

New Jersey State Police Port Security Section Waterfront Interim Regulatory Guidance Document Updated: July 13, 2023

Consistent with P.L. 2017 c. 324, the New Jersey State Police (“NJSP” or “Division”) is assuming all powers of the Waterfront Commission of New York Harbor (“WCNYH” or “Commission”) over New Jersey’s ports beginning on July 17, 2023. This document is intended to serve as interim guidance until the NJSP promulgates formal rules and regulations regarding its oversight of New Jersey’s ports.

The purpose of this guidance is to clarify and explain the NJSP’s understanding of the existing legal requirements under the governing law. The guidance does not impose any additional requirements that are not included in the law and does not establish additional rights for any person or entity. The NJSP reserves the right to amend, supplement or rescind any portion of this document in its discretion.

All applications, forms and guidance can be found at the following link:

<https://www.njsp.org/division/port-security/index.shtml>.

I. General Applicability of Existing Rules and Regulations:

PLEASE NOTE: Pursuant to N.J.S.A. 53:2-9(b)(7), all current Waterfront Commission of New York Harbor rules and regulations codified at N.J.A.C. Title 19, Subtitle AA, Rules 1.1 to -10.3 and available at <http://www.lexisnexis.com/hottopics/njcode> remain in effect until further notice unless they are otherwise inconsistent with New Jersey law or Division rules and regulations until amended, supplemented, or rescinded by the Division pursuant to the Administrative Procedure Act.

As noted above, this guidance does not impose any additional requirements that are not already required by law and does not establish additional rights for any person or entity. For purposes of interpreting the existing WCNYH rules and regulations within the New Jersey regulatory framework, this document offers the following clarifications of terms and procedures:

- **Terminology.** All references to “the Commission” in the WCNYH regulations, N.J.A.C. Title 19, Subtitle AA, Rules 1.1 to -10.3, shall be deemed to be references to the Division of New Jersey State Police, Port Security Section;
- **Port Access Cards.** All licenses and registrations will be issued in the form of a NJSP Port Access Card (NJ PAC).
- **Status of current licenses, permits and registrations.** Subject to the terms of its issuance, any license, registration, or permit issued by the Commission prior July 17, 2023 shall continue to be valid as a license, registration, or permit issued by the Division. Licenses, registrations or permits previously issued by the WCNYH remain valid until the expiration date listed on the card.

- **Public records.** Access to public records made or maintained by the Division shall be governed by the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 to -13, subject to the limitations set forth therein. Accordingly, N.J.A.C. Title 19, Subtitle AA, Rules 1.23(b)-(f) are void to the extent they are inconsistent with New Jersey laws, and NJSP rules. All exemptions to disclosure established under N.J.A.C. Title 19, Subtitle AA, Rule 1.23(a) of the WCNYH's regulations, or any other provision of the WCNYH regulations, remain available to the Division. Any requests for Port Security Section records shall be made through the New Jersey State Police Open Public Records Unit at:

New Jersey State Police
Attn: Open Public Records Unit
P.O. Box 7068
West Trenton, NJ 08628

Or by visiting:

<https://www.nj.gov/lps/opra/>

<https://nj.gov/njsp/information/opra-requests.shtml>.

- **Discovery requests.** All discovery requests should be directed to the NJSP Port Security Section, Compliance Bureau, Port Discovery Adjudication Unit. Please email Portdiscoveryunit@njsp.gov.
- **Hearing requests.** All requests for hearing shall be made through the NJSP Port Security Section, Compliance Bureau, Port Discovery Adjudication Unit. Upon the filing of a request for a hearing, the Superintendent may either retain the matter for hearing by a designated representative of the Division, pursuant to N.J.S.A. 53:2-19(e) or transmit the matter before the New Jersey Office of Administrative Law. All hearings shall be held in accordance with the Provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Additional guidance is provided below in Section III of this document.

For further information contact the Port Discovery and Adjudication Unit at portadjudicationunit@njsp.gov.

- **Payroll assessments.** The payroll assessment rate under N.J.S.A. 53:2-31 shall remain 1.5% until such time as amended or modified by the Division. Payment of assessments should be made out to DIVISION OF STATE POLICE FISCAL CONTROL BUREAU, and can be sent certified mail to Fiscal Control Bureau PO Box 7068 West Trenton, NJ 08628. For further information please email portauditunit@njsp.gov.

- **Self-reporting of arrests and charges.** There will be no substantive change to the requirement for self-reporting of arrests or criminal charges under N.J.A.C. Title 19, Subtitle AA, Rule 1.11. Notification must be made to NJSP within 20 days of learning of the arrest or charges.

Such notification shall be made through an internet portal, available at www.njsp.org. click on the “Port Security Section” button, click on the “Port Adjudication Unit” button, then click on the “Arrest Self Reporting Form” button. Upon completion of the form, click the “Send” button and the form will be transmitted to the unit.

- **Stevedore applications.** There will be no change to the current Stevedore application term which is set to expire on December 1, 2025. See generally, N.J.A.C. Title 19, Subtitle AA, Rules 3.1 – 3.2. Payments for conditional stevedore licenses will ONLY be accepted as a U.S. MONEY ORDER, payable to the *Division of State Police Fiscal Control Bureau*. NO CASH, PERSONAL CHECKS, CREDIT or DEBIT CARDS will be accepted.

Updated forms will be available at <https://www.njsp.org/division/port-security/index.shtml>. All questions can be directed to stevedorelicensing@njsp.gov.

Regulations that are no longer applicable:

The following provisions of the WCNYH rules and regulations are VOID to the extent they are inconsistent with New Jersey Law:

- N.J.A.C. Title 19, Subtitle AA, Rule 1.22
- N.J.A.C. Title 19, Subtitle AA, Rule 1.23(b)-(f)
- N.J.A.C. Title 19, Subtitle AA, Rules 6.1 – 6.20.

New Jersey law and/or NJSP rules and regulations shall control in the event of any conflict with these or any other provision of the WCNYH rules and regulations.

II. Port Access Card (NJ PAC) Application:

See generally, N.J.A.C. Title 19, Subtitle AA, Part 1 (General Provisions); Part 2 (Pier Superintendents and Hiring Agents); Part 3 (Stevedores); Part 4 (Longshoremen, Checkers and Telecommunications System Controllers); Part 5 (Port Watchmen).

An application for a license, registration, or permit pertaining to New Jersey filed with the Commission prior to and pending on that notification date shall, as of and from the notification date, be deemed to be filed with and pending before the Division. Additional documentation may be required to be submitted as deemed appropriate by the Division.

Requirement to carry NJ PAC. All longshoremen, stevedores, and port watchmen licensed or registered on or after July 17, 2023 must carry a valid NJ PAC at all times when working or while on any pier or other waterfront terminal in this State. As indicated earlier, a NJ PAC will serve as proof of licensure or registration. Previously issued licenses (or registrations) by the WCNYH remain valid until the expiration date listed on the card. All WCNYH cards will be reissued as a NJ PAC once expired, lost or stolen.

Applications for NJ PAC. Applications for NJ PAC must be submitted in person and by appointment at the New Jersey State Police Port Security Licensing Bureau, located at:

New Jersey State Police Port Security Licensing Bureau:

[TO BE PROVIDED WHEN AVAILABLE]

Submission of any licensing or registration application is by appointment only during the New Jersey State Police Port License and Background Unit ordinary hours of operation (M-F, 8 a.m. through 4 p.m.). Please email portsecurityscheduling@njsp.gov to make an appointment. Applicants must include their name, contact information, and a copy of their Sponsorship letter. The Sponsorship letter must be current within 1 month of the application date.

Upon receipt of the initial email, the Port Security Licensing Bureau will contact the applicant to schedule an appointment. Applicants must bring the following records to their application appointment:

- Your state issued ID;
- 2 Passport style current photographs (2.5"x2")
- Social Security Card;
- Birth Certificate; and,
- Completed New Jersey Port Access Card Application

Applications WILL NOT be processed without all the required items.

Please be advised that application processing will not start until all required documents are received including, but not limited to, fingerprint results. Further instructions for NEW PAC Applicant will be posted on the NJSP Website; <https://www.njsp.org/division/port-security/index.shtml>.

NOTE: THE NJSP Port Licensing & Background Unit WILL NO LONGER BE NOTARIZING APPLICATIONS.

Fingerprinting

See generally, N.J.A.C. Title 19, Subtitle AA, Rules 2.4, 3.5, 4.8, 5.3.

- Fingerprinting will be conducted at outside vendor, IDENTOGO. Scheduling can be done on-line at <https://uenroll.identogo.com/>
 - Port Security Section Originating Agency Identifier ORI for fingerprinting purposes is NJNSPY700
 - *An ORI (Originating Agency Identifier) is a nine character identifier assigned to an agency that has met the established qualifying criteria for a fingerprint based background check.*

- Identogo Service code is: To be determined after FBI Approval.

License Issuance

See generally, N.J.A.C. Title 19, Subtitle AA, Rules 2.7, 3.7, 4.10, 5.12

- The Port Licensing & Background Unit will contact applicants and employers to schedule an appointment for Port Access Card Issuance.
- All instructions will be included in the correspondence.
- All questions can be directed to the Port Licensing & Background Unit: portsecurityapplication@njsp.gov.

Renewals and Requests for Duplicate WCNYH Card

See generally, N.J.A.C. Title 19, Subtitle AA, Rules 1.12.

Sunset of WCNYH Cards. Effective July 17, 2023, all renewals of expired WCNYH cards will result in the issuance of a NJ PAC. Going forward, duplicate requests for active WCNYH cards will be fulfilled through the NJSP Port Licensing and Background Unit. A NJ PAC will be issued as a replacement and will indicate the license was previously issued by the WCNYH. To schedule an appointment for the renewal of expired WCNYH cards or to request a replacement NJ PAC, please contact the NJSP Port Licensing and Background Unit via email: portsecurityscheduling@njsp.gov.

- Payment will ONLY be accepted as a U.S. MONEY ORDER, payable to the *Division of State Police Fiscal Control Bureau*. NO CASH, PERSONAL CHECKS, CREDIT or DEBIT CARDS will be accepted.

Current and Pending Applications. Current/pending WCNYH applications that have not been decided by July 17, 2023 will be divided between NJSP and the New York Waterfront Commission based on the location of the sponsoring terminal. Those pending applications sponsored by an employer based in a New Jersey terminal will be deemed an application for a New Jersey license or registration and will be reviewed and processed by the NJSP. Those pending applications sponsored by an employer based in a New York terminal will be handled by the New York Waterfront Commission. All New Jersey applications will retain their application date; seniority will not be affected. See generally, N.J.S.A. 53:2-9(c). Additional documentation may be required to be submitted as deemed appropriate by the Division.

- Additional contact information can be found on our website:
<https://www.njsp.org/division/port-security/index.shtml>
 - General questions, email: portsecuritylicensing@njsp.gov
 - Application specific questions, email: portsecurityapplication@njsp.gov
 - Stevedore questions, email: stevedorelicensing@njsp.gov

NJSP Port Security Licensing and Background Unit will process new applications, including pending New Jersey applications previously submitted to the WCNYH. For any pending/current matters pertaining to suspension, revocation, withdrawal, or decasualization, please contact *NJSP Port Security Section Compliance Bureau* at portadjudicationunit@njsp.gov.

III. Hearings for Denials, Revocations, Cancellation, or Suspensions of Licenses and Registrations

Under N.J.S.A. 53:2-19, a party subject to a denial, revocation, cancellation or suspension of a license or registration may be entitled to an administrative hearing to challenge that action. Similarly, under N.J.S.A. 53:2-31, a party subject to a notice of deficiency in payment of an assessment may be entitled to an administrative hearing as well.

Notices of denials, revocations, cancellations, suspensions or deficiencies in payment of assessments will be provided electronically and via regular and certified mail. A party seeking to challenge a NJSP action may request a hearing in writing within 30 days of the date of the notice. All requests for hearing shall be made via email to the NJSP Port Security Section, Compliance Bureau, Port Discovery Adjudication Unit (portadjudicationunit@njsp.gov). If a party fails to request a hearing within 30 days of the date of the notice, the decision will become final.

Upon receipt of a valid request for hearing, NJSP may either retain the matter for hearing by a designated representative of the Division pursuant to N.J.S.A. 53:2-19(e) or transmit the matter to be heard before the New Jersey Office of Administrative Law (“OAL”). All hearings shall be held in accordance with the Provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.¹ A party shall have the right to be accompanied by counsel. N.J.S.A. 53:2-20(a); N.J.A.C. 1:1-5.1 through -5.6.

If a matter is transmitted to the OAL, the conduct of the case will be overseen by an Administrative Law Judge (“ALJ”) within the OAL. Upon conclusion of the hearing, the ALJ will issue an initial decision. N.J.A.C. 1:1-18.1 through -18.9. Any exceptions to the initial decision may be filed with the Superintendent of State Police consistent with the requirements and procedures in N.J.A.C. 1:1-18.4.

The ALJ’s initial decision may be adopted, modified or rejected by the Superintendent. N.J.A.C. 1:1-18.6. The Superintendent’s decision will be a Final Agency Decision, and any further appeals must be made to the Appellate Division of the Superior Court of New Jersey under Rule 2:2-3(a)(2) of the New Jersey Court Rules. N.J.S.A. 53:2-19(g).

A. Temporary License Suspensions:

In addition to the generally applicable procedures outlined above, NJSP may in its discretion temporarily suspend a permit, license or registration pending hearing where the permittee, licensee or registrant has been indicted or charged with a crime which is equivalent to a crime of the third, second or first degree in this State, or where the continuance of the license or registration is inimical to the public peace or safety. N.J.S.A. 53:2-19; N.J.S.A. 26(a).

A person subject to a temporary suspension may request a hearing at any time. N.J.S.A. 53:2-26(b). For temporary suspensions under N.J.S.A. 53:2-26, NJSP shall commence a hearing limited to the validity of the issuance of a temporary suspension within 60 days of receipt of such demand. *Ibid.* NJSP shall render a Final Agency Decision limited to whether the issuance of a temporary suspension is warranted within 30 days of receipt of the ALJ’s initial decision. N.J.S.A. 53:2-26. These time limits shall

¹ Additional guidance on the administrative hearing process is available at <https://www.nj.gov/oal/hearings/guide/>.

not apply for any period of delay caused or requested by the person subject to the temporary suspension. Ibid. NJSP has the discretion to postpone or defer a hearing for a time certain or indefinitely, if State or local law enforcement requests the suspension or deferment of any hearing on the ground that the hearing would obstruct or prejudice an investigation or prosecution. Ibid.

B. Assessment Deficiency Hearings:

NJSP shall audit the quarterly returns of persons subject to payments of assessments under N.J.S.A. 53:2-30. N.J.S.A. 53:2-31(a)(3)(a). Upon discovery of a deficiency in payment of the assessment, NJSP shall give notice to the liable party. Ibid. A party subject a deficiency notice, may request a hearing within 30 days of the notice as outlined in the section addressing general hearing procedures above.