(8) The applicant has signed and certified the application.

(g) Upon verification of the information in (f) above, the chief harbor master or designee shall forward the application to the division director.

(h) The division director shall review the application and prepare a report that includes a summary of the application and a recommendation for approval or denial. If the application is for a collective mooring area, the director shall review and make a recommendation for each mooring location proposed on the plan. The director's report shall be forwarded to the authority for approval or denial of the application. The authority shall approve or deny the application in accordance with the criteria in Pda 507.02.

(i) If the applicant is granted a mooring permit under Pda 507, and meets the requirements of (f) above, the chief harbor master or designee shall, for each individual mooring and for each mooring in a collective mooring area:

~~(1) [Issue duplicate original validation decals, one for attachment to the mooring buoy and the other for attachment to the vessel as a portable decal pursuant to Pda 510.03;]~~

~~(2)~~ Record the ~~[decal]~~ permit number on the permit;

~~(3)~~(2) Assign the mooring location;

~~(4)~~(3) Sign and date the permit; and

~~(5)~~(4) Mail ~~[the decals and]~~ a photocopy of the permit to the applicant at the address specified by the applicant on the mooring permit application, or, if none is specified, to the applicant's permanent address.

Readopt with amendments Pda 506.10, effective 8-23-03 (Document #7940), as amended effective 12-16-06 (Document #8775), to read as follows:

Pda 506.10 Non-Revenue Mooring Permits; Waiver of Fees.

(a) An applicant for a non-revenue mooring permit shall obtain a non-revenue mooring application form:

(1) In person, from the division office located at 555 Market Street, Portsmouth, New Hampshire; or

(2) By sending a request in writing, including a self-addressed, stamped envelope to the division office at the following address:

Pease Development Authority  
Division of Ports and Harbors

~~[P.O. Box 369]~~555 Market Street  
Portsmouth, NH ~~[03802-0369]~~03801

(b) The applicant shall provide the information and certification required on the non-revenue mooring permit form for each mooring field, mooring subfield, nearshore area, or mooring location, as provided in Pda 511.05(b) and (d).

(c) The applicant shall attach to the application:

- (1) A copy of the current New Hampshire state tidal registration(s) for the vessel(s) listed on the mooring permit application; and
- (2) The request for a non-revenue mooring as described in (h) below.

(d) The applicant shall:

- (1) Sign and certify the mooring application form; and
- (2) Return the application form with the attachments specified in (c) above.

(e) Upon receipt of ~~the~~an application *for a non-revenue mooring permit* by the division, the chief harbor master or designee shall verify that:

- (1) The applicant has provided all applicable information requested on the application;
- (2) Information pre-entered on the application by the division has not been altered in violation of Pda 506.05, if the application is an application submitted by a current mooring permit holder;
- (3) A photocopy of the current New Hampshire state registration(s) is attached to the application;
- (4) The vessel information on the New Hampshire state registration is the same vessel information provided on the application;
- (5) That there is a mooring location(s) within the mooring field, mooring subfield, or nearshore area or at the location(s) for which application is made, sufficient to accommodate the applicant's vessel(s);
- (6) There is no reason to deny the application under Pda 507.02; and
- (7) The applicant has signed and certified the application.

(f) Within 30 *business* days of receipt of the application by the division, the chief harbor master or designee shall grant or deny the application consistent with the provisions of Pda 507.02.

(g) If the applicant is granted a mooring permit under Pda 507, and meets the requirements of (e) above and (h) and (i) below, the chief harbor master or designee shall:

~~[(1) Issue duplicate original validation decals for attachment to the mooring buoy(s) and the vessel(s) pursuant to Pda 510.03;]~~

~~[(2)]~~(1) Record the ~~[decals]~~*permit* number(s) on the permit(s);

~~[(3)]~~(2) Assign the mooring location(s);

~~[(4)]~~(3) Sign and date the permit; and

~~[(5)]~~(4) Mail ~~[the decals and]~~ a photocopy of the permit to the applicant at the address specified by the applicant on the mooring permit application, or, if none is specified, to the applicant's permanent address.

(h) In addition to the application, the applicant shall submit a written request to the division. There shall be a separate written request for each mooring field, mooring subfield, nearshore area, or location for which a mooring(s) is requested.

(i) The request submitted pursuant to (h) above shall, at a minimum, include:

- (1) The location(s) of the non-revenue mooring or the mooring field, mooring subfield, or nearshore area in which the non-revenue mooring(s) is to be located;
- (2) The reason(s) a non-revenue mooring(s) is needed;
- (3) The number of non-revenue mooring(s) requested;
- (4) The length of time the mooring(s) is needed; and
- (5) The LOA and draft of the vessel(s) to be moored.

(j) The request for a non-revenue mooring shall be directly related to the state agency's statutory duties or responsibilities.

(k) A non-revenue mooring permit shall be issued for a period of no more than one year. Waiver(s) of mooring fees shall be considered annually for applicants under this section only upon receipt by the division of a non-revenue mooring application and a non-revenue mooring request containing the information required in (i)(1)-(5).

Adopt Pda 506.11 to read as follows:

Pda 506.11 Temporary Seasonal Mooring Permit; Application Requirements; Processing.

(a) If a general use mooring permit holder or a shorefront property mooring permit holder makes the mooring location available for use as a temporary seasonal mooring, the permit holder shall notify the division in writing prior to March 1. The chief harbor master or designee shall follow the wait list procedures in Pda 509.06(b) to determine if any person on the wait list wishes to apply for a temporary seasonal mooring permit at the mooring location.

(b) If a commercial use mooring permit holder makes the mooring location available for use as a temporary seasonal mooring, the permit holder shall notify the division in writing prior to March 1. The chief harbor master or designee shall follow the wait list procedures in Pda 509.06(c) to determine if any person on the wait list wishes to apply for a temporary seasonal mooring permit at the mooring location, provided that only a party engaged in bona fide commercial activity as provided in Pda 506.08(b), (c), or (d) shall qualify for a temporary seasonal mooring at the mooring location.

(c) The chief harbor master or designee shall notify the person highest on the wait list contacted under (a) or (b) above who expresses a timely interest in obtaining a temporary seasonal mooring permit that the person may file a temporary seasonal mooring application for the available mooring location. At the same time, the chief harbor master or designee shall provide the person with contact information of the person whose mooring equipment is in place at the mooring location.

(d) Within 10 business days of the notification under (c) above, a temporary seasonal mooring permit applicant shall complete a temporary seasonal mooring permit application.

(e) An applicant for a temporary seasonal mooring permit for a:

(1) General use mooring shall make an application for a temporary seasonal general use mooring in accordance with Pda 506.06(a)-(d); and

(2) Commercial use mooring shall make an application for a temporary seasonal commercial use mooring, in accordance with Pda 506.08(a)-(f).

(f) Upon receipt by the division of a temporary seasonal mooring permit application form for a:

(1) Temporary seasonal general use mooring permit, the chief harbor master or designee shall verify that:

a. The applicant has provided all applicable information requested on the application;

b. A photocopy of the current New Hampshire state registration is attached to the application unless the vessel is not required to be registered under New Hampshire law;

c. A photograph of the vessel is attached to the application, if the vessel is not required to be registered under New Hampshire law;

d. The vessel information on the New Hampshire state registration is the same vessel information provided on the application, if the vessel is required to be registered under New Hampshire law;

e. The mooring location is sufficient to accommodate the applicant's vessel;

f. The mooring permit fee is paid, and, if paid by check or money order, is made payable to "Pease Development Authority, Division of Ports and Harbors" or "PDA-DPH" and is attached to the application;

g. There is no reason to deny the application under Pda 507.02; and

h. The applicant has signed and certified the application; and

(2) Temporary seasonal commercial use mooring permit, the chief harbor master or designee shall verify that:

a. The applicant has provided all applicable information and documentation required on the application;

- b. A copy of the current New Hampshire commercial vessel state registration is attached to the application;
- c. The vessel information on the New Hampshire state registration is the same vessel information provided on the application;
- d. The mooring location is sufficient to accommodate the applicant's vessel;
- e. The mooring permit fee is paid, provided that fees paid by check or money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" or "PDA-DPH" and is attached to the application;
- f. The applicant has provided proof of bona fide commercial activity under (b) above;
- g. There is no reason to deny the application under Pda 507.02; and
- h. The applicant has signed and certified the application.

(g) Within 30 business days of receipt of the application by the division, the chief harbor master or designee shall grant or deny the application consistent with the provisions of Pda 507.02.

(h) If the applicant is granted a temporary seasonal mooring permit under Pda 507, and meets the requirements of (f) above, the chief harbor master or designee shall:

- (1) Record the permit number on the permit;
- (2) Assign the mooring location;
- (3) Sign and date the permit; and
- (4) Mail a photocopy of the permit to the applicant at the address specified by the applicant on the mooring permit application, or, if none is specified, to the applicant's permanent address.

(i) If a temporary seasonal mooring permit is granted pursuant to Pda 507 between April 1 and September 30, and the temporary seasonal mooring permit holder supplies his or her own mooring equipment, the permit holder shall have 30 business days from the date of issuance of the mooring permit to set the mooring equipment in accordance with Pda 510.

(j) A mooring permit holder who has made a mooring location available for use as a temporary seasonal mooring shall:

- (1) Not use the mooring during the time period covered by the temporary mooring permit; and
- (2) Be able to make the mooring location available for use as a temporary seasonal mooring again only after at least one mooring season has elapsed after the mooring's use as a temporary seasonal mooring location.

Readopt Pda 507.01, effective 12-16-06 (Document #8775), to read as follows:

Pda 507.01 Granting of Mooring Applications; Priority.

(a) If a wait list exists for the mooring field, mooring subfield, or nearshore area for which a mooring permit application is received, the division shall place a mooring permit applicant on a mooring wait list, as provided in Pda 509.

(b) If no wait list exists for the mooring location for which a mooring permit application is made under Pda 506.01, a mooring permit shall be granted to an applicant if:

- (1) The division determines that the applicant meets the requirements for the mooring permit for which the applicant applied under Pda 506;
- (2) There is a mooring location available in the requested mooring field, mooring subfield, or nearshore area or in the requested location that is suited to the LOA and draft of the vessel;
- (3) The division has not denied the application under Pda 507.02; and
- (4) The applicant's application is the earliest complete mooring application received by the division for the requested mooring field, mooring subfield, nearshore area, or mooring location, if more than one application for the mooring field, mooring subfield, nearshore area, or mooring location was received by the division.

Readopt Pda 507.02, effective 8-23-03 (Document #7940), as amended effective 10-1-04 (Document #8184) and 12-16-06 (Document #8775), to read as follows:

Pda 507.02 Reasons for Denial of Application.

(a) The director shall deny a mooring permit application if:

- (1) The division has not received the completed application, required documentation, and permit fee by the deadline specified in Pda 506.04;
- (2) The applicant has altered any information pre-entered by the division, as prohibited under Pda 506.05;
- (3) There is no available space in the requested mooring field, mooring subfield, or nearshore area;
- (4) There is no mooring location in the requested mooring field, mooring subfield, or nearshore area or at the requested location for the applicant's vessel in compliance with Pda 504.01(c)(1) and (2);
- (5) The applicant has not included the required mooring permit fee or, if applicable, late application fee;
- (6) The vessel cannot be provided with a mooring location in the requested mooring field, mooring subfield, or nearshore area or at the requested location without interfering with or impeding navigation, thus constituting a hazard to public safety;
- (7) The division determines that the water depth, shoreline configuration, wind exposure, domestic water use in the area, or other environmental conditions and effects are such that the

vessel cannot be moored in a mooring location in the requested mooring field, mooring subfield, or nearshore area or at the requested location;

(8) The mooring cannot be located in the requested mooring field, mooring subfield, or nearshore area or at the requested location without unreasonably interfering with recreational uses of the water and adjacent land as described in (b) below;

(9) The applicant has not provided the required information and documentation under Pda 506.06, Pda 506.07, Pda 506.08, Pda 506.09, or Pda 506.10, for the type of permit applied for;

(10) The applicant has provided materially false information on the application form, or has provided materially false or invalid information in any of the documentation required under Pda 506;

(11) The applicant has failed to:

a. Timely pay any fees or other costs due to the authority or the division under RSA 12-G:42-53 or rules adopted thereunder, and such fees or other costs remain due and payable at the time the application is filed;

b. Timely pay any fines assessed under RSA 12-G:52 or RSA 12-G:52-a, and such fine or fines remain due and payable at the time the application is filed; or

c. Obey any lawful order of the director, the chief harbor master, the deputy chief harbor master, a harbor master, or an assistant harbor master, and full compliance with such lawful order remains outstanding at the time the application is filed; or

(12) The applicant has submitted an application containing false certifications.

(b) For the purposes of (a)(8) above, a mooring location shall be considered an unreasonable interference if it would:

(1) Interfere with a shorefront property abutter's use of the water in front of his or her property;

(2) Pose a safety hazard to users of the state tidal waters; or

(3) Creates any other interference that would constitute a hazard or nuisance.

Readopt with amendments Pda 507.03, effective 8-23-03 (Document #7940), as amended effective 12-16-06 (Document #8775), to read as follows:

Pda 507.03 Revocation of Mooring Permit.

(a) The director, after notice and an opportunity for a hearing, shall revoke a mooring permit for any of the following reasons:

(1) The location of the mooring interferes with or impedes navigation, thus constituting a hazard to public safety, and it is not possible to relocate the mooring within the mooring field, mooring subfield, or nearshore area or near the requested location so as to remove the hazard;

- (2) A shorefront property owner who applied for and received a shorefront property mooring permit or a commercial mooring for hire mooring permit has subsequently sold the shorefront property;
- (3) The mooring was transferred for any reason other than the reasons allowed in Pda 508;
- (4) The applicant has provided materially false information on the application form, or has provided materially false or invalid information in any of the documentation required under Pda 506;
- (5) The applicant has submitted an application containing false certifications;
- (6) The division determines that the water depth, shoreline configuration, wind exposure, domestic water use in the area, or other environmental conditions and effects are such that the location is no longer appropriate for moorings and it is not possible to relocate the mooring so as to avoid the problem;
- (7) The mooring is located in the mooring field, mooring subfield, or nearshore area or at the requested location in a manner causing unreasonable interference with recreational uses of the water and adjacent land as described in (b) below, and it is not possible to relocate the mooring within the mooring field, mooring subfield, or nearshore area or near the requested location so as to avoid the interference;
- (8) The permit holder obtains a different vessel or modifies an existing vessel and fails to comply with Pda 505.03 before attaching the different or modified vessel to the permit holder's mooring;
- (9) The permit holder failed to install a mooring buoy within the time period required under Pda 510.01;
- (10) The permit holder failed to obey any lawful order of the director, the chief harbor master, the deputy chief harbor master, a harbor master, or an assistant harbor master;
- (11) The permit holder *violated any provision of:*
  - a. ~~[Violated any provision of]~~RSA 12-G[:50 a, or Pda 500]; *or*
  - b. *Any rule adopted by the authority under RSA 12-G;*
- (12) The permit holder made any change in the mooring location without prior written authorization from the division;
- (13) The permit holder ceases to have any ownership interest in the vessel identified in the permit holder's permit;
- (14) The permit holder failed to pay any fines or costs assessed under RSA 12-G relating to vessels or moorings;
- (15) The permit holder failed to ~~[install decals as required under Pda 510.03]~~*mark the mooring buoy in accordance with Pda 510.02;*
- (16) The permit holder returned the permit to the division in accordance with Pda 507.05; or

(17) The permit holder did not provide the written notification to the division required under Pda 507.05(a).

(b) For the purposes of (a)(7) above, a mooring location shall be considered an unreasonable interference if it:

- (1) Interferes with a shorefront property abutter's use of the water in front of his or her property;
- (2) Poses a safety hazard to users of the state tidal waters; or
- (3) Creates any other interference that would constitute a hazard or nuisance.

Readopt Pda 507.04, effective 8-23-03 (Document #7940), to read as follows:

Pda 507.04 Hearings; Notice of Denial.

(a) Any hearing required pursuant to Pda 507.03(a) shall be held by the director or designee.

(b) If a mooring permit is denied, or revoked under Pda 507.03 after notice and opportunity for a hearing, notice of the denial or revocation and the reason(s) therefore shall be sent to the applicant in writing within 10 ~~working~~ **business** days of the decision.

Readopt with amendments Pda 507.05, effective 8-23-03 (Document #7940), as amended effective 10-1-04 (Document #8184), to read as follows:

Pda 507.05 Written Notification and Return of Permit Required in Certain Circumstances.

(a) A mooring permit holder shall provide written notification to the division within 15 **business** days of:

- (1) The sale or other disposition of the vessel for which the permit has been issued;
- (2) The sale of the shorefront property used to qualify for a shorefront property mooring permit;
- (3) The sale of the shorefront property used to qualify for a commercial mooring for hire mooring permit as described in Pda ~~502.07~~ **502.05**(b); or
- (4) The mooring permit holder's not requiring the mooring for any reason.

(b) A person required under (a)(1) or (4) above to provide written notification to the division shall return the permit to the division within 15 **business** days of the event requiring notification under (a)(1) or (4) above.

(c) A person required under (a)(2) and (3) above to provide written notification to the division shall return the permit to the division within 30 **business** days of the sale of the qualifying shorefront property.

(d) A new mooring permit shall not be issued to the mooring permit holder within the period of time covered by the permit required to be returned, if the holder fails to return the permit as required under (a) above.

Readopt Pda 507.06, effective 8-23-03 (Document #7940), to read as follows:

Pda 507.06 Removal of Equipment When Permit Revoked.

(a) When a mooring permit is revoked, the owner of the mooring shall remove the block and tackle or other mooring equipment pursuant to Pda 510.07.

(b) If the owner of the mooring fails to remove the block and tackle or other mooring equipment within the time required under Pda 510.07, the division shall cause the block and tackle or other mooring equipment to be removed in accordance with Pda 510.08, at the expense of the owner.

Readopt with amendments Pda 508.01, effective 8-23-03 (Document #7940), as amended effective 12-16-06 (Document #8775), to read as follows:

Pda 508.01 Transfer of Commercial Use Mooring Permits.

(a) A commercial vessel owner may transfer his or her commercial use mooring permit(s) to a new owner if the permit holder's business, including the vessel for which the commercial use mooring permit(s) was issued by the division, is sold or under a contract of sale, subject to:

- (1) The buyer's submitting an application for a commercial use mooring permit for the same type of business or another type of business that would qualify for a commercial use mooring permit and all applicable documentation;
- (2) Payment of the commercial use mooring permit transfer fee for transfers pursuant to Pda 508.01(a), provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development authority, Division of Ports and Harbors" *or* "PDA-DPH;" and
- (3) Approval of the transfer by the authority upon the buyer's showing that he or she has complied with all the requirements for a commercial use mooring permit.

(b) The owner of a water-dependent business as described in Pda ~~[502.33]~~502.31(b) may transfer his or her commercial use mooring permit(s) to a new owner if the permit holder's business is sold or under contract of sale, subject to:

- (1) The buyer's submitting an application for a commercial use mooring permit for a water-dependent business as described in Pda ~~[502.33]~~502.31(b) and all applicable documentation;
- (2) Payment of the commercial use water dependent business mooring permit transfer fee for transfers pursuant to Pda 508.01(b), provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or* "PDA-DPH;" and
- (3) Approval of the transfer by the authority upon the buyer's showing that he or she has complied with all the requirements for a commercial use mooring permit.

(c) The division shall only consider written transfer requests made by the owner of record and mailed or hand delivered to its office at:

Deliver To:

Pease Development Authority  
Division of Ports and Harbors  
555 Market Street  
Portsmouth, NH 03801

Mail To:

Pease Development Authority  
Division of Ports and Harbors  
~~[P.O. Box 369]~~555 Market Street  
Portsmouth, NH ~~[03802-0369]~~03801

(d) If a holder of a commercial use mooring permit ceases operation of the commercial entity for which the permit was issued, the permit shall lapse.

Readopt with amendments Pda 508.02, effective 8-23-03 (Document #7940), as amended effective 10-1-04 (Document #8184), to read as follows:

Pda 508.02 Transfer of Commercial Mooring for Hire Mooring Permit.

(a) A holder of a commercial mooring for hire mooring permit may transfer his or her commercial mooring for hire mooring permit(s) to a new owner if the permit holder's business is sold or transferred, subject to:

- (1) The buyer's submitting an application for a commercial mooring for hire mooring permit and all applicable documentation;
- (2) Payment of the commercial mooring for hire mooring permit transfer fee for transfers pursuant to Pda 508.02, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" or **PDA-DPH;** and
- (3) Approval of the transfer by the authority upon the buyer's showing that he or she has complied with all the requirements for a commercial mooring for hire mooring permit.

(b) The division shall only consider written transfer requests made by the owner of record and mailed or hand delivered to its office at:

Deliver To:

Pease Development Authority  
Division of Ports and Harbors  
555 Market Street  
Portsmouth, NH 03801

Mail To:

Pease Development Authority  
Division of Ports and Harbors  
~~[P.O. Box 369]~~555 Market Street  
Portsmouth, NH ~~[03802-0369]~~03801

(c) If the holder of a commercial mooring for hire mooring permit ceases operation of the business for which the permit was issued, the permit shall lapse.

(d) If a shorefront property owner holding a commercial mooring for hire mooring permit as described in Pda ~~[502.07]~~502.05(b) sells the shorefront property, the commercial mooring for hire mooring permit shall not be transferable under this section to the new owner of the property, but the new property owner may apply

for either a shorefront property mooring permit or a commercial mooring for hire mooring permit in accordance with Pda 509.05(d).

Readopt with amendments Pda 508.03, effective 8-23-03 (Document #7940), to read as follows:

Pda 508.03 Transfer of General Use, Shorefront Property Owner, or Commercial Mooring for Hire Mooring Permit to Surviving Spouse.

(a) If a vessel is owned by spouses jointly with right of survivorship and passes to a surviving spouse as a result of death, and the spouse whose name appears on a general use or shorefront property mooring permit, or on a commercial mooring for hire mooring permit held by a shorefront property owner as described in Pda ~~[502.07]~~502.05(b), granted by the division dies during the term of the permit, the division shall transfer the permit to the name of the surviving spouse if the conditions under (c) below are met.

(b) If ownership of a vessel previously owned by a deceased spouse whose name appears on a general use or shorefront property mooring permit, or on a commercial mooring for hire mooring permit held by a shorefront property owner as described in Pda ~~[502.07]~~502.05(b), granted by the division passes by will or in accordance with the laws of intestacy to a surviving spouse, the division shall transfer the permit to the name of the surviving spouse if the conditions under (c) below are met.

(c) The surviving spouse shall present a written request for transfer under this section to the division, accompanied by the following documentation and fee, within 90 days of the date of death of the spouse:

- (1) A copy of the death certificate of the spouse;
- (2) Payment of the transfer fee for the transfer of a general use mooring permit, shorefront property mooring permit, or commercial mooring for hire mooring permit held by a shorefront property owner to a surviving spouse pursuant to Pda 508.03, provided that fees in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" or "PDA-DPH;"
- (3) Proof that the vessel was owned jointly by the spouses, if the vessel was owned jointly with right of survivorship; and
- (4) Either:
  - a. A copy of the decree of the probate court granting ownership of the vessel to the surviving spouse, if the ownership of the vessel passed to the surviving spouse by will or in accordance with the laws of intestacy; or
  - b. Evidence that the estate of the deceased spouse is in probate and that the ownership of the vessel will pass to the surviving spouse by will or in accordance with the laws of intestacy.

Repeal Pda 508.04, effective 8-23-03 (Document #7940), as follows:

~~[Pda 508.04 General Use Mooring Permits Not Held by an Individual: Transition.~~

~~—(a) For the purposes of this section:~~

~~(1) "Other entity" means a not for profit entity, trust, or any other person other than an individual; and~~

~~(2) "Duly authorized individual" means a trustee, officer, director, partner, manager, proprietor, member, or employee of a business organization or other entity, acting on behalf of such organization or entity.~~

~~— (b) No general use mooring permits shall be granted to any person other than an individual.~~

~~— (c) Any mooring permit classified under Pda 500 as a permit for a general use mooring and held by a business organization or other entity shall expire as provided in Pda 505.02(b) on March 31 of the year following the date of issuance of the current permit by the division.~~

~~— (d) Notwithstanding any other provision of these rules, a duly authorized individual of any business organization or other entity whose permit for a mooring will expire pursuant to (c) above may file a general use mooring permit application in accordance with Pda 506.06 on his or her own behalf for such mooring, provided the following conditions are met:~~

~~(1) Not later than December 31, 2003, the business organization or other entity shall:~~

~~a. Notify the division in writing by certified mail, return receipt requested, that the mooring permit held by the business organization or other entity will expire pursuant to (b) above; and~~

~~b. Identify in the notice submitted pursuant to a. above by name, residence address, and telephone number the individual trustee, officer, director, partner, manager, proprietor, member, or employee of such business organization or other entity who shall be entitled to submit a general use mooring permit application for the mooring held by such business organization or other entity; and~~

~~(2) The individual identified in (d)(1)b. above files with the division in accordance with Pda 506.06, and no later than March 1 of the year of expiration of the mooring permit held by the business organization or other entity subject to (c) above, an application for a general use mooring permit, or files such an application within 5 business days of March 1 along with payment of the late application fee.~~

~~— (e) Any application for a general use mooring permit application filed pursuant to (d) above shall be subject to review and consideration by the division in accordance with Pda 506 and Pda 507, including, where required, denial as set forth in Pda 507.02.~~

~~— (f) A timely and complete application filed pursuant to this section shall be either granted or denied and shall not be subject to the wait list requirements of Pda 509.]~~

Readopt with amendments Pda 509.01, effective 12-16-06 (Document #8775), to read as follows:

Pda 509.01 Mooring Wait Lists.

(a) When the division determines that a mooring field, mooring subfield, or nearshore area is at capacity, the division shall establish and maintain a mooring wait list for each mooring field, mooring subfield, or nearshore area.

(b) Mooring wait lists shall be established for mooring fields, subfields, and nearshore areas in the following areas:

- (1) Cocheco River;
- (2) Cocheco River nearshore area;
- (3) Exeter Town Landing;
- (4) Exeter Town Landing nearshore area;
- (5) Portsmouth Harbor, including the following subfields:
  - a. Goat Island;
  - b. Goat Island nearshore area;
  - c. Goat Island Back Channel;
  - d. Goat Island Back Channel nearshore area;
  - e. Hart's Cove;
  - f. Hart's Cove nearshore area;
  - g. Peirce Island;
  - h. Peirce Island nearshore area;
  - i. Peirce Island Back Channel;
  - j. Peirce Island Back Channel nearshore area;
  - k. Portsmouth North Mill Pond;
  - l. Portsmouth North Mill Pond nearshore area;
  - m. Portsmouth Yacht Club area; ~~and~~
  - n. Portsmouth Yacht Club nearshore area;
  - o. Outer Cutts Cove; and*
  - p. Outer Cutts Cove nearshore area;*
- (6) Great Bay;
- (7) Great Bay nearshore area;
- (8) Hampton, including the following subfields;

- a. Area 1, in the vicinity of the boat ramp at Hampton Beach state park;
  - b. Area 1-A, the nearshore area of area 1 subfield of Hampton;
  - c. Area 2, extending north-west from area 1, in the tidal flats up to the area known as the Willows;
  - d. Area 2-A, the nearshore area of area 2 subfield of Hampton;
  - e. Area 3, in the Hampton River in the vicinity of Blind Creek and Tide Mill Creek, north-west of area 2;
  - f. Area 3-A, the nearshore area of area 3 subfield of Hampton;
  - g. Area 4, in the Hampton River, north of area 3, by Nudds Canal;
  - h. Area 4-A, the nearshore area of area 4 subfield of Hampton;
  - i. Area 5, north of Great Boars Head on the oceanfront, in the vicinity of North Beach and Plaice Cove;
  - j. Area 5-A, the nearshore area of area 5 subfield of Hampton;
- (9) Gosport Harbor;
- (10) Gosport Harbor nearshore area;
- (11) Lamprey River;
- (12) Lamprey River nearshore area;
- (13) Little Bay, including the following subfields;
- a. Area 1, in the vicinity of Upper Fox Point, just south of Fox Point;
  - b. Area 1-A, the nearshore area of area 1 subfield of Little Bay;
  - c. Area 2, the Fox Point area, east of Fox Point;
  - d. Area 2-A, the nearshore area of area 2 subfield of Little Bay;
  - e. Area 3, the Adams Point area, extending  $\frac{1}{4}$  mile north of Adams Point;
  - f. Area 3-A, the nearshore area of area 3 subfield of Little Bay;
  - g. Area 4, the Scammel Bridge area, immediately adjacent to and south of the Scammel Bridge and including the area around Cedar Point on the west and extending to Boston Harbor Road to the east; and
  - h. Area 4-A, the nearshore area of area 4 subfield of Little Bay;

- (14) Little Harbour;
- (15) Little Harbour nearshore area;
- (16) Newfields Town Landing;
- (17) Newfield Town Landing nearshore area;
- (18) Oyster River;
- (19) Oyster River nearshore area;
- (20) The following Piscataqua River areas:
  - ~~[(1)]~~a. Newington Town Landing/Patterson Lane;
  - ~~[(2)]~~b. Newington Town Landing/Patterson Lane nearshore area;
  - ~~[(3)]~~c. Bloody Point;
  - ~~[(4)]~~d. Bloody Point nearshore area;
  - ~~[(5)]~~e. Hilton Park; and
  - ~~[(6)]~~f. Hilton Park nearshore area;
- (21) Rye Harbor;
- (22) Rye Harbor nearshore area;
- (23) Sagamore Creek;
- (24) Sagamore Creek nearshore area;
- (25) Seabrook; and
- (26) Seabrook nearshore area.

Readopt Pda 509.02, effective 12-16-06 (Document #8775), to read as follows:

Pda 509.02 Maps of Mooring Field, Mooring Subfields, and Nearshore Areas. The division shall maintain maps at the division office of mooring fields, mooring subfields, and nearshore areas.

Readopt with amendments Pda 509.03, effective 8-23-03 (Document #7940), as amended effective 12-16-06 (Document #8775), to read as follows:

Pda 509.03 Wait List Application.

(a) A person seeking to be placed on a mooring field, mooring subfield, or nearshore area wait list shall obtain a mooring wait list application form:

- (1) In person, from the division office located at 555 Market Street, Portsmouth, New Hampshire; or
- (2) By sending a request in writing, including a self-addressed, stamped envelope to the division office at the following address:

Pease Development Authority  
Division of Ports and Harbors  
~~P.O. Box 369~~ **555 Market Street**  
Portsmouth, NH ~~[03802-0369]~~ **03801**

(b) The applicant shall provide the information required on the mooring wait list application form, as provided in Pda 511.06.

(c) The applicant shall attach to the application the mooring wait list fee, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" or "**PDA-DPH.**"

Readopt with amendments Pda 509.04, effective 12-16-06 (Document #8775), to read as follows:

Pda 509.04 Placement on Mooring Wait Lists.

(a) The division shall place the applicant's name on the wait list or lists for the mooring field(s), mooring subfield(s), or nearshore area(s) that the applicant has indicated in the wait list application, if the applicant has paid the mooring wait list fee(s).

(b) No wait list applicant shall be listed more than once on a mooring wait list for a mooring field, mooring subfield, or nearshore area. A wait list applicant may be listed in more than one subfield within a mooring field. A wait list applicant may be listed both in a mooring field or mooring subfield and the nearshore area of the mooring field or mooring subfield.

(c) The applicant's position on the wait list shall be determined by the date and time a completed mooring application or mooring wait list application is received by the division, with the earliest received application being placed higher on the list for the requested mooring field(s) mooring subfield(s), or nearshore area(s), except as provided in (d) below.

(d) A shorefront property mooring permit applicant or a shorefront property owner making an application for a commercial mooring for hire mooring permit as described in Pda ~~[502.07]~~ **502.05(b)** shall be placed at the top of the wait list for the requested mooring field, mooring subfield, or nearshore area that encompasses the shorefront property mooring area of such applicant. If there is more than one shorefront property mooring permit applicant or water-dependent business applicant for the requested mooring field, mooring subfield, or nearshore area, placement on the wait list shall be determined by the date and time a completed application or mooring wait list application was received by the division, the earliest received application being placed higher on the list for the requested mooring field, mooring subfield, or nearshore area. If the shorefront property owner already has a mooring, the preference granted in this paragraph shall not apply.

Readopt with amendments Pda 509.05, effective 8-23-03 (Document #7940), as amended effective 10-1-04 (Document #8184), to read as follows:

Pda 509.05 Procedures for Shorefront Property Owners.

(a) If a shorefront property owner submits an application for a shorefront property owner mooring permit or for a commercial mooring for hire mooring permit as described in Pda ~~[502.07]~~502.05(b), and a mooring location is available within the property owner's shorefront property mooring area, the shorefront property owner shall:

(1) If an applicant for a shorefront property mooring permit, be granted a shorefront property mooring permit upon receipt by the division of a completed shorefront property mooring application form and payment of the mooring permit fee; or

(2) If an applicant for a commercial mooring for hire mooring permit as described in Pda ~~[502.07]~~502.05(b), be granted a commercial mooring for hire mooring permit within the shorefront property mooring area, upon receipt by the division of a completed commercial mooring for hire mooring permit application form and payment of the mooring permit fee.

(b) If a shorefront property owner submits an application for a shorefront property mooring permit or a commercial mooring for hire mooring permit as described in Pda ~~[502.07]~~502.05(b), and a mooring location is not available within the property owner's shorefront property mooring area, the shorefront property owner applicant shall be subject to wait list procedures pursuant to Pda 509.04(c).

(c) A shorefront property owner shall not hold both a shorefront property mooring permit and a commercial mooring for hire mooring permit as described in Pda ~~[502.07]~~502.05(b) at the same time relative to the same property.

(d) The following shall apply if a shorefront property owner sells the shorefront property relative to which a shorefront property mooring permit or a commercial mooring for hire mooring permit was issued:

(1) The mooring permit shall expire 30 days after the sale of the property;

(2) The mooring permit shall be returned to the division in accordance with Pda 507.05(c);

(3) During the 30-day period after the sale of the property, the new owner of the shorefront property may apply for either a shorefront property mooring permit or a commercial mooring for hire mooring permit for the existing mooring location, subject to the requirements of (a) and (b) above; and

(4) If the new owner does not make such an application within the 30-day period, the mooring location shall be available to the next person on the wait list, if a wait list exists for the area in which the mooring is located.

Readopt with amendments Pda 509.06, effective 8-23-03 (Document #7940), as amended effective 12-16-06 (Document #8775), to read as follows:

Pda 509.06 Wait List Procedures.

(a) For purposes of this section, "written notice" means notice sent by certified mail [~~return receipt requested~~].

(b) When a mooring location becomes available in a wait list mooring field, mooring subfield, or nearshore area, the chief harbor master or designee shall send written notice to the first 5 persons on the wait list for that mooring field, mooring subfield, or nearshore area, subject to (c) below, that a mooring location(s) might be available for the mooring field, mooring subfield, or nearshore area, and which mooring location(s) might be available. Each person contacted shall indicate his or her interest in obtaining a mooring permit for a mooring location identified as potentially available in the mooring field, mooring subfield, or nearshore area within 10 *business* days of the receipt of written notice by the division. If the number of moorings available exceeds the number of persons expressing an interest in a mooring, the chief harbor master or designee shall send written notice to the next 5 persons in order of priority on the wait list, subject to (c) below. For purposes of this paragraph, waiting lists shall be divided into groups of 5 according to placement on the wait list, and mailings shall be sent out in groups of 5, or, if there are fewer than 5 persons in a group, to each person in the group.

(c) If the available mooring was used for commercial purposes by an entity that would have qualified for a commercial use mooring permit, the following procedures shall apply:

(1) The chief harbor master or designee shall send written notice to the first person on the wait list who has stated an intention to apply for a commercial use permit on the wait list for that mooring field, mooring subfield, or nearshore area, that a mooring location might be available for the mooring field, mooring subfield, or nearshore area and which mooring location might be available;

(2) The person contacted shall indicate his or her interest in obtaining a mooring permit for the mooring field, mooring subfield, or nearshore area within 10 *business* days of the receipt of written notice by the division;

(3) If the person contacted does not indicate an interest in obtaining a commercial use mooring permit for the mooring location in the mooring field, mooring subfield, or nearshore area within the required time, the chief harbor master or designee shall notify the next person on the waitlist for that mooring field, mooring subfield, or nearshore area who has stated an intention to apply for a commercial use permit, subject to the conditions as provided in (1) above; and

(4) If none of the persons who stated an intention to apply for a commercial use permit for that mooring field, mooring subfield, or nearshore area indicates an interest in the mooring location, the chief harbor master or designee shall follow the procedures in (b) above and send written notice to persons on the wait list in order of priority.

(d) The chief harbor master or designee shall notify the person highest on the wait list contacted under (b) or (c) above who expresses a timely interest in obtaining a mooring permit that the person may file a mooring application for the available mooring location. Within [~~30~~]10 *business* days of such notification, the person shall complete an initial mooring permit application and otherwise comply with the requirements set forth in Pda 506 for the type of mooring permit requested.

(e) The chief harbor master or designee shall review and process the application in accordance with Pda 506 and Pda 507.

(f) If a mooring permit is granted pursuant to Pda 507 between April 1 and September 30, the mooring permit holder shall have 30 days from the date of issuance of the mooring permit to set the mooring equipment [~~and affix the mooring buoy decal~~] in accordance with Pda 510. If the permit is issued between

October 1 and March 31, the mooring equipment shall be set ~~[and the decal affixed to the mooring buoy]~~ on or before May 1.

(g) Any person on a mooring wait list offered an opportunity to apply for a mooring permit pursuant to this section, and who refuses the opportunity, shall not be offered a second opportunity to obtain a mooring permit for 180 days from the date of refusal. Although the chief harbor master or designee shall not offer the mooring wait list applicant an opportunity to apply for a mooring during this 180-day period, the mooring wait list applicant shall retain his or her position on the applicable mooring wait list. If a mooring wait list applicant refuses a second opportunity to obtain a mooring permit for the requested mooring field, mooring subfield, or nearshore area, the mooring wait list applicant shall be removed from the wait list. ***The person's standing on the wait list shall not be affected by the use of a temporary seasonal mooring.***

(h) A person's name on a mooring wait list shall be removed from the list:

(1) When the mooring wait list applicant, in writing, requests the division to remove his or her name from the list;

(2) When the mooring wait list applicant is granted a mooring permit for the mooring field, mooring subfield, or nearshore area;

(3) If the mooring wait list applicant fails to submit a completed mooring wait list renewal application and wait list fee or late fee in accordance with Pda 509.03 on or before the deadline specified in Pda 506.04 or Pda 509.07; or

(4) If the mooring wait list applicant refuses 2 opportunities to obtain a mooring permit in accordance with (g) above.

Readopt Pda 509.07, effective 8-23-03 (Document #7940), as amended effective 10-1-04 (Document #8184) and 2-1-10 (Document # 9641), to read as follows:

Pda 509.07 Mooring Wait List Renewal Applications.

(a) An applicant who seeks to remain on a mooring wait list(s) shall renew his or her wait list status annually by March 1 of each year by submitting a mooring wait list application in accordance with Pda 509.03 and payment of the wait list fee, or within 10 business days after March 1 by submitting a mooring wait list application in accordance with Pda 509.03 and payment of the wait list late fee.

(b) The division shall mail a mooring wait list application form once annually on or before January 15 to each applicant on a mooring wait list, to the address specified by the applicant on the mooring wait list application, or, if none is specified, to the applicant's permanent address.

(c) If an undeliverable wait list application form is returned to the division, the division shall not remail the form. The mooring wait list applicant shall be responsible for timely renewal of the applicant's wait list status without receipt of a renewal notice from the division.

Readopt Pda 509.08, effective 8-23-03 (Document #7940), to read as follows:

Pda 509.08 Notification of Changes in Wait List Information. In order to maintain updated information with the division, any person on a mooring wait list shall notify the division in writing, within 30 *business* days of the change, of any change of address or telephone number.

Repeal Pda 509.09, effective 8-23-03 (Document #7940), as follows:

~~[Pda 509.09 Transfer of Names on Wait Lists in Existence on Effective Date of Pda 500.~~

~~—— (a) The names of any persons on wait lists shall, except as provided in (b) below, remain on such wait list until March 1. In order to remain on the wait list after March 1, persons shall comply with the provisions of Pda 509.07, relative to mooring wait list renewal applications.~~

~~—— (b) The division shall contact each person on the wait list for Hampton and the wait list for Little Bay, in the order on the wait list, and determine on which of the mooring subfield(s) for Hampton or Little Bay, as applicable, the person requests to be listed. Such persons shall submit a separate application and wait list fee for each subfield requested, provided that the wait list fee already paid for placement on the Hampton or Little Bay wait list shall be applied to the person's first mooring subfield request. Renewal applications shall comply with the provisions of Pda 509.07.]~~

Repeal Pda 509.10, effective 12-16-06 (Document #8775), as follows:

~~[Pda 509.10 Transfer and Addition of Names on Wait Lists to Nearshore Area Wait Lists.~~

~~—— (a) The division shall contact each person on a wait list for a mooring field or subfield in existence on the effective date of this section, in the order on the wait list, and determine if the person wishes to:~~

~~(1) Continue on the wait list for the mooring field or subfield and not be listed on the waitlist for the nearshore area of the same mooring field or subfield for which the person is currently waitlisted;~~

~~(2) Be transferred from the wait list for the mooring field or subfield to the waitlist established for the nearshore area of the same mooring field or subfield for which the person is currently waitlisted; or~~

~~(3) Continue on the wait list for the mooring field or subfield and also be listed on the nearshore area of the same mooring field or subfield for which the person is currently waitlisted.~~

~~—— (b) If a person requests to be transferred to a nearshore area wait list under (a)(2) above:~~

~~(1) The person shall submit a separate application for the nearshore area wait list; and~~

~~(2) The person's wait list fee already paid for placement on the mooring field or subfield wait list shall be applied to the person's nearshore area wait list request.~~

~~—— (c) If a person requests to continue on the wait list for the mooring field or subfield and also be listed on the nearshore area under (a)(3) above:~~

~~(1) The person shall submit a separate application for the nearshore area wait list; and~~

~~(2) The person shall pay a separate wait list fee for the nearshore area wait list request.~~

~~— (d) The division shall contact each person under (a) above in a notice sent by certified mail, return receipt requested, to the address specified by the applicant on the mooring wait list application, or, if none is specified, to the applicant's permanent address. If a notice is returned to the division, the division shall not remail the notice, and the person shall continue to be listed on the mooring field or subfield wait list.]~~

Readopt with amendments Pda 510.01, effective 8-23-03 (Document #7940), as amended effective 12-16-06 (Document #8775), to read as follows:

Pda 510.01 Mooring Buoys and Floats.

(a) Mooring buoys shall be polystyrene foam blocks or acrylonitrile butadiene styrene (ABS) type plastic buoys. All other types of buoys shall be prohibited.

(b) All mooring buoys and floats shall be:

- (1) Blue and white; or
- (2) Orange.

(c) A mooring buoy shall be installed *at the permit holder's sole expense* within 30 days of the issuance of the mooring permit, if the permit is granted between April 1 and September 30, or, if the permit is granted between October 1 and March 31, on or before May 1.

(d) If the permit holder fails to install the mooring buoy within the designated time period, then:

- (1) After notice and an opportunity for a hearing in accordance with Pda 507.03, the division shall revoke the mooring permit;
- (2) The permit holder's authorization to use the mooring shall lapse; and
- (3) The mooring shall be reassigned to the next person in order of priority on the wait list for the applicable mooring field, mooring subfield, or nearshore area.

Readopt Pda 510.02, effective 8-23-03 (Document #7940), to read as follows:

Pda 510.02 Display of Mooring Permit Name and Number. The mooring permit holder shall write in permanent ink his or her last name, if an individual, or the name of the business organization, trust or not-for-profit entity, as applicable, and the mooring permit number on the mooring buoy in letters and numbers at least 2 inches in size above the water line, to ensure visibility.

Repeal Pda 510.03, effective 8-23-03 (Document #7940), as amended effective 10-1-04 (Document #8184) and 12-16-06 (Document #8775), as follows, and readopt and renumber Pda 510.04 – Pda 510.08, effective 8-23-03 (Document #7940), as Pda 510.03 – Pda 510.07, to read as follows:

~~[Pda 510.03 Decals.]~~

~~[(a) When a general use, shorefront property owner, non-revenue, or commercial use mooring permit application, other than a commercial use mooring permit application submitted by a water-dependent business as defined in Pda 502.33(b), is granted by the division, the division shall issue duplicate original validation decals and mail the decals to the applicant along with the photocopy of the completed mooring application and permit.~~

~~— (b) When the division grants a commercial mooring for hire mooring permit application, the division shall issue one original validation decal to be affixed to the mooring buoy as provided in (d) below and one portable validation decal to be temporarily affixed to the vessel of the renter or lessee of a commercial mooring for hire.~~

~~— (c) When the division grants a commercial use permit application to a water-dependent business as defined in Pda 502.33(b), the division shall issue one original validation decal to be affixed to the mooring buoy as provided in (d) below and one portable validation decal to be affixed to the vessel which is temporarily moored at the mooring.~~

~~— (d) One decal shall be affixed to the mooring buoy above the water line to ensure visibility. The mooring buoy shall be kept clean enough so the decal is apparent.~~

~~— (e) The permanent vessel decal shall be affixed in a clearly visible place on the permitted vessel on the port side. Portable decals shall be temporarily affixed in a clearly visible place on the port side of a vessel.~~

~~— (f) The mooring buoy decal shall be installed within 10 days of the issuance of the permit, if the mooring buoy was already installed, unless the permit was issued between October 1 and May 15. If the permit was issued between October 1 and May 15, and the mooring buoy was already installed, the mooring buoy decal shall be installed on or before May 25. If the permit is an initial permit and the mooring buoy was not installed at the time of issuance of the permit, the mooring buoy decal shall be installed within 10 days of the installation of the mooring buoy.~~

~~— (g) If the mooring permit holder fails to install the decal within the designated time period, then:~~

~~(1) After notice and an opportunity for a hearing in accordance with Pda 507.03, the division shall revoke the mooring permit;~~

~~(2) The permit holder shall lose the right to use the mooring; and~~

~~(3) The mooring shall be reassigned to the next eligible person on the wait list, if any, for the applicable mooring field, mooring subfield, or nearshore area.~~

~~— (h) Vessel decals shall be affixed before or at the time the vessel is moored at the mooring.~~

~~— (i) If either or both of the decals is lost, destroyed, or removed from the mooring buoy or vessel, the mooring permit holder shall immediately notify the division in writing and request replacement decals.~~

~~— (j) The fee for replacement of each set of decals shall be paid to the division, provided that fees paid by check or money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors."~~

~~— (k) All decals issued by the division shall be valid until March 31 of the permit period during which the decals were issued.]~~

Pda ~~[510.04]~~**510.03** Location of Moorings: Impeding Navigation and Endangering Other Vessels Prohibited.

(a) All moorings shall be so located or relocated so that the vessels secured by them shall not impede navigation within the tidal waters or endanger other vessels.

(b) If the chief harbor master or designee determines that any vessel is moored so as to impede navigation or to endanger other vessels, the chief harbor master or designee shall order the owner of the mooring to take steps to prevent the impeding of navigation or endangering of other vessels, including, but not limited to:

- (1) Shortening the scope of the mooring lines;
- (2) Using an additional mooring and mooring lines; or
- (3) Removing and reestablishing the mooring.

(c) Any person ordered to remove and reestablish his or her mooring by the chief harbor master or designee in accordance with (b) above shall remove the mooring within 48 hours after the receipt of such order. However, if the chief harbor master or designee determines that an emergency exists requiring immediate action in order to prevent personal injury or damage to property, the chief harbor master or designee shall cause the mooring to be removed and relocated, or any vessel attached to the mooring to be removed and moored elsewhere.

(d) Any sunken or partly sunken vessel shall be repaired or removed within 48 hours. If the chief harbor master or designee determines that the vessel poses a threat or hazard to navigation or safety, the vessel shall be repaired or removed immediately.

(e) If the vessel is not repaired or removed in accordance with (d) above, it shall be removed at the direction of the chief harbor master or designee at the owner's expense.

Pda ~~[510.05]~~**510.04** Moving or Interfering With Moorings. Except by direction of the chief harbor master or designee as provided in Pda ~~[510.04]~~**510.03** or Pda ~~[510.06]~~**510.05**, no person:

- (a) Shall move or interfere with any mooring in the state tidal waters; or
- (b) Except the owner of a vessel or the owner's designee, shall move or interfere with any moored vessel in the state tidal waters.

Pda ~~[510.06]~~**510.05** Safety and Inspection of Moorings: Minimum Mooring Standards.

(a) The minimum size mooring shall be as stated in Table 500.1, "Minimum Mooring Standards," unless the chief harbor master or designee determines that a different size mooring is necessary for the safety of the vessel. If the chief harbor master or designee makes such a determination, he or she shall file a written statement regarding the reasons for the determination and place the statement on file with the mooring permit at the division.

(b) All mooring blocks and related gear shall be maintained in a safe condition. Badly worn or corroded shackles, eyebolts, blocks, chains, pennants, or related equipment shall be replaced.

(c) The chief harbor master or designee shall inspect and approve each mooring prior to the time of its placement to assure compliance with ~~Pda 510.03 and~~ (g) - (k) of this section. The chief harbor master or designee shall arrange a subsequent inspection(s) at such time(s) as the chief harbor master or designee determines, based on the age, condition or size of the mooring or any portion thereof, that the mooring might no longer be adequate. The mooring might no longer be adequate if it fails, or more likely than not fails, to comply with any provision of Pda 500 or has deteriorated, or more likely than not, has deteriorated to such a degree that the mooring poses a threat or potential threat to navigation or public safety.

(d) If an inspection of a mooring is requested by the chief harbor master or designee pursuant to (c) above, the mooring owner shall, at the mooring owner's sole expense and as directed by the chief harbor master or designee, either:

(1) Raise the entire mooring from the water for inspection by the chief harbor master or designee; or

(2) Within 30 days of receiving a written request from the chief harbor master or designee for an inspection pursuant to this subparagraph, submit a report to the division from a diver holding a valid certification from a recognized diving organization, as described in (f) below, certifying that the mooring is in compliance with all of the requirements of Pda ~~[510.06]~~ **510.05**.

(e) A false or incorrect certification of compliance pursuant to (d)(2) above shall not constitute a defense in any proceeding of the division or authority under Pda 507 to revoke a mooring permit. If the chief harbor master or designee has reason to believe that a false or incorrect certification has been submitted to the division pursuant to (d)(2) above, the chief harbor master or designee shall order, after written notice to the mooring permit holder, an inspection pursuant to subparagraph (d)(1) above.

(f) For purposes of (d)(2) above, a recognized diving organization shall include:

(1) Professional Association of Diving Instructors (PADI);

(2) Scuba Schools International (SSI);

(3) National Association of Underwater Instruction (NAUI);

(4) Young Men's Christian Association (YMCA);

(5) National Association of Scuba Diving Schools (NASDS);

(6) International Diving Instructors Association (IDEA);

(7) International Association of Nitro and Technical Divers (IANTD);

(8) Scuba Diving International (SDI); and

(9) Technical Diving International (TDI).

(g) Each mooring shall utilize buoys that are visible at all times.

(h) Minimum standards for mooring tackle to secure vessels in tidal waters shall be as set forth in Table 500.1, "Minimum Mooring Standards."

Table 500.1 Minimum Mooring Standards

Length Overall	Block Weight-lbs	Diameter Chain	Pennant
Motor boats less than 12'	800	1/2"	5/16"
13'-18'	1,000	1/2"	7/16"
19'-25'	4,500	1/2"	1/2"
26'-35'	6,500	5/8"	5/8"
36'-45'	9,000	3/4"	3/4"
46'-55'	10,000	3/4"	1"
Sailboats less than 21'	4,000	1/2"	5/8"
22'-25'	4,500	1/2"	3/4"
26'-35'	5,000	1/2"	1"
36'-45'	8,000	3/4"	1"
46'-55'	9,000	3/4"	1"

(i) Proper mooring tackle as required in Pda 510.01, and in (g) and (h) above, and (j) and (k) below, shall be utilized to secure vessels adequately at their moorings. Storms, wind, waves, tides, currents, and wash shall be considered by the chief harbor master or designee and recommendations made to the mooring holder to select appropriate hardware.

(j) Mooring pennants shall have a thimble and shall be spliced where rope and chain connect. Pennants shall not be over 12'. The length of a pennant shall be measured from the point of attachment on the mooring ball to the first point of contact on the vessel. Each pennant shall have chafing gear where the pennant passes through the chocks.

(k) All chains, shackles, eyebolts, and related hardware shall be hot-dipped galvanized. Shackles shall be wired to prevent the pin from backing out.

(l) A waiver for adjustments to the minimum standards under paragraph (h) shall be granted by the chief harbor master when a mooring holder requests a waiver in writing and the chief harbor master determines that local conditions justify such a waiver. The chief harbor master shall consider the location of the mooring, the movement of the tide, and any conditions specific to the area that could justify a waiver from the minimum standards. Waivers shall be in writing and filed with the permit at the division.

Pda [510.07]510.06 Removal of Mooring Block and Tackle or Other Mooring Equipment. If a mooring permit is revoked, the division shall notify the mooring permit holder in writing to remove the mooring block and tackle or other mooring equipment as provided in Pda 507.06 within 10 *business* days of the receipt of notice from the division.

Pda [510.08]510.07 Failure to Remove Mooring Block and Tackle or Other Mooring Equipment. If a mooring permit holder fails to remove the mooring block and tackle or other mooring equipment in accordance with Pda [510.07]510.06, the division shall cause the block and tackle or other mooring equipment to be removed. Any fees incurred as a result of the division's removal of the block and tackle or other mooring equipment shall be the responsibility of the mooring permit holder.

Readopt with amendments Pda 511.01 – Pda 511.05, effective 8-23-03 (Document #7940), as amended effective 10-1-04 (Document #8184) and 12-16-06 (Document #8775), to read as follows:

Pda 511.01 General Use Mooring Permit Application Form.

(a) Each person seeking a general use mooring permit *or temporary seasonal general use mooring permit as provided in Pda 506.11(e)(1)* shall complete a general use mooring application form provided by the division and deliver or mail the completed application to:

Deliver To:

Pease Development Authority  
Division of Ports and Harbors  
555 Market Street  
Portsmouth, NH 03801

Mail To:

Pease Development Authority  
Division of Ports and Harbors  
~~[P.O. Box 369]~~ 555 Market Street  
Portsmouth, NH ~~[03802-0369]~~ 03801

(b) The mooring permit application form shall require the following information:

- (1) The applicant's full legal name;
- (2) The applicant's permanent address, including:
  - a. Street and number;
  - b. City or town;
  - c. State; and
  - d. Zip code;
- (3) The applicant's summer address, including dates of summer address, if the summer address is different from the permanent address;
- (4) The applicant's mailing address, if different from the permanent address;
- (5) Which address the applicant requests be used as the correspondence address by the division, if different from the permanent address;
- (6) The applicant's telephone number(s) including:
  - a. Permanent telephone number;
  - b. Emergency telephone number;
  - c. Summer telephone number, if different from permanent telephone number; and
  - d. Cell telephone number, if different from permanent telephone number;
- (7) The applicant's e-mail address, if the applicant has an e-mail address;
- (8) The following information pertaining to the vessel:
  - a. Vessel name;

- b. New Hampshire state registration number, unless the vessel is not required to be registered under New Hampshire law;
  - c. Vessel LOA;
  - d. Vessel draft;
  - e. Vessel color; and
  - f. Type of vessel;
- (9) Date of last inspection of the mooring;
- (10) Weight and type of mooring block, if applicable; and
- (11) The proposed or existing location of the mooring.
- (c) The applicant shall attach:
- (1) A copy of the current New Hampshire state registration for the vessel listed on the mooring permit application, unless the vessel is not required to be registered under New Hampshire law;
  - (2) If the vessel is not required to be registered under New Hampshire law, a photograph of the vessel; and
  - (3) The mooring permit fee, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or* "**PDA-DPH.**"
- (d) The form shall contain the following certification language:
- (1) "I hereby certify that I am an owner in full or in part of the vessel described in this application;"
  - (2) If no New Hampshire state registration number is provided for the vessel: "I hereby certify that the vessel described in this application is not required to be registered under New Hampshire law;"
  - (3) "I hereby certify that I have read the mooring rules in Pda 500 applicable to the type of mooring for which I am applying and that I will comply with such rules;" ~~and~~
  - (4) ***"I hereby certify that I release and indemnify Pease Development Authority and hold Pease Development Authority harmless from any and all claims or liability which may arise on account of the use of the mooring;"***
  - (5) ***If the application is for a temporary seasonal mooring permit: "I hereby certify that if I enter into an agreement with the mooring permit holder to use the mooring equipment presently located at the mooring site, I acknowledge that the mooring equipment is not owned or maintained by the Pease Development Authority and that the Pease Development Authority***

*makes no representation as to the condition of the mooring equipment or its suitability for my intended use;” and*

[(4)](6) “I hereby certify that the statements and information in the enclosed documents are to the best of my knowledge and belief true, accurate and complete. I am aware that my mooring permit or placement on a mooring wait list may be withdrawn by the Pease Development Authority for submitting false statements or information or omitting required statements or information.”

(e) The applicant shall sign and date the application.

Pda 511.02 Shorefront Property Owner Mooring Permit Application Form.

(a) Each person seeking a shorefront property owner mooring permit shall complete an individual or business shorefront property owner mooring application form provided by the division and deliver or mail the completed application to:

Deliver To:

Pease Development Authority  
Division of Ports and Harbors  
555 Market Street  
Portsmouth, NH 03801

Mail To:

Pease Development Authority  
Division of Ports and Harbors  
~~[P.O. Box 369]~~555 Market Street  
Portsmouth, NH ~~[03802-0369]~~03801

(b) The mooring permit application form shall require the following information:

- (1) The applicant’s full legal name;
- (2) The applicant’s permanent address, including:
  - a. Street and number;
  - b. City or town;
  - c. State; and
  - d. Zip code;
- (3) The applicant’s summer address, if applicable, including dates of summer address, if the summer address is different from the permanent address;
- (4) The applicant’s mailing address, if different from the permanent address;
- (5) Which address the applicant requests be used as the correspondence address by the division, if different from the permanent address;
- (6) The applicant’s telephone number(s) including:
  - a. Permanent telephone number;
  - b. Business telephone number, if applicable;

- c. Business fax number, if the applicant has a business fax number;
  - d. Emergency telephone number;
  - e. Summer telephone number, if applicable, and if different from permanent telephone number; and
  - f. Cell telephone number, if different from permanent telephone number;
- (7) The applicant's contact person, if applicable, and the best way to contact that person;
  - (8) The applicant's e-mail address, if the applicant has an e-mail address;
  - (9) The following information pertaining to the vessel:
    - a. Vessel name;
    - b. New Hampshire state registration number, unless the vessel is not required to be registered under New Hampshire law;
    - c. Vessel LOA;
    - d. Vessel draft;
    - e. Vessel color; and
    - f. Type of vessel;
  - (10) Date of last inspection of the mooring;
  - (11) Weight and type of mooring block, if applicable; and
  - (12) The proposed or existing location of the mooring.
- (c) For an initial application for a shorefront property mooring, the applicant shall attach:
- (1) A copy of the current New Hampshire state registration for the vessel listed on the mooring permit application, unless the vessel is not required to be registered under New Hampshire law;
  - (2) If the vessel is not required to be registered under New Hampshire law, a photograph of the vessel;
  - (3) A copy from the appropriate county registry of deeds of the deed for the shorefront property containing the book and page number for the recorded deed;
  - (4) A copy of the most recent property tax bill for the shorefront property;
  - (5) A copy of the portion of the tax map of the municipality in which the shorefront property is located, including the property tax map number and lot number;
  - (6) For every trust, business organization, or not-for-profit entity except a sole proprietorship:

a. A statement describing whether the organization, entity or trust is organized on a profit or nonprofit basis and whether it is:

1. A partnership, including type of partnership;
2. A corporation;
3. A limited liability company;
4. A trust, including type of trust;
5. An association; or,
6. Another entity, including a description of such entity's organizational structure.

b. A list of its directors, officers, partners, managers, trustees or members, as applicable; and

c. A description of its purpose;

(7) For every business organization, or incorporated not-for-profit entity, except a sole proprietorship or general partnership, proof of authorization from the secretary of state to do business in New Hampshire;

(8) For every trust, unincorporated not-for-profit entity, and unincorporated business organization including, but not limited to, partnerships and unincorporated associations, a copy of its governing instrument(s); and

(9) The mooring permit fee, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or* "**PDA-DPH.**"

(d) An applicant who is reapplying for an existing shorefront property mooring under Pda 506.04 shall attach to the application:

(1) A copy of the current New Hampshire state registration for the vessel listed on the mooring permit application, unless the vessel is not required to be registered under New Hampshire law;

(2) If the vessel is not required to be registered under New Hampshire law, a photograph of the vessel;

(3) A copy of the most recent property tax bill for the shorefront property;

(4) Documentation relating to the organizational structure of the applicant, if the applicant is not an individual, as required under Pda 511.02(c)(6), (7), and (8), as applicable; and

(5) The mooring permit fee, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or* "**PDA-DPH.**"

(e) The form shall contain the following certification language:

(1) If the vessel owner is an individual: "I hereby certify that I am an owner in full or in part of the vessel described in this application;"

(2) If the vessel owner is other than an individual: "I hereby certify that the business organization, not-for-profit entity, or trust named as the applicant in this mooring permit application is the owner in full or in part of the vessel described in this application. I also certify that I am duly authorized on behalf of the applicant to make the foregoing [~~certification.~~]certifications;"

(3) If no New Hampshire state registration number is provided for the vessel: "I hereby certify that the vessel described in this application is not required to be registered under New Hampshire law;" ~~and~~

*(4) "I hereby certify that I, or the business organization, not-for-profit entity, or trust that I represent, release and indemnify Pease Development Authority and hold Pease Development Authority harmless from any and all claims or liability which may arise on account of the use of the mooring;" and*

~~[(4)]~~(5) "I hereby certify that the statements and information in the enclosed documents are to the best of my knowledge and belief true, accurate and complete. I am aware that my mooring permit or placement on a mooring wait list may be withdrawn by the Pease Development Authority for submitting false statements or information or omitting required statements or information."

(f) The form shall require that, if the application is a reapplication for an existing shorefront property owner mooring, the applicant shall certify, in addition to the certifications required under (e) above, that:

(1) He or she remains an owner of the shorefront property described in the attached tax bill; and

(2) The mooring described in the application is located in the shorefront property mooring area of the shorefront property described in the attached tax bill.

(g) The applicant shall sign and date the application.

Pda 511.03 Commercial Use Mooring Permit Application Form.

(a) Each person seeking a commercial use mooring permit *or temporary seasonal commercial use mooring permit as provided in Pda 506.11(e)(2)* shall complete a commercial use mooring permit application form provided by the division and deliver or mail the completed application to:

Deliver To:

Pease Development Authority  
Division of Ports and Harbors  
555 Market Street  
Portsmouth, NH 03801

Mail To:

Pease Development Authority  
Division of Ports and Harbors  
~~[P.O. Box 369]~~555 Market Street  
Portsmouth, NH ~~[03802-0369]~~03801

(b) The mooring permit application form shall require the following information:

(1) The applicant's full legal name:

- (2) The name and address of the applicant's business;
  - (3) The name of a business contact person and the best way to contact that person;
  - (4) The applicant's mailing address, if different from the permanent address;
  - (5) Whether the business is a fishing, charter, or water-dependent business;
  - (6) Which address the applicant requests be used as the correspondence address by the division, if different from the permanent address;
  - (7) The applicant's type of business organization;
  - (8) The applicant's telephone number(s) including:
    - a. Business telephone number;
    - b. Home telephone number;
    - c. Business fax number, if the applicant has a business fax number;
    - d. Emergency telephone number; and
    - e. Cell telephone number, if different from permanent telephone number;
  - (9) The applicant's e-mail address, if the applicant has an e-mail address;
  - (10) The following information pertaining to the vessel:
    - a. Vessel name;
    - b. New Hampshire state registration number;
    - c. Vessel LOA;
    - d. Vessel draft;
    - e. Vessel color; and
    - f. Type of vessel, including whether the vessel is a fishing or charter vessel;
  - (11) Date of last inspection of the mooring;
  - (12) Weight and type of mooring block, if applicable; and
  - (13) The proposed or existing location of the mooring.
- (c) The applicant shall attach:

- (1) A photocopy of the current New Hampshire state registration for the commercial vessel listed on the mooring permit application;
- (2) For every business organization, except a sole proprietorship:
  - a. A statement describing whether the organization is:
    1. A partnership, including type of partnership;
    2. A corporation;
    3. A limited liability company;
    4. A trust, including type of trust;
    5. An association; or,
    6. Another entity, including a description of such entity's organizational structure.
  - b. A list of its directors, officers, partners, managers, trustees or members, as applicable; and
  - c. A description of its purpose;
- (3) For every business organization, except a sole proprietorship or general partnership, proof of authorization from the secretary of state to do business in New Hampshire;
- (4) For every trust and unincorporated business organization including, but not limited to, partnerships and unincorporated associations, a copy of its governing instrument(s);
- (5) If the business organization is a sole proprietor doing business in this state under any other name than his own, a partnership, association, or any other entity required to register a trade name with the New Hampshire secretary of state pursuant to RSA 349:1, a copy of the certificate of trade name issued by the secretary of state;
- (6) If the applicant is engaged in commercial fishing:
  - a. A photocopy of the New Hampshire fish and game saltwater fishing license or New Hampshire fish and game commercial lobster license of the applicant or, if the applicant is a business entity, of at least one officer or one member of the business entity; and
  - b. Documentary evidence of the commercial sales of marine species for the prior calendar year, unless the business is starting up in the year of application;
- (7) If the applicant operates a charter boat:
  - a. A photocopy of the US Coast Guard Captain's license of the applicant, or, if the applicant is a business entity, of at least one officer, member, or employee of the business entity, for the type and size of vessel of the applicant; and
  - b. A minimum of 2 items of business identification from the following list:

1. A business brochure;
2. A photocopy of the passenger manifest or log book for the most recent month prior to the application;
3. A photocopy of receipt(s) for business advertisement(s) commissioned within the most recent 12 months prior to this application; and
4. Evidence of membership in a business or marine-related trade association, including, but not limited to:

- (i) A current membership card; or

- (ii) A letter from an officer of the association attesting to the current membership of the applicant in the association;

(8) If the applicant is a water-dependent business, a minimum of 2 items of business identification from the following list:

- a. A business brochure;

- b. A photocopy of receipt(s) for business advertisement(s) commissioned within the most recent 12 months prior to this application; and

- c. Evidence of membership in a business or marine-related trade association, including, but not limited to:

1. A current membership card; or

2. A letter from an officer of the association attesting to the current membership of the applicant in the association;

(9) If the applicant is a water-dependent business as defined in Pda ~~[502.33]~~502.31(a), an explanation of how the commercial vessel is used to further the purposes of the business;

(10) If the applicant is a water-dependent business as defined in Pda ~~[502.33]~~502.31(b), an explanation of how the commercial use mooring is used to further the purposes of the business; and

(11) The mooring permit fee, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or* "**PDA-DPH.**"

(d) The form shall contain the following certification language:

(1) If the vessel owner is other than an individual: "I hereby certify that the applicant uses the vessel described in this application primarily for commercial purposes and that such vessel is not used for noncommercial use for more than 14 days cumulatively during the period from April 1 to March 31. I also certify that I am duly authorized on behalf of the applicant to make the foregoing certification[.];"

(2) If the vessel owner is an individual: "I hereby certify that I use the vessel described in this application primarily for commercial purposes and that such vessel is not used for noncommercial use for more than 14 days cumulatively during the period from April 1 to March 31"; ~~and~~

***(3) "I hereby certify that I, or the business organization that I represent, release and indemnify Pease Development Authority and hold Pease Development Authority harmless from any and all claims or liability which may arise on account of the use of the mooring;"***

***(4) If the application is for a temporary seasonal mooring permit: "I hereby certify that if I, or the business organization that I represent, enters into an agreement with the mooring permit holder to use the mooring equipment presently located at the mooring site, I acknowledge that the mooring equipment is not owned or maintained by the Pease Development Authority and that the Pease Development Authority makes no representation as to the condition of the mooring equipment or its suitability for my intended use;" and***

~~(3)~~(5) "I hereby certify that the statements and information in the enclosed documents are to the best of my knowledge and belief true, accurate and complete. I am aware that my mooring permit or placement on a mooring wait list may be withdrawn by the Pease Development Authority for submitting false statements or information or omitting required statements or information."

(e) The applicant shall sign and date the application.

Pda 511.04 Commercial Mooring For Hire Mooring Permit Application Form.

(a) Each person seeking a commercial mooring for hire mooring permit shall complete an application form provided by the division and deliver or mail the completed application to:

Deliver To:

Pease Development Authority  
Division of Ports and Harbors  
555 Market Street  
Portsmouth, NH 03801

Mail To:

Pease Development Authority  
Division of Ports and Harbors  
~~[P.O. Box 369]~~555 Market Street  
Portsmouth, NH ~~[03802-0369]~~03801

(b) The mooring permit application form shall require the following information:

- (1) The applicant's full legal name;
- (2) The name and address of the applicant's business;
- (3) The name of a business contact person and the best way to contact that person;
- (4) The applicant's mailing address, if different from the permanent address;
- (5) The organizational structure of the applicant;
- (6) A description of the nature of the business;
- (7) Which address the applicant requests be used as the correspondence address by the division, if different from the permanent address;

- (8) The applicant's telephone number(s) including:
  - a. Business telephone number;
  - b. Home telephone number;
  - c. Business fax number, if the applicant has a business fax number;
  - d. Emergency telephone number; and
  - e. Cell telephone number, if different from permanent telephone number;
- (9) The applicant's e-mail address, if the applicant has an e-mail address;
- (10) If the applicant is a shorefront property owner making an initial application for a commercial mooring for hire mooring permit:
  - a. A copy from the appropriate county registry of deeds of the deed for the shorefront property containing the book and page number for the recorded deed;
  - b. A copy of the most recent property tax bill for the shorefront property; and
  - c. A copy of the portion of the tax map of the municipality in which the shorefront property is located, including the property tax map number and lot number;
- (11) If the applicant is a shorefront property owner making a reapplication for a commercial mooring for hire mooring permit, a copy of the most recent property tax bill for the shorefront property;
- (12) If the applicant is a marina:
  - a. A description of the access to the water and parking facilities; and
  - b. An explanation of the terms and conditions under which the marina is open to the general public;
- (13) For a collective mooring area:
  - a. A collective mooring area plan, showing the proposed or existing location of each individual mooring in the area and the distance between each mooring location;
  - b. The maximum LOA to be allowed for each individual mooring location;
  - c. Date of last inspection of each mooring; and
  - d. The weight and type of mooring block proposed to be set or set for each individual mooring location; and
- (14) For each mooring proposed to be set or existing outside a collective mooring area:

- a. The proposed or existing location of the mooring;
- b. The maximum LOA to be allowed for the mooring;
- c. Date of last inspection of the mooring; and
- d. The weight and type of mooring block proposed to be set or set for the mooring location.

(c) The applicant shall attach:

(1) If a marina, documentation that demonstrates that the applicant meets the definition of a marina, such as, but not limited to, the following:

- a. A business brochure or a photograph of signage relating to the marina;
- b. A photocopy of receipt(s) for business advertisement(s) commissioned within the most recent 12 months prior to this application; or
- c. Evidence of membership in a business or marine-related trade association, including, but not limited to:
  1. A current membership card; or
  2. A letter from an officer of the association attesting to the current membership of the applicant in the association;

(2) For every business organization, except a sole proprietorship:

- a. A statement describing whether the organization is:
  1. A partnership, including type of partnership;
  2. A corporation;
  3. A limited liability company;
  4. A trust, including type of trust;
  5. An association; or,
  6. Another entity, including a description of such entity's organizational structure.
- b. A list of its directors, officers, partners, managers, trustees or members, as applicable; and
- c. A description of its purpose;

(3) For every business organization, except a sole proprietorship or general partnership, proof of authorization from the secretary of state to do business in New Hampshire;

(4) For every trust and unincorporated business organization including, but not limited to, partnerships and unincorporated associations, a copy of its governing instrument(s);

(5) If the business organization is a sole proprietor doing business in this state under any other name than his own, a partnership, association, or any other entity required to register a trade name with the New Hampshire secretary of state pursuant to RSA 349:1, a copy of the certificate of trade name issued by the secretary of state;

(6) If the applicant is a condominium unit owners' association, a photocopy of the condominium's declaration and bylaws as recorded in the registry of deeds;

(7) An explanation of how the commercial mooring(s) for hire is or will be used to further the purposes of the business; and

(8) The mooring permit fee, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or* "**PDA-DPH.**"

(d) The form shall contain the following certification language:

*(1) "I hereby certify that I, or the business organization that I represent, release and indemnify Pease Development Authority and hold Pease Development Authority harmless from any and all claims or liability which may arise on account of the use of the mooring(s);" and*

*(2) "I hereby certify that the statements and information in the enclosed documents are to the best of my knowledge and belief true, accurate and complete. I am aware that my mooring permit or placement on a mooring wait list may be withdrawn by the Pease Development Authority for submitting false statements or information or omitting required statements or information."*

(e) A shorefront property owner making a reapplication for a commercial mooring for hire mooring permit shall certify, in addition to the certification required under (d) above, that:

(1) He or she is an owner of the shorefront property described in the attached tax bill; and

(2) The mooring described in the application is located in the shorefront property mooring area of the shorefront property described in the attached tax bill.

(f) The applicant shall sign and date the application.

Pda 511.05 Non-Revenue Mooring Permit Application Form.

(a) Each applicant seeking a non-revenue mooring permit shall complete a non-revenue mooring application form provided by the division and deliver or mail the completed application to:

Deliver To:

Pease Development Authority  
Division of Ports and Harbors  
555 Market Street  
Portsmouth, NH 03801

Mail To:

Pease Development Authority  
Division of Ports and Harbors  
[P.O. Box 369]555 Market Street  
Portsmouth, NH [03802-0369]03801

- (b) The mooring permit application form shall require the following information:
- (1) The applicant's full legal name;
  - (2) The applicant's permanent address, including:
    - a. Street and number;
    - b. City or town;
    - c. State; and
    - d. Zip code;
  - (3) The applicant's mailing address, if different from the permanent address;
  - (4) Which address the applicant requests be used as the correspondence address by the division, if different from the permanent address;
  - (5) The applicant's telephone number(s) for its contact person, including:
    - a. Permanent telephone number;
    - b. Emergency telephone number; and
    - c. Cell telephone number, if different from permanent telephone number;
  - (6) The mooring field, mooring subfield, or nearshore area for which application is made;
  - (7) The applicant's e-mail address, if the applicant has an e-mail address;
  - (8) The following information pertaining to each vessel(s):
    - a. Vessel name;
    - b. New Hampshire state registration number;
    - c. Vessel LOA;
    - d. Vessel draft;
    - e. Vessel color; and
    - f. Type of vessel;
  - (9) Date of last inspection of the mooring;
  - (10) Weight and type of mooring block, if applicable; and
  - (11) The proposed or existing location of the mooring.

(c) The applicant shall attach:

- (1) A copy of the current New Hampshire state registration(s) for the vessel(s) listed on the mooring permit application; and
- (2) The request for a non-revenue mooring as described in Pda 506.10(h).

(d) The form shall contain the following certification language:

- (1) "I hereby certify that the applicant is an owner in full or in part of the vessel described in this application;" and
- (2) "I hereby certify that the statements and information in the enclosed documents are to the best of my knowledge and belief true, accurate and complete. I am aware that my mooring permit or placement on a mooring wait list may be withdrawn by the Pease Development Authority for submitting false statements or information or omitting required statements or information."

(e) The applicant's duly authorized representative shall sign and date the application.

Readopt with amendments Pda 511.06, effective 8-23-03 (Document #7940), as amended effective 12-16-06 (Document #8775), to read as follows:

Pda 511.06 Mooring Wait List Application Form.

(a) Each person seeking to be placed on the division's mooring wait list or lists shall complete an application form provided by the division and deliver or mail the completed application to:

Deliver To:

Pease Development Authority  
Division of Ports and Harbors  
555 Market Street  
Portsmouth, NH 03801

Mail To:

Pease Development Authority  
Division of Ports and Harbors  
~~[P.O. Box 369]~~555 Market Street  
Portsmouth, NH ~~[03802-0369]~~03801

(b) The wait list application form shall require the following information:

- (1) The applicant's full legal name;
- (2) The applicant's permanent or home address;
- (3) The applicant's permanent or home telephone number;
- (4) The type of vessel for which the mooring is sought, indicating sail or power, if known;
- (5) The LOA and draft of the vessel, if known; and
- (6) The mooring field(s), mooring subfield(s), or nearshore area(s) wait list on which the applicant seeks to have his or her name placed.

(c) The applicant shall attach:

- (1) A copy of the current New Hampshire state registration for the vessel listed on the mooring permit application, if the applicant currently has such a vessel, unless the vessel is not required to be registered under New Hampshire law;
  - (2) A photograph of the vessel, if the applicant current has a vessel and the vessel is not required to be registered under New Hampshire law; and
  - (3) The mooring wait list fee, provided that fees paid in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" *or* "**PDA-DPH.**"
- (d) The applicant shall sign and date the application.

Readopt Pda 513.01, effective 8-23-03 (Document #7940), to read as follows:

Pda 513.01 Emergency Moorings. Notwithstanding Pda 503 to Pda 512, the division director shall, upon request from an individual authorized by a state or federal law enforcement agency, set a temporary or permanent mooring to be held by the authority or the authority's designee for the use of a state or federal law enforcement agency for the purposes of state or national security or for protection of public health and safety, provided that the division director determines that the mooring can be safely set and would not pose a danger to navigation.

Readopt Pda 514.01, effective 2-1-10 (Document # 9641), to read as follows:

Pda 514.01 Definitions.

(a) "Application period" means the period of time between January 15 and 10 business days after March 1 of the year for which the mooring permit application was submitted.

(b) "Incapacitated" means a physical or mental condition that results in:

(1) The inability of an individual to:

a. Walk unassisted; or

b. Drive unassisted; or

(2) The confinement of an individual to a location(s) for the purpose of receiving medical or rehabilitative treatment or care.

Readopt Pda 514.02, effective 8-23-03 as Pda 514.01 (Document #7940) and renumbered as Pda 514.02 by Document # 9641, to read as follows:

Pda 514.02 Reconsideration; Who May Petition.

(a) Any holder of a mooring permit whose mooring permit was revoked after notice and an opportunity for a hearing by the division director pursuant to Pda 507.03 and any applicant for a mooring

permit whose application was denied by the division director pursuant to Pda 506.06(f), Pda 506.07(h), Pda 506.08(h), [~~or~~]Pda 506.10(f), **or Pda 506.11(g)** may petition the division director for reconsideration pursuant to Pda 514.

(b) The persons specified below may petition the authority for reconsideration pursuant to Pda 514 if the authority has denied:

- (1) The issuance of a commercial mooring for hire mooring permit, and the person is the applicant for the commercial mooring for hire mooring permit pursuant to Pda 506.09 or its duly authorized officer or member;
- (2) A request to transfer a commercial use mooring permit pursuant to Pda 508.01(a) or (b), and the person is either the proposed transferor or transferee; or
- (3) A request to transfer a commercial mooring for hire mooring permit pursuant to Pda 508.02, and the person is either the proposed transferor or transferee.

Readopt Pda 514.03, effective 8-23-03 as Pda 514.02 (Document #7940), as amended effective 12-16-06 (Document #8775) and 2-1-10 (Document # 9641), and renumbered as Pda 514.03 by Document # 9641, to read as follows:

Pda 514.03 Requirements for Petition for Reconsideration. A petition for reconsideration shall:

- (a) Specify the date of the challenged decision;
- (b) Specify every reason that the action taken by the division director or authority was unlawful or unreasonable, including any error of law or error of fact;
- (c) Include as an attachment a copy of the application or request that was denied or failed to receive approval;
- (d) Include any new or additional information relevant to the matter proposed for reconsideration that was not available at the time the application was filed or the revocation was made;
- (e) In the case of denial of a permit because of a late filing under Pda 506.04(d), the reason for the late filing; and
- (f) Include the following certification:

“I certify under penalty of law that I have personally examined, and am familiar with, the information submitted in this petition for reconsideration and all of its attachments. I certify that the statements and information submitted therewith are to the best of my knowledge and belief true, accurate and complete.”

Readopt with amendments Pda 514.04, effective 8-23-03 as Pda 514.03 (Document #7940), as amended effective 10-1-04 (Document #8184) and 2-1-10 (Document # 9641), and renumbered as Pda 514.04 by Document # 9641, to read as follows:

Pda 514.04 Reconsideration by Division Director; Granting of Permit under Certain Circumstances.

(a) A petition for reconsideration by the division director:

(1) For revocation of a permit pursuant to Pda 507.03 shall be filed with the division director within 10 [~~calendar~~]*business* days from receipt of notice of the revocation; and

(2) For a permit denial pursuant to Pda 506.06(f), Pda 506.07(h), Pda 506.08(h), [~~or~~]Pda 506.10(f), *or Pda 506.11(g)* shall be filed with the division director within 10 [~~calendar~~]*business* days from receipt of notice of the permit denial.

(b) The division director shall:

(1) Reconsider a permit revocation or denial within 10 business days of receipt of the petition for reconsideration; and

(2) Notify the petitioner of his or her decision under (c) below within 10 business days of reconsideration.

(c) When reconsidering the decision to deny or revoke the permit, the division director shall consider all information on file with division relating to the denied or revoked permit and any new or additional information relevant to the matter under reconsideration that was not available regarding a permit:

(1) Denial, when the application in question was submitted; or

(2) Revocation, when the decision to revoke a permit was rendered.

(d) The division director shall issue the permit sought after in the petition for reconsideration if, after reconsideration, the division director finds:

(1) One or more of the following:

a. It more likely than not that the decision to deny or revoke a permit was based on an error of law or fact;

b. That there was a lack of facts that could reasonably sustain the decision to deny or revoke the permit; or

c. In the case of denial of a permit because of a late filing under Pda 506.04(d), that:

1. The petitioner was temporarily incapacitated for:

(i) Fifty percent or more of the application period; or

(ii) One day or more during the final 10 days of the application period;

2. The petitioner was on active military service at any time during the application period;

3. The late filing was caused by the failure of any state or governmental agency to timely provide the petitioner with documentation required for an application under Pda 500; or

4. A death in the immediate family occurred during the final 10 days of the application period. For the purposes of this paragraph, "immediate family" means grandparents, parents, siblings, spouse, children, or grandchildren; and

(2) All of the following:

a. The petition for reconsideration was timely filed in accordance with (a) above;

b. The petition for reconsideration filed by the petitioner meets all of the requirements of Pda 514.03; and

c. The petitioner:

1. Meets all of the requirements under Pda 500 for the permit;

2. Has provided written documentation for any reason claimed under (1)c. above, including, but not limited to:

(i) In the case of temporary incapacitation:

i. A signed letter from a doctor, nurse, or other medical provider or caregiver attesting to the petitioner's incapacitation;

ii. A copy of a bill or invoice from an institution where the petitioner received medical or rehabilitative treatment or care; or

iii. A copy of a statement from an insurance company showing that costs for medical or rehabilitative treatment or care were submitted to the company for services for the petitioner;

(ii) In the case of military service, a signed letter from the petitioner's commanding officer or supervisor attesting to the petitioner's military service;

(iii) In the case of the failure of any state or federal agency to provide the petitioner with documentation needed for an application under Pda 500, a copy of correspondence between the petitioner and a state or governmental agency, showing that the petitioner timely sought documentation needed for an application under Pda 500, but was not provided with the documentation in a timely manner; or

(iv) In the case of a death in the immediate family, to identify the name of the deceased, the relationship to the petitioner, and the date of death; and

3. Has paid the mooring permit reapplication late fee, in the case of petition granted under (1)c. above.

(e) The division director shall deny the request to issue or reinstate the permit if, after reconsideration, the division director finds that:

(1) It is more likely than not that the decision was not based on any error of law;

- (2) There were facts reasonably sustaining the decision;
- (3) In the case of a late filing under Pda 506.04(d), the petitioner failed to meet the requirements under (d)(1)c. above;
- (4) The petition for reconsideration was not timely filed in accordance with (a) above;
- (5) The petition for reconsideration filed by the petitioner does not meet all of the requirements of Pda 514.03; or
- (6) The petitioner:
  - a. Does not meet all of the requirements under Pda 500 for the permit;
  - b. Has not provided written documentation for any reason claimed under (d)(1)c. above; or
  - c. Has not paid the mooring permit reapplication late fee, in the case of petition filed under (d)(1)c. above.

***(f) If, after reconsideration, the division director grants the request to issue or reinstate the permit sought after in the petition for reconsideration, the petitioner shall return to the division a completed application for the permit sought within 10 business days of receipt of the division director's decision.***

Readopt with amendments Pda 514.05, effective 8-23-03 as Pda 514.04 (Document #7940), as amended effective 10-1-04 (Document #8184) and 2-1-10 (Document #9641), and renumbered as Pda 514.05 by Document # 9641, to read as follows:

Pda 514.05 Reconsideration by Authority for Commercial for Hire Moorings and Commercial Moorings.

(a) A petition for reconsideration by the authority shall be filed by the petitioner with the authority within 10 **business** days from receipt of notice that the authority has denied:

- (1) The issuance of a commercial mooring for hire mooring permit pursuant to Pda 506.09(h);
- (2) A request to transfer a commercial use mooring permit pursuant to Pda 508.01(a) or (b); or
- (3) A request to transfer a commercial mooring for hire mooring permit pursuant to Pda 508.02.

(b) The authority shall review and make a decision on whether or not to grant a petition for reconsideration at its next regularly scheduled meeting, if the petition was received at least 10 **business** days before such meeting. If the petition was not received at least 10 **business** days before the authority's next regularly scheduled meeting, the authority shall review and make a decision on whether or not to grant the petition for reconsideration at the authority's following regularly scheduled meeting. The authority shall notify the petitioner of the authority's decision on whether to grant or deny the petition within 5 business days of the decision.

(c) When making a decision on a petition for reconsideration, the authority shall consider all information on file with the division concerning the authority's denial under Pda 514.02(b) and any new or additional information relevant to the matter under reconsideration that was not available regarding:

- (1) A permit denial, when the application in question was submitted; or
- (2) The transfer of a commercial mooring permit, when the decision to refuse the permit transfer was rendered.

(d) The authority shall remand the matter to the division director for issuance of the permit or for granting a request for a transfer sought after in the petition for reconsideration, if, after reconsideration, the authority finds:

(1) One or more of the following:

a. It more likely than not that the authority's decision concerning the issuance or transfer of the mooring was based on an error of law or fact;

b. That there was a lack of facts that could reasonably sustain the decision to deny or revoke the permit; or

c. In the case of denial of a permit because of a late filing under Pda 506.04(d), that:

1. The petitioner was temporarily incapacitated for:

(i) Fifty percent or more of the application period; or

(ii) One day or more during the final 10 days of the application period;

2. The petitioner was on active military service at any time during the application period;

3. The late filing was caused by the failure of any state or governmental agency to timely provide the petitioner with documentation required for an application by Pda 500; or

4. A death in the immediate family occurred during the final 10 days of the application period. For the purposes of this paragraph, "immediate family" means grandparents, parents, siblings, spouse, children or grandchildren; and

(2) All of the following:

a. The petition for reconsideration was timely filed in accordance with (a) above;

b. The petition for reconsideration filed by the petitioner meets all of the requirements of Pda 514.03; and

c. The petitioner:

1. Meets all of the requirements under Pda 500 for the permit or transfer;

2. Has provided written documentation for any reason claimed under (1)c. above, including, but not limited to:

(i) In the case of temporary incapacitation:

i. A signed letter from a doctor, nurse, or other medical provider or caregiver attesting to the petitioner's incapacitation;

ii. A copy of a bill or invoice from an institution where the petitioner received medical or rehabilitative treatment or care; or

iii. A copy of a statement from an insurance company showing that costs for medical or rehabilitative treatment or care were submitted to the company for services for the petitioner;

(ii) In the case of military service, a signed letter from the petitioner's commanding officer or supervisor attesting to the petitioner's military service;

(iii) In the case of the failure of any state or federal agency to provide the petitioner with documentation needed for an application under Pda 500, a copy of correspondence between the petitioner and a state or governmental agency, showing that the petitioner timely sought documentation needed for an application under Pda 500, but was not provided with the documentation in a timely manner; or

(iv) In the case of a death in the immediate family, to identify the name of the deceased, the relationship to the petitioner, and the date of death; and

3. Has paid the mooring permit reapplication late fee, in the case of petition granted under (1)c. above.

(e) The authority shall deny the request to issue or transfer the permit specified in Pda 514.02(b) if, after reconsideration, the authority finds that:

(1) It is more likely than not that the decision was not based on any error of law;

(2) There were facts reasonably sustaining the decision;

(3) In the case of a late filing under Pda 506.04(d), the petitioner failed to meet the requirements under (d)(1)c. above;

(4) The petition for reconsideration was not timely filed in accordance with (a) above;

(5) The petition for reconsideration filed by the petitioner does not meet all of the requirements of Pda 514.03; or

(6). The petitioner:

a. Does not meet all of the requirements under Pda 500 for the permit or transfer;

b. Has not provided written documentation for any reason claimed under (d)(1)c. above; or

c. Has not paid the mooring permit reapplication late fee, in the case of petition filed under (d)(1)c. above.

*(f) If, after reconsideration, the authority grants the request to issue or transfer the permit sought after in the petition for reconsideration, the petitioner shall return to the division a completed application for the permit sought within 10 business days of receipt of the authority's decision.*

Readopt Pda 514.06 – Pda 514.10, effective 2-1-10 (Document # 9641), to read as follows:

Pda 514.06 Appeal to Authority; Standard of Review.

(a) If the division director has denied a request to issue the permit sought after in a petition for reconsideration under Pda 514.04, the petitioner may appeal to the authority within 10 [~~calendar~~] **business** days after receipt of written notice of denial by the division director.

(b) The appellant shall bear the burden of proving that the decision of the division director to deny appellant's request to issue the permit sought after in a petition for reconsideration under Pda 514.04 was based on an error of law or fact or there was a lack of facts that could reasonably sustain the division director's decision.

(c) The authority shall accept all determinations of the division director made under Pda 514.04 upon questions of fact as lawful and reasonable unless the appellant specifically rebuts such determination of fact as unlawful or unreasonable.

Pda 514.07 Requirements for Appeal. A request for appeal shall:

(a) Specify the date notice of the division director's denial of the request to issue the permit sought after in a petition for reconsideration was received by the appellant;

(b) Specify every reason that the action taken by the division director or authority was contrary to Pda 500 or otherwise unlawful or unreasonable, including any error of law or error of fact;

(c) Include as an attachment a copy of the application or request that was denied or failed to receive approval;

(d) Include any new or additional information relevant to the matter on appeal that was not available at the time the request for reconsideration was made to the director under Pda 514.01;

(e) Specify the reason for the late filing and include as an attachment written documentation supporting the reason specified for late filing; and

(f) Include the following certification:

"I certify under penalty of law that I have personally examined, and am familiar with, the information submitted in this appeal and all of its attachments. I certify that the statements and information submitted therewith are to the best of my knowledge and belief true, accurate and complete."

Pda 514.08 Referral of Matter to Board Member for Recommendation; Procedure for Board Member.

- (a) The chair of the board shall designate a board member to review appeals to the authority under Pda 514.06.
- (b) The board designate shall:
- (1) Notify the appellant in writing that the board designate will be reviewing the matter on appeal on behalf of the board and preparing a recommended decision regarding the appeal for consideration and action by the board;
  - (2) Provide the appellant an opportunity, including date, time, and location, to meet with the board designate and present his or her information and argument regarding the appeal, provided that the meeting shall occur within 15 business days of the filing of the appeal with the authority;
  - (3) Notify the appellant that he or she may bring counsel or a personal representative to the meeting;
  - (4) Notify the appellant that any written information, testimony or argument not previously submitted during reconsideration by the division director shall be submitted to the board designate not later than 5 business days before the date of the meeting with the board designate; and
  - (5) Notify the appellant that the meeting with the board designate will be recorded.
- (c) The division director shall provide the board designate a copy of all information concerning the matter in the possession of the division director.
- (d) The following shall apply at the meeting with the board designate:
- (1) The board designate shall exclude any additional written information, testimony or argument that was not submitted in accordance with (b)(4) above unless the board designate finds good cause for appellant's failure to comply with (b)(4) above and that late submission was not intended to delay the appeal or the meeting with the board designate. For purposes of this paragraph, "good cause" means that the appellant did not discover, learn of, or formulate the information, testimony, or argument in time to submit such information, testimony, or argument in accordance with (b)(4) above and could not have discovered, learned of, or formulated such information, testimony, or argument with reasonable diligence to comply with (b)(4) above;
  - (2) The appellant or his or her counsel or representative may direct questions to the board designate, including questions for a division representative(s) present at the meeting;
  - (3) The division staff may direct questions to the board designate, including questions for appellant or his or her counsel or representative present at the meeting;
  - (4) The appellant's questions for the division representative(s) and the division's questions to the appellant or appellant's representative shall be asked only by the board designate; and
  - (5) The board designate may exclude irrelevant, immaterial, or unduly repetitious information, testimony or argument.
- (e) Within 10 business days after the meeting with the board designate under (d) above, the board designate, after reviewing the information provided by the division director and the appellant, and after

meeting with division staff and the appellant, if the appellant requested such a meeting, shall make a written recommendation to the authority regarding the appeal. The board designate shall at the same time send to the appellant, by first class mail, a copy of the recommendation made to the authority.

Pda 514.09 Authority Action on Appeal.

(a) Within 10 business days of receipt of a recommendation from a board designate, the authority shall notify the appellant in writing:

- (1) That the authority will be reviewing the board designate's recommendation regarding the appeal;
- (2) Of the date, time, and location of the regularly scheduled board meeting at which the review is scheduled, provided that the meeting shall not be sooner than 20 calendar days from the receipt of the board designate's recommendation under Pda 514.08(e);
- (3) That he or she may bring counsel or a personal representative to the meeting; and
- (4) That the meeting with the board will be recorded.

(b) At the board meeting when the appeal is scheduled, the authority shall consider:

- (1) All information on file with the division concerning the matter;
- (2) All information submitted to the authority or board designate under Pda 514.07 and Pda 514.08;
- (3) Any additional written information not previously submitted under Pda 514.07 or Pda 514.08, provided the chair of the authority finds good cause for appellant's failure to comply with Pda 514.07 or Pda 514.08 and that late submission was not intended to delay the appeal or the meeting with the authority. For purposes of this paragraph, "good cause" means that the appellant did not discover or learn of the information in time to submit such information in accordance with Pda 514.07 or Pda 514.08 above and could not have discovered or learned of such information with reasonable diligence to comply with Pda 514.07 or Pda 514.08;
- (4) Any oral statement or argument made by the appellant or his representative or division staff; and
- (5) The recommendation of the board designate.

(c) The following shall apply at the board meeting:

- (1) The appellant may bring counsel or a personal representative;
- (2) The authority shall exclude any additional written information, testimony or argument that was not submitted in accordance with Pda 514.07 and Pda 514.08 unless the chair of the authority finds good cause for appellant's failure to comply with Pda 514.07 and Pda 514.08 and that late submission was not intended to delay the appeal. For purposes of this paragraph, "good cause" means that the appellant did not discover, learn of, or formulate the information, testimony, or argument in time to submit such information, testimony, or argument in accordance with Pda 514.07 or Pda 514.08 above and could not have discovered, learned of, or formulated such

information, testimony, or argument with reasonable diligence to comply with Pda 514.07 or Pda 514.08; and

(3) Any oral information, testimony or argument may be received, but the chair or other presiding officer in the chair's absence shall exclude irrelevant, immaterial, or unduly repetitious information, testimony or argument, including without limitation, information, testimony or argument included in or with the division's file regarding the appellant or the written recommendation of the board designate.

Pda 514.10 Decision by Authority on Appeal. The authority shall render a decision regarding the appeal no later than the next regularly scheduled board meeting following any board meeting held under Pda 514.09.

Readopt with amendments Pda 514.11, effective 2-1-10 (Document # 9641), to read as follows:

Pda 514.11 When Matter Remanded to Division Director: Notification of Decision of Authority.

(a) If the authority determines that the permit should be granted because the appellant has met its burden of proving by a preponderance of the evidence that the decision of the division director to deny the appellant's request to issue the permit sought after in the petition for reconsideration was based on an error of law or fact or there was a lack of facts that could reasonably sustain the division director's decision, the authority shall remand the matter to the division director for action in accordance with its decision.

(b) The authority shall notify the appellant of its decision and provide a written copy thereof within 10 business days of issuing a decision pursuant to 514.10.

***(c) If the authority determines, under (a) above, that the permit should be granted, the appellant shall return a completed application for the permit sought within 10 business days of receipt of notice from the authority under (b) above.***

Readopt Pda 514.12 – Pda 514.14, effective 2-1-10 (Document # 9641), to read as follows:

Pda 514.12 Removal of Representatives.

(a) Upon making a finding of misconduct on the part of any representative appearing before the director, authority or board designate, as applicable, the director, authority or board designate shall prohibit that individual from acting as a representative for the pending matter.

(b) For purposes of this section, misconduct means:

(1) Behavior that is disruptive to the orderly conduct of the reconsideration or appeal; or

(2) A consistent or recurring failure to:

a. Meet deadlines; or

b. Comply with the provisions of Pda 514.

(c) Prior to making a finding of misconduct so as to warrant the imposition of such prohibition, the director, authority or board designate, as applicable, shall:

- (1) Inform the representative and the party represented by the representative to the proceeding of the proposed prohibition; and
- (2) Provide an opportunity for the representative and the party represented by the representative to address the director, authority or board designate, as applicable, regarding why the prohibition should or should not be imposed.

Pda 514.13 Requests to Extend Time.

(a) Any person seeking reconsideration or appellant may ask the director, authority or board designate, as applicable, to extend any time limit established by Pda 514.

(b) A request for an extension of time shall be made in writing to the director, authority or board designate, as applicable, before the expiration of the prescribed period.

(c) Division staff shall be given an opportunity to object within 5 business days of receiving a request to extend time.

(d) The director, authority or board designate, as applicable, shall grant the requested extension if it determines that:

- (1) The time period is not mandated by statute;
- (2) One of the following applies:
  - a. An extension is necessary to conduct a more effective reconsideration or appeal; or
  - b. The person seeking reconsideration, the appellant, or their representative(s) is incapacitated, has suffered a death in the family, or has otherwise been delayed or prevented from meeting the applicable deadline by unforeseeable circumstances beyond the party's control; and
- (3) No person objects to the extension or, if a person does object, the reason(s) for granting the extension outweigh the reason(s) for denying the extension.

Pda 514.14 Continuance.

(a) Any appellant or person seeking reconsideration may request that a meeting conducted pursuant to Pda 514 be continued for reasonable cause and reconvened or rescheduled.

(b) Prior to filing a request for a continuance of any scheduled meeting regarding a pending reconsideration or appeal made in advance of the meeting, the appellant or person seeking reconsideration seeking the continuance shall seek concurrence with the request from division staff.

(c) A request for a continuance of a meeting with the director, authority or board designate, as applicable, made in advance of such meeting shall:

- (1) Be in writing;

(2) State the reason(s) for the request;

(3) Be delivered or received filed at least 5 calendar days before the scheduled meeting date; and

(4) State whether the division staff agree or disagree with the request or did not respond to the request for concurrence.

(d) A request for a continuance made at a scheduled meeting may be made orally provided notice of such request is recorded by the division director, authority or board designate, as applicable.

(e) The division director, authority or board designate shall grant the request if he determines that reasonable cause exists and that no person will be materially prejudiced by the delay.

(f) For purposes of this section, reasonable cause shall include:

(1) Unavailability of an individual appellant or person seeking reconsideration, or representative, or witness;

(2) The participants believe that an informal resolution is possible and need more time to resolve the matter; or

(3) The appellant or person seeking reconsideration or the division are awaiting information, reports, data, or a related court decision which is material to the reconsideration or appeal.

(g) Any grant of a continuance shall specify the time and place at which the meeting shall be rescheduled. The division director, authority or board designate, as applicable, shall provide notice of a rescheduled meeting regarding the reconsideration or appeal in such a manner as is appropriate to ensure that reasonable notice of at least 10 calendar days shall be given of the time and place of the continued meeting.

Readopt Pda 515.01, effective 8-23-03 (Document #7940), to read as follows:

Pda 515.01 Change in Position May Be Ordered. The chief harbor master or designee shall at any time order any vessel at anchor to change position when, in the chief harbor master or designee's opinion, such vessel is so anchored as to impede navigation or to endanger other vessels.