

SUBTITLE AA. WATERFRONT COMMISSION OF NEW YORK HARBOR

CHAPTER I

**WATERFRONT COMMISSION
OF NEW YORK HARBOR**

RULES AND REGULATIONS

EXPLANATORY NOTE

The following rules and regulations have been promulgated by the Waterfront Commission of New York Harbor, an instrumentality of the States of New York and New Jersey, pursuant to the authority of the Waterfront Commission Act, Part I, Article IV, Section 7 [New York L. 1953, ch. 882; New Jersey L. 1953, ch. 202], and are on file with the Secretary of State, State of New York, Albany, New York, and the Secretary of State, State of New Jersey, Trenton, New Jersey.

These rules and regulations are produced herein in the form in which they have been published by the Department of State of the State of New York. Accordingly, the citations on the tops of the pages (i.e. "Title 21 Miscellaneous; Chapter I Waterfront Commission") refer to the publication of these rules and regulations in Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York (21 Miscellaneous (A)).

Publication of the Waterfront Commission rules and regulations in the New Jersey Administrative Code faithfully reproduces the chapter codification and text as published in Title 21 of the New York code, with the exception of the pagination and supplement date notation, at the bottom of each page, which conform to the style standards of the New Jersey Administrative Code.

These rules and regulations were amended, effective upon filing with the Secretary of State of New York and the Secretary of State of New Jersey, on July 2, 1993. See: 25 N.J.R. 3244(c) (July 19, 1993).

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6.15 Petition to reopen hearing.

After the conclusion of a hearing but prior to the making of an order by the commission, a hearing may, upon petition and in the discretion of the administrative judge, be reopened for the presentation of new or additional evidence. Such petition to reopen the hearing shall state in detail the nature of the new or additional evidence, together with the reasons for the failure to submit such evidence prior to the conclusion of the hearing. The commission may upon its own motion and upon reasonable notice reopen a hearing for the presentation of new or additional evidence.

Historical Note

Sec. amd. filed Nov. 4, 1974 eff. Oct. 31, 1974.

6.16 Commission orders.

All orders of the commission shall be in writing and shall be filed with the secretary of the commission who shall cause certified copies thereof to be served upon the parties.

6.17 Petition for rehearing.

Upon petition, after the making of an order by the commission following a hearing, rehearing may be granted in the discretion of the commission. A petition for rehearing shall state in detail the grounds upon which it is based and shall separately set forth each error of law and fact alleged to have been made by the commission in its determination, together with facts and arguments in support thereof. Such petition shall be filed with the commission not later than 30 days after service of the order of the commission upon the parties, unless the commission for good cause shown shall otherwise direct. The commission may upon its own motion grant a rehearing after the making of an order following a hearing.

6.18 Petition for reconsideration.

Within 90 days after the service of an order of the commission following a hearing or rehearing, which order shall be considered as a final determination of the commission in a proceeding for judicial review, the applicant or respondent may petition the commission to exercise its discretion to reconsider its determination. Such petition shall be in writing and shall state in detail the grounds upon which it is based. Any order made by the commission upon such petition shall not extend any limitation of time imposed by law to commence a proceeding to review the final determination of the commission.

Historical Note

Sec. added filed July 10, 1972 eff. immediately.

6.19 Petition for restoration of license or registration.

(a) Any person having been issued a temporary permit or registration or permanent license or registration by the commission and whose temporary permit or registration has

been revoked or annulled by an order of the commission denying an application for a permanent license or registration after a hearing or rehearing or whose permanent license or registration has been revoked by order of the commission after a hearing or rehearing may petition the commission for restoration of his permit, license or registration. Such petition shall be in writing on a form to be furnished by the commission and shall be filed with the commission not less than six months after the final determination of the commission made after the hearing or rehearing and not more often than once each year following the said final determination, unless the commission for good cause shown shall otherwise direct. Any registration, permit or license issued by the commission after a grant of a petition under this section may be subject to the provisions of subdivisions (b) through (i) of section 1.21.

(b) No petition for restoration shall be accepted from any person seeking restoration unless the person is sponsored for employment by a stevedore or by any person, within the meaning of those terms contained in the Act, who is an employer of individuals requiring a registration or a license under the Act, and where proof of sponsorship has been received by the Commission, prior to submission to the Commission of said petition, in the form of a letter submitted by the sponsoring employer.

Historical Note

Sec. added filed July 10, 1972 eff. immediately.

Sec. amd. filed May 1, 2007 eff. May 1, 2007.

6.20 Petition for leave to reapply.

Any applicant, not having been issued a temporary permit or registration, who has been denied a license or registration by order of the commission after a hearing or rehearing, and who has not been granted leave to reapply in the said order of denial, may petition the commission for leave to reapply for such license or registration. Such petition shall be in writing on a form to be furnished by the commission and shall be filed with the commission not less than six months after the final determination of the commission made after the hearing or rehearing and not more often than once each year following the said final determination, unless the commission for good cause shown shall otherwise direct. A grant by the commission of a petition submitted under this section for leave to reapply for inclusion in the "deep-sea" register as a longshoreman or checker during any period of time the acceptance of such applications has been suspended under section 5-p of the Act shall not take effect until such time as the commission shall determine to accept such applications under said section 5-p and shall not entitle the petitioner to any preference or priority in obtaining any such application or in having it processed.

Historical Note

Sec. added filed July 10, 1972 eff. immediately.

PART 7

HIRING REGULATIONS FOR REGISTRANTS

(Statutory authority: New York L.1953, ch.882,
art. IV, § 7; New Jersey L.1953, ch.202)

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GENERAL PROVISIONS

Section 7.1 Construction.

(a) This Part is designed to effectuate the purposes of the Act, as amended and supplemented, and to prevent the circumvention and evasion thereof. In particular, it is designed to improve the conditions under which waterfront labor is employed, to eliminate irregularity of employment, fear and insecurity, and, in accordance with the public policies of the States of New York and New Jersey, to provide fair and equal employment opportunities, by establishing a systematic method of hiring and providing adequate information to waterfront workers as to the availability of employment opportunities and to waterfront employers as to the available labor supply within the port.

(b) This Part contains provisions which give waterfront employers the privilege of ordering employees for hire without the personal appearance of such employees at the commission employment information centers, on condition that the employers file with the commission lists of persons they regularly employ on their piers and follow the procedures set forth in this Part for the ordering of their regular and casual employees.

(c) This Part is not designed and should not be construed to be in conflict with the provisions of article XV of the Act.

7.2 Definitions.

As used in this Part:

(a) *Regular employees* shall mean employees who, as individuals, are entitled to receive first priority of employment at a particular pier or waterfront terminal or with a particular employer.

(b) *Gang* shall mean a group of longshoremen constituted into a working unit.

(c) *Regular gang* shall mean a gang which is entitled to receive first priority of employment at a particular pier or waterfront terminal.

(d) *Regular-extra gang* shall mean a gang which is entitled to receive employment at a particular pier or waterfront terminal after available regular gangs have been employed.

(e) *Extra gang* shall mean a regular or regular-extra gang not employed on a particular day by the employer listing it as a regular or regular-extra gang.

(f) *Voluntary gang* shall mean a gang established by the commission on its own initiative, where, in its opinion, such action will further the purposes of the Act.

(g) *Section* shall mean a geographical division of the port.

(h) *Borough or area* shall mean a geographical division of the port consisting of one or more sections.

(i) *New pier* shall mean any pier or terminal which has not regularly been in operation for the movement of waterborne freight within three calendar years prior to its opening.

(j) *Reactivated pier* shall mean any pier or terminal which has been in operation for the movement of waterborne freight within three calendar years of its reopening, including a newly constructed pier or terminal which has replaced one or more piers or terminals.

(k) *Telecommunications system controller (TSC)* shall mean a natural person, who is employed by the New York Shipping Association, Inc. and the International Longshoremen's Association, or by a joint board of the New York Shipping Association, Inc. and the International Longshoremen's Association, and who participates in the operation of the telecommunications hiring system (THS).

(l) *Workday* shall mean Monday through Sunday, for the purposes of the Hiring Procedures.

(m) *Regular Working Day* shall mean Monday through Friday [or Monday through Saturday, if hiring procedures are implemented which include Saturday as a "regular work day" in accordance with Section 7.19 of this Part], exclusive of holidays, for the purpose of the Hiring Procedures.

Historical Note

Sec. amd. filed July 2, 1993 eff. July 2, 1993.

Sec. amds filed November 24, 2004 eff. November 24, 2004. Added (l) and (m).

Sec. amd. filed September 8, 2011 eff. September 8, 2011.

7.3 Employers and employees subject to regulation.

Any person who employs a person included in the "deep-sea" register to perform work in his registered capacity and any person included in the "deep-sea" register are subject to the provisions of this Part.

7.4 Longshoremen's register.

The longshoremen's register, as referred to in this Part, only applies to the "deep-sea" register.

EMPLOYEE LISTINGS

7.5 Establishment of regular lists.

(a) Any employer may, in accordance with sections 7.29 through 7.40, inclusive, file lists on commission forms designating the pier or waterfront terminal for such list, for:

1. regular checkers and clerks, terminal labor, drivers, coopers, marine carpenters, maintenance men and other classifications of regular employees; and

2. regular and regular-extra gangs;

(b) Unless a variance is granted by the commission, any name on any such list shall not appear on any other list filed with the commission. No list shall contain names of persons to be employed at more than one pier or waterfront terminal unless a variance is granted by the commission.

(c) If such lists are accepted by the commission, copies thereof shall be conspicuously posted and maintained by the employer on a bulletin board at the pier or terminal.

7.6 Voluntary gangs.

Voluntary gangs may be established and included in the commission's register of gangs.

7.7 Additions to regular lists.

(a) Before an employer shall add a gang to or fill a vacancy on a regular or regular-extra gang list or fill a vacancy on or enlarge a regular list, the employer shall notify an employment information center on commission forms and post a copy thereof on the pier or terminal concerned for a period of not less than seven days. The commission shall also post a notice of such job opportunity in each employment information center.

(b) Any prospective employee seeking such listing shall report to the employer's hiring agent or pier superintendent at the pier or terminal where the vacancy exists and apply on an application form supplied by the employer and approved by the commission. At the end of the seven-day period of posting, the employer shall forward to the commission copies of all applications received during that period, together with a commission form upon which shall be entered the names and seniority classifications of all persons who applied during that period and a certification by the employer's hiring agent to the effect that all persons who sought such listing were furnished applications and that all applications received have been forwarded to the commission.

(c) All applications received by the employer after the seven-day period of posting shall be forwarded immediately to the commission, together with a similar listing and certification. At the time of forwarding applications to the commission, the employer shall also post at the pier or waterfront terminal copies of the forms listing the applicants. Copies of the forms listing the applicants shall also be posted in the appropriate employment information center by the commission. The employer may, after the seven-day period of posting, file to add a gang or fill a vacancy or add to a list from job applicants who have applied for the particular job opportunity contained in the notice and who are qualified and able to perform the duties of the job, in accordance with sections 7.29 through 7.40, inclusive, certifying compliance with the

pier posting requirements of this section. The employer shall post at the pier or waterfront terminal for a period of 30 days from the date of filing the names of all persons selected. The commission shall also post for a similar period of 30 days in the appropriate employment information center the names of all such persons selected. Such selections may only receive permanent approval by the commission after the expiration of the 30-day posting period.

(d) The provisions of this section shall not apply where an employer makes his selection from persons properly listed on any regular list previously filed with the commission for the particular pier or waterfront terminal pursuant to section 7.5, provided the employer:

1. makes his selection in accordance with sections 7.29 through 7.40, inclusive, and
2. files his selections at the appropriate employment information center on forms furnished by the commission.
3. posts at the pier or waterfront terminal for a period of 30 days the names of all such persons selected. The commission shall also post for a period of 30 days in the appropriate employment information center the names of all such persons selected. Such selections may only receive permanent approval by the commission after the expiration of the 30-day posting period.

7.8 Replacements for voluntary gangs.

Before a vacancy may be filled in a voluntary gang, the foreman of such gang shall notify an employment information center on commission forms. The commission shall post a notice of such job opportunity in each employment information center for a period of not less than one week. Any person seeking such listing shall apply on commission forms through an employment information center. After the posting for one week, the commission shall forward all such job applications to the foreman of the gang. Such vacancy shall be filled by written request signed by a majority of the members of the gang from such job applications in accordance with section 7.29 through 7.40, inclusive.

7.9 Rejection of lists, replacements and additions.

The commission may reject any list, in whole or in part, or any replacement or addition to any list, if it determines that such list, or part thereof, or any replacement or addition thereto, was not made in conformance with this Part, or in accord with the Act.

7.10 Removal of persons from lists; removal of gangs from register.

- (a) Any person may be removed from a list:
1. at his own request;
 2. at the request of the employer who applied for his listing;

3. for good cause upon the written request of the majority of the members of a voluntary gang;

4. upon his suspension, revocation or other removal from the longshoremen's register for a period of more than thirty (30) days. A person so removed may be reinstated to his position on said list upon reinstatement to the longshoremen's register, notwithstanding the provisions of section 7.7;

5. where the commission determines that he was not listed in conformance with this Part, or that such removal will further the purposes of the Act.

(b) A gang may be removed from the register of gangs:

1. upon the written request of the majority of its members;
2. upon the request of the employer who applied for its listing; or
3. where the commission determines that such gang was not listed in conformance with this Part, or that such removal will further the purposes of the Act.

7.11 Corrections and restorations to lists.

Any person eligible for inclusion in any list filed with the commission who was omitted or who was subsequently removed from such list pursuant to section 7.10 may be included or restored to such list upon application by the employer if the commission determines that sufficient cause exists for such inclusion or restoration. Any person removed from a voluntary gang pursuant to section 7.10 may be restored for good cause to such gang by the commission.

HIRING PROCEDURES

7.12 Establishment of telephonic hiring system.

In addition to other provisions concerning the ordering of persons without their personal appearance at an employment information center, the commission, in the implementation of a telecommunications hiring system (THS) through which longshoremen and checkers may be hired and accept employment without any personal appearance, may designate one or more of the employment information centers it is authorized to establish and maintain under article VII of the act as a Telephonic Hiring Employment Information Center (THEIC). Such a THEIC has been established at the commission office located at 333 Thornall Street, Third Floor, Edison, NJ 08837.

Historical Note

Sec. renum. 7.11 filed July 2, 1993 eff. July 2, 1993.

Sec. amds filed November 24, 2004 eff. November 24, 2004.

Sec. amd. filed September 8, 2011 eff. September 8, 2011.

7.13 Reporting employment opportunities.

Each employer shall each workday before 2:30 p.m. provide the THEIC with a list of the number of gangs and other classifications prevalidated and general information of employment opportunities expected to be available the following workday for each classification of registered personnel. Such information shall be posted or otherwise made available in each employment information center; when employment is anticipated for a Saturday [if hiring procedures are not implemented which include Saturday as a "regular work day" in accordance with Section 7.19 of this Part], Sunday, Monday, or a holiday falling on any workday, the requirements of this section shall be fulfilled on the preceding regular working day.

Historical Note

Sec. amd. filed July 2, 1993 eff. July 2, 1993.

Sec. amds filed November 24, 2004 eff. November 24, 2004.

Sec. amd. filed September 8, 2011 eff. September 8, 2011.

7.14 Prevalidation ordering from regular lists.

An employer may order employees on regular lists as follows:

(a) not later than 1:45 p.m. each workday, the employer shall notify the THEIC as to which of its regular and regular-extra gangs and list employees it intends to order during the following 24-hour period and employees and gangs so ordered may report directly to the pier or terminal for work;

(b) not later than 4 p.m. each workday, the employer shall indicate on the bulletin board at the pier or terminal those employees and gangs ordered for employment during the following 24-period hours;

(c) when employment is anticipated for a Saturday [if hiring procedures are not implemented which include Saturday as a "regular work day" in accordance with Section 7.19 of this Part], Sunday, Monday, or a holiday falling on any workday, the requirements of subdivisions (a) and (b) of this section shall be fulfilled on the preceding regular working day;

(d) when employment is anticipated for a workday following any holiday, the requirements of subdivisions (a) and (b) of this section may be fulfilled on the last regular working day preceding the holiday;

(e) where an employer cancels the employment of an employee or a gang, it shall notify the THEIC no later than 7 a.m. on the workday the employee or gang was to report for employment.

Historical Note

Sec. amd. filed July 2, 1993 eff. July 2, 1993.

Sec. amds filed November 24, 2004 eff. November 24, 2004.
Amended (a) (b) (c) & (d)

Sec. amd. filed September 8, 2011 eff. September 8, 2011.

7.15 "Quick registration"; weekend casual checkers; limitations.

(a) After satisfying the requirements of section 7.14(a) of this Part and prior to 2:30 p.m., the employer may order ("quick register") individual members of its gangs or lists, not previously validated for the following workday, as dock or terminal employees or as replacements in gangs in accordance with sections 7.29 through 7.40 of this Part, inclusive.

(b) A checker may telephone the THEIC on Friday between 9 a.m. and 10 a.m. to make himself available on the checker voluntary list for weekend employment at terminals handling baggage (cruise ship or passenger ship terminals). A hiring agent may employ by "quick registering," on Friday before 2:30 p.m., a casual checker who has made himself so available.

(c) Except for the provisions of subdivision (b) of this section, the "quick registration" procedure may only be used to hire list or gang members for employment at their own pier or terminal. The procedure is not to be used for ordering or extending other registrants unless written permission is granted by the commission.

(d) Not later than 4 p.m. each workday, the employer shall indicate on the bulletin board at the pier or terminal those employees who have been "quick registered" for employment during the following 24-hours period.

Historical Note

Sec. amd. filed July 2, 1993 eff. July 2, 1993.

Sec. amds filed November 24, 2004 eff. November 24, 2004.
Amended (a) (b) (c) & (d)

Sec. amd. filed September 8, 2011 eff. September 8, 2011.

7.16 Recall of regular and regular-extra gangs.

An employer may retain a regular or regular-extra gang for employment, even though the gang has been previously released by such employer and ordered for employment by another employer, provided the regular employer certifies to the commission that:

(a) circumstances have arisen which prevent the completion of the work assignment for the regular employer; and

(b) the regular employer has notified the prospective employer at least one hour in advance of the time the gang was to report to the prospective employer that it intends to retain its gang until the work assignment is completed.

7.17 Ordering of additional gangs.

(a) Each gang not reported pursuant to subdivision (a) of section 7.14 shall be posted as a gang not previously ordered and may be ordered as an additional gang (including voluntary or extra gangs).

(b) Prior to 2:00 p.m. a hiring agent shall personally order additional gangs from the gangs not previously ordered through the THEIC and so notify the center staff.

(c) An additional gang may be continued in employment in the same manner as the employer's regular and regular-extra gangs pursuant to section 7.14.

7.18 Extension of employment; use, procedure and prohibited practices.

(a) When a person employed pursuant to sections 7.19 and 7.20 is required by his employer for successive days to complete his original assignment, the employer may extend the employment on a day-to-day basis, but not beyond Friday of the same week. Where the original assignment is not completed by Friday, the employer may continue such employment for Saturday, and, if necessary, from Saturday to Sunday only by receiving specific written permission of the commission for each said day.

(b) Not later than 3:00 p.m. each day the employer shall, on commission forms posted on the bulletin board at the pier or terminal, indicate those persons whose employment it is extending for the following 24 hours and shall furnish such names to the employment information center by 3:00 p.m.

(c) Any such extension shall be accomplished in the following manner: for each person to be extended, the employer, through its hiring agent, shall certify on a commission form, the name, registration number, classification and seniority of the registrant to be extended, the specific duty assignment performed and to be performed by the registrant and the location of said duty assignment performed and to be performed.

7.19 Prior day ordering (PDO) of registrants not otherwise prevalidated.

An employer may prior day order (PDO) any registrant for employment who was not otherwise prevalidated in the following manner:

(a) Between 2:30 p.m. and 3:30 p.m. on the prior regular working day, waterfront employers, through hiring agents and through the THEIC, may order casuals for employment the next workday.

(b) Between 2:30 p.m. and 3:30 p.m. on Friday afternoon [or Saturday afternoon, if hiring procedures are implemented which include Saturday as a "regular work day" in accordance with this Section] waterfront employers, through hiring agents and through the THEIC, may order longshore casuals for any shift on Saturday [if hiring procedures are not implemented which include Saturday as a "regular work day" in accordance with this Section], Sunday or Monday, and may order checker casuals for any shift on Monday.

(c) Between 2:30 p.m. and 3:30 p.m. on the last regular working day prior to a holiday, waterfront employers, through

hiring agents and through the THEIC, may order casuals for any shift on the holiday or the workday following the holiday.

(d) Such selection shall be made from a complete list of available registrants possessing the particular qualification needed.

(e) Such selection shall be made in accordance with the seniority priorities as contained in sections 7.29 through 7.40 of the Part, inclusive.

(f) A list of registrants so selected shall be posted at the pier or terminal and the appropriate employment information center.

Historical Note

Sec. amd. filed July 2, 1993 eff. July 2, 1993.

Sec. amds filed November 24, 2004 eff. November 24, 2004. Amended (a) (b) & (c)

Sec. amd. filed September 8, 2011 eff. September 8, 2011.

7.20 Obtaining employment information, availability for employment; hiring (regular working days).

(a) Between 4 p.m. and 8 p.m. on Mondays through Thursdays [or Fridays, if hiring procedures are implemented which include Saturday as a "regular work day" in accordance with Section 7.19 of this Part] (except on holidays), longshoremen and checkers may telephone the THEIC to ascertain if they have been ordered for work that evening or at any time during the next workday. Between 4 p.m. and 8 p.m. on Fridays [or Saturdays if hiring procedures are implemented which include Saturday as a "regular work day" in accordance with Section 7.19 of this Part] (except on holidays), longshoremen and checkers may telephone the THEIC to ascertain if they have been ordered for work that evening or at any time on Saturday [if hiring procedures are not implemented which include Saturday as a "regular work day" in accordance with Section 7.19 of this Part], Sunday and/or Monday, and/or Tuesday if Monday is a holiday. Any such telephone call shall make the individual caller, who has no orders for the next weekday regular working day, available for employment at the 7 a.m. or 8 a.m. hiring on the next weekday regular working day. During such call, individuals who do not have orders for the next weekday regular working day shall designate a telephone number where they may be reached between the hours of 8 a.m. and 9 a.m. during the next weekday regular working day morning, if that telephone number is different from the individual's usual telephone number maintained in the THS data base.

(b) Between 8 a.m. and 9 a.m. on the next weekday regular working day morning, those individuals who made themselves available for work on the prior weekday regular working day between 4: p.m. and 8 p.m., may be hired by hiring agents, in accordance with seniority (sections 7.29 through 7.40 of this Part) by qualification to fill in for absentees or to fill emergency requirements. Said individuals may be advised of such employment by telecommunications

system controllers by telephone provided that said advice is made in registration number sequence by seniority and qualifications and is in accordance with section 7.44 of this Part.

(c) Prior to selecting any such longshoreman or checker for employment, each hiring agent shall notify the THEIC of the number of longshoremen and checkers he intends to employ. This number may be revised by the hiring agent at any time prior to the time he commences hiring according to seniority in the industry, as stated in sections 7.29 through 7.40 of this Part, inclusive. The hiring agent may employ only such number of longshoremen and checkers he has stated he intends to employ, as revised. In the event additional persons are needed after the hiring agent has commenced hiring according to seniority in the industry, the hiring agent shall notify the THEIC of such additional needs. He may then hire such additional longshoremen and checkers he has declared as need only after all other hiring agents have had an opportunity to select the number of longshoremen and checkers they have declared as needed before they commenced hiring according to seniority in the industry and only if permitted under the applicable collective bargaining agreement. To fill his employer's requirements, a hiring agent shall make his selection from among such persons who have made themselves available in accordance with this section and in accordance with sections 7.29 through 7.40 of this Part inclusive, during the designated hiring period.

(d) No hiring agent shall knowingly hire, or attempt to hire, any person registered by the commission under any circumstances or at any time during the hiring process when such person's seniority classification would not ordinarily entitle him to receive said employment.

Historical Note

Sec. amd. filed July 2, 1993 eff. July 2, 1993.

Sec. amds filed November 24, 2004 eff. November 24, 2004. Amended (a) & (b)

Sec. amd. filed September 8, 2011 eff. September 8, 2011.

7.21 Other Weekday Availability and Hirings.

(a) From 9:00 a.m. to 12:45 p.m. Monday through Friday (except on holidays) longshoremen and checkers may telephone the THEIC to voluntarily make themselves available for employment at 1:00 p.m. on that day. Said individuals shall leave a telephone number where they can be reached, if that telephone number is different from the individual's usual telephone number maintained in the THS data base.

(b) From 5:30 p.m. to 6:45 p.m. Monday through Friday (except on holidays) longshoremen and checkers may telephone the THEIC to voluntarily make themselves available for employment at 7:00 p.m. and 11:00 p.m. on that day. Said individuals shall leave a telephone number where they can be reached, if that telephone number is different from the individual's usual telephone number maintained in the THS data base.

(c) A hiring agent may fill his employer's requirements from those registrants who made themselves available for 1:00 p.m., 7:00 p.m. or 11:00 p.m. employment, by selecting said registrants in accordance with seniority and by qualifications through the telephonic hiring system. Telecommunications system controllers may advise registrants of such employment in accordance with section 7.20(b).

7.22 Availability for weekend and holiday employment; weekend and holiday hirings; obtaining holiday employment information.

(a) Between 7:00 a.m. and 8:00 a.m. on Saturday, a longshoreman may telephone the THEIC to volunteer for any shift on Saturday and/or Sunday and shall leave a telephone number where he may be reached, if that telephone number is different from the longshoreman's usual telephone number maintained in the THS data base.

(b) Between 4:00 p.m. and 8:00 p.m. on the last business day before a holiday, longshoremen may telephone the THEIC for work orders for any shift on the holiday. A longshoreman who has not received any such orders may, between 7:00 a.m. and 8:00 a.m. on the day of a holiday when casual hiring will be conducted, may telephone the THEIC to volunteer for any shift on the holiday and shall leave a telephone number where he may be reached, if that telephone number is different from the longshoreman's usual telephone number maintained in the THS data base.

(c) A hiring agent may fill his employer's requirements from those longshoremen who made themselves available for weekend or holiday employment, by selecting such longshoremen in accordance with seniority and by qualification through the telephonic hiring system. Telecommunications system controllers may advise registrants of such employment in accordance with section 7.20(b).

(d) With respect to casual checker weekend employment see section 7.15(b). In the event of an emergency, a hiring agent, for weekend work, may order a checker on his employer's list, and shall post-validate the hiring at an employment information center on the next regular working day stating, in writing, on a commission form, the nature of the emergency.

7.23 Reporting absenteeism.

(a) The employer, through its hiring agent, shall notify the employment information center in writing on the appropriate commission form of and shall record in the telephone hiring system data base, by 9:00 a.m. of the same day, the failure of any person or gang to report for work as ordered for 7:00 a.m. or 8:00 a.m. employment; and shall further notify the employment information center in writing on the appropriate commission form within 24 hours of the failure of any person or gang to report for work as ordered for any other employment.

(b) Registered persons engaged in the recording or tabulation of the hours worked at piers or other waterfront terminals shall furnish accurate and timely absentee information to their employers.

Historical Note

Sec. amd. filed May 15, 1991 to be eff. immediately.

7.24 Registering and Data Base Validation and Certification.

The employment of any gang, list or individual pursuant to sections 7.13 through 7.22 shall be registered by an employer's hiring agent in the THS data base. Said hiring agent shall also certify to the commission, on an appropriate form, that any such employment is in accordance with this Part. Said form shall be submitted to the commission for validation.

REACTIVATED AND NEW PIERS

7.25 Notice for establishing regular lists for reactivated and new piers.

An employer shall give 30 days notice to the commission prior to filing regular lists for a reactivated or new pier. The commission may reduce the time required for such notice. The commission shall post such notice in each employment information center for a period of not less than one week.

7.26 Publication of prior lists for reactivated piers.

Upon receiving such notice with respect to a reactivated pier, as defined in section 7.2(j), the commission shall furnish the employer with such prior regular lists as were duly approved by and on file with the commission at the time the pier's operation terminated and shall post copies of such lists for not less than one week in each employment information center. Any prospective employee whose name appears on any such list who seeks to be included on a regular list at the reactivated pier shall apply to the employer's hiring agent or pier superintendent on an application supplied by the employer and approved by the commission. Within five business days from the end of period of posting, the employer shall forward to the commission copies of all applications received during that period, together with a commission form upon which shall be entered the names and seniority classifications of all persons who apply during that period and a certification by the employer's hiring agent that all persons who sought such listings were furnished applications and that all applications received have been forwarded to the commission.

7.27 Regular lists for reactivated piers.

At the time of filing applications pursuant to Section 7.26, the employer may select regular employees and members of gangs from job applicants qualified and able to perform the duties of the job, in accordance with sections 7.29 through

7.40, inclusive, and file its original lists of regular employees and gangs in accordance with section 7.5. The employer may select additional persons to complete its original lists for the reactivation of the pier in accordance with section 7.7 no later than 10 days after the initial filing of his lists.

7.28 Regular lists for new piers.

Any prospective employee seeking inclusion in a regular list for a new pier shall apply to the employer's hiring agent or pier superintendent on an application supplied by the employer and approved by the commission. Within five business days from the end of the period of posting, the employer shall forward to the commission copies of all applications received during that period, together with a commission form upon which shall be entered the names and seniority classification of all persons who applied during that period and a certification by the employer's hiring agent that all persons who sought such listings were furnished applications and that all applications received have been forwarded to the commission. No later than 20 days after giving notice pursuant to section 7.25, the employer may select regular employees and gangs from job applicants qualified and able to perform the duties of the job, in accordance with sections 7.29 through 7.40, inclusive, and file such lists in accordance with section 7.5.

PRIORITIES

7.29 Construction of priorities.

In accordance with the provisions of article XV of the Waterfront Commission Act, the following priorities of employment are designed to be consistent with the priorities established in the seniority article of the collective bargaining agreement between the New York Shipping Association, Inc. and the International Longshoremen's Association. The listing of these priorities shall not be construed to limit in any way the right of the parties to the collective bargaining agreement to alter, modify, amend or otherwise change such priorities or agree upon any other method for the selection of registered or licensed employees by way of seniority, experience, regular gangs or otherwise.

7.30 Regular employee lists for reactivated piers.

(a) Each list for regular employees other than coopers, maintenance men and marine carpenters, at a reactivated pier shall be established from those persons on prior lists for such category who are available and willing to accept employment, on the basis of seniority at the pier or terminal. If pier or terminal seniority is equal, selection shall be made on the basis of seniority in the industry. Additions to such lists shall be made in accordance with the priorities for additions to the regular list of such category on existing piers.