

**4.2 Persons required to be registered as longshoremen; persons not required to be registered as longshoremen.**

(a) Inclusion in the longshoremen's register as a longshoreman is required for any person:

1. who is employed to handle waterborne freight by a carrier of freight by water or by a stevedore at a pier or other waterfront terminal, including, without being limited to, gang foremen, dock gang foremen, headers, gangwaymen, winchmen, dockmen, holdmen, terminal labor operators of mechanical equipment, sorters and baggage porters, or

2. who is employed by a carrier of freight by water or by a stevedore, physically to perform labor or services incidental to the movement of waterborne freight on vessels berthed at piers, on piers or at other waterfront terminals (including marine terminals within the meaning of the Act), including, without being limited to, cargo storagemen and warehousemen, cargo repairmen, marine carpenters, container loaders and strippers, lashers, chockers, coopers, weighers, scalers, cargo inspectors and samplers, trailer interchange inspectors, maintenance, mechanical, container or equipment repairmen, crane maintenance men and repairmen, tire repairmen, vehicle preparers, export packers, labelers, cleaning and maintenance personnel, horse and cattle fitters and grain ceilers, or

3. who is indirectly employed by a carrier of freight by water or by a stevedore, through a subsidiary or parent corporation of, or a contractor with, either of them, physically to perform the labor or services described in paragraph (2) above, or

4. who is employed by any person for work at a pier or other waterfront terminal physically to move waterborne freight to or from a barge, lighter or railroad car for transfer to or from a vessel of a carrier of freight by water which is, shall be, or shall have been berthed at the same pier or other waterfront terminal, or

5. who is employed by any person, other than by a carrier of freight by water or by a stevedore, to perform labor or services involving or incidental to the movement of freight at a location in a marine terminal within the meaning of the Act.

(b) inclusion in the longshoremen's register as a longshoreman is not required for:

1. jobs limited to the handling of liquid cargoes in bulk in tanks (such as, but not limited to, fuel oils, petroleum or orange juice), or carriage by barge of bulk cargoes consisting of a single commodity (such as, but not limited to, cement, gravel, coal, grain or ore) loaded or carried without wrappers or containers or limited to the handling of cargoes transported from one point to another point within the Port of New York District, or

2. any person who is regularly engaged in the performance of labor or services not covered by subdivision (a)

of this section and who is only incidentally engaged in the performance of labor or services covered by said subdivision (a) where permission therefor has been previously obtained from the commission, or

3. persons who are regularly employed to perform labor or services not covered by subdivision (a) of this section and who are assigned by such employer to the performance of labor or services covered by said subdivision (a) only to meet special or emergency needs for the protection of the public health or safety where approval therefore has been previously obtained from the commission.

**Decisions**

**1. Validity**

Waterfront Commission regulation 4.1, subd. (b), par. (3) (cf. 21 NYCRR 4.2[b][3]), authorizing use of nonregistered personnel to move waterborne freight where a special or emergency need to protect public health or safety exists, is a reasonable and valid exercise of discretionary rule making power granted by the Waterfront Commission Act and is not inconsistent with either the intent or provisions thereof. *Connolly v. O'Malley*, 17 A.D.2d 411 (1962), revg. 32 Misc.2d 282 (1961).

**4.3 Checkers required to be registered.**

Inclusion in the longshoremen's register as a checker is required for any longshoreman, including, but not limited to, a timekeeper, checker or clerk, who is employed to engage in direct and immediate checking of waterborne freight or of the custodial accounting therefor or in the recording or tabulation of the hours worked at piers or other waterfront terminals by natural persons employed by carriers of freight by water or stevedores.

**4.4 Longshoremen's Register; division into sections; designation and sponsorship of "1969 Amendment" longshoremen.**

(a) A longshoremen's register shall be maintained in the offices of the commission. Copies shall be kept and exhibited at each commission employment information center.

(b) The register shall be divided as follows:

1. A "deep-sea" register which shall include all persons registered by the commission as longshoremen and checkers except those persons registered as longshoremen pursuant to the 1969 amendments to the Act (N.Y. Laws 1969, c.953; N.J. Laws 1969, c.128.)

2. An "A" or "1969 amendment" register which shall include all persons registered by the commission as longshoremen pursuant to the 1969 amendments to the Act (N.Y. Laws 1969, c.953; N.J. Laws 1969, c.128).

(c) No application shall be accepted from any person seeking inclusion in the "deep-sea" register unless the commission at such time has determined to accept such applications.

(d) No application shall be accepted from any person seeking inclusion in the "A" register unless that person is sponsored for employment by a "stevedore" or by "any person", within the meaning of those terms contained in the 1969 amendments to the Act (N.Y. Laws 1969, c.953; N.J. Laws 1969, c.128).

**4.5 Telecommunications system controllers (TSC) required to be registered.**

Registration as a telecommunications system controller is required of any person employed by the association representing employers of longshoremen and checkers and of the labor organization representing longshoremen and checkers in the Port of New York District, or a joint board of such association and labor organization, who participates in the operation of the telecommunications hiring system (THS). An applicant for registration as a telecommunications system controller must be sponsored by the association representing employers of longshoremen and checkers and the labor organization representing longshoremen and checkers in the Port of New York District, or by a joint board of such association and labor organization. Registration as a telecommunications system controller shall terminate upon the registrant's cessation of employment.

**4.6 Application for emergency use of persons not registered.**

An application for approval under paragraph (3) of subdivision (b) of section 4.2 shall be made to the commission by an employer in writing, who shall certify as follows:

(a) that an emergency exists involving the protection of the public health or safety, setting forth the facts and details of such emergency for each ship;

(b) that only regular employees of his company will be used for this purpose;

(c) that no one will be used who has been denied registration or whose registration has been previously revoked by the commission, or is under present suspension;

(d) that no one will be used who, to the best knowledge of the employer, has a criminal record;

(e) that the employer will maintain accurate records of the names of persons so used and their time and place of assignment;

(f) that such records will be available for inspection by commission personnel at the direction of the executive director in the event such records become necessary for an investigation conducted by the commission or other law enforcement agency;

(g) That anyone so used by the employer will be removed immediately at the request of the executive director.

**4.7 Application for registration.**

An application for registration as a longshoreman, checker or telecommunications system controller shall be made on forms furnished by the commission and may be filed at the main administrative offices of the commission or at a designated employment information center.

**4.8 Application to be accompanied by photograph and fingerprints.**

For the purpose of assisting the commission to ascertain the identity and criminal record, if any, of the applicant, each application shall be accompanied by a photograph and the authenticated fingerprints of the applicant on an identification record form furnished by the commission.

**4.9 Additional information to be furnished when required.**

In addition to the information required by the application form, the commission may require the applicant to produce such further facts and evidence as may be necessary to establish the identity of such person and to determine whether registration should be granted.

**4.10 Identification to be carried by registrant; identification to be returned to commission when required.**

Any card, badge or other means of official identification issued by the commission to any registrant shall be carried by the registrant on his person at all times when he is at work or at any pier or waterfront terminal. Any such card, badge or other means of official identification shall be returned to the commission promptly upon request and when otherwise required by these Regulations.

**4.11 Baggage porter identification.**

Every longshoreman who works as a baggage porter for passengers embarking or disembarking on a vessel carrying more than 12 passengers shall wear while he is so working, so as to be clearly visible, such identification as shall be approved by the commission. The hiring agent or pier superintendent responsible for the assignment of longshoremen to baggage work shall cause such identification to be distributed to and collected from such longshoremen daily and shall cause a written record to be kept with respect to the distribution and collection of such identification on forms furnished or approved by the commission. Such written records shall be retained by the hiring agent or pier superintendent for a period of four months and shall be available for inspection by the commission.

**4.12 Solicitation of tips prohibited.**

No person registered by the commission shall solicit, request, require, demand or exact any tip or gratuity or anything of value for any work performed by himself or by any other registered person in his capacity as such registered person, including, but not limited to, the handling of baggage and the loading and unloading of trucks.