

Longshore industry
1956

WATERFRONT COMMISSION OF NEW YORK HARBOR

15 Park Row
New York 38, N. Y.

REGULATIONS

New York [1956]

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REGULATION NO. 1

General Provisions

(Adopted by the Commission, November 16, 1953)

Section 1.1. For the purposes of the Commission's Regulations, unless the context clearly requires otherwise, the definitions, contained in the Compact between the States of New York and New Jersey (Article II) shall be used. Wherever the term "Compact" is used it shall mean the Compact between the two States enacted by Chapter 882 of New York, Laws of 1953, and by Chapter 202 of New Jersey, Laws of 1953, both as amended, as consented to by Public Law 252 of the 83rd Congress (All-67 Stat. 541), and shall include all concurrent legislation of the two States enacted pursuant to or in furtherance of the Compact.

Section 1.1-1. In the event of public emergency occasioned by, but not limited to, any of the following: acts of God, acts of War, acts of violence or breaches of the peace, the Commission may by resolution revoke or suspend, in whole or in part, any of its Regulations when in its opinion the purposes of the Compact will be furthered or effectuated by such revocation or suspension. (Adopted by the Commission, October 4, 1954.)

Section 1.1-2 In the event that any Regulation adopted by the Commission has been or is being utilized by any person or persons to impede, obstruct or frustrate the purposes of the Compact, the Commission may by resolution revoke or suspend, in whole or in part, the privileges accorded to such person or

persons of such Regulation when in its opinion the purposes of the Compact will be furthered or effectuated by such revocation or suspension. Nothing contained in this Regulation shall, however, abridge any statutory or constitutional right of such person or persons. (Adopted by the Commission, October 4, 1954.)

Section 1.2. Unless otherwise provided by Regulation, all notices to the Commission, where required by Compact or Regulation, shall be given in writing and delivered by first class mail or by hand, addressed to the Waterfront Commission of New York Harbor, at the main administrative offices. If delivered by mail, notice shall be deemed given only when actually received.

Section 1.3. The records and files of the Commission shall be considered confidential and no person in the employ of the Commission shall divulge or disclose any information obtained from said records and files, or from any examination or inspection of premises or property, made or acquired in the administration of the Compact, except for purposes of such administration or for the use of any law enforcement authority of either State or of the Federal Government, or to any Federal, state or municipal officials concerned with the administration of any revenue law, or any law providing for the assessment of governmental costs of administration, provided such governments or officials grant a similar or reciprocal privilege to the Commission.

Nothing herein contained shall be construed to prevent the opening for public inspection of the register of longshoremen or the Commission's list of licensees or applicants, nor the

delivery to licensed or registered persons, or to their duly authorized representative of a copy of any report, application, or other paper filed by such person pursuant to such Compact or Regulation, or the publication of statistics so classified as to prevent disclosure of information of a private or competitive nature relating to a particular person, nor to prevent inspection and examination of records and files of the Commission for purposes of audit by any duly authorized auditors engaged by the Commission or designated by proper authority of either State.

The Commission may, by resolution, authorize the disclosure or exchange of information with any public official or agency upon a finding that the purposes of the Compact will be effectuated thereby. (Section 1.3 adopted by the Commission, January 20, 1954.)

Section 1.4. Any and all licenses, badges, or other evidences of a license or registration issued, shall remain the property of the Commission and shall be promptly returned to the Commission in accordance with its Regulations. No person shall transfer or surrender possession of any such license, badge or other evidence of a license or registration issued, to any person either temporarily or permanently except as authorized by the Commission. (Adopted by the Commission June 30, 1954.)

Section 1.5. No person shall retain possession of any license or registration card issued pursuant to the Compact, without authority to use such license or registration card,

except as otherwise expressly provided in these Regulations.

Section 1.6. A license or registration card issued by the Commission shall not be transferable at any time for any purpose.

Section 1.7. Any person licensed or registered under the Compact who has been charged with or arrested for any crime or offense under the penal law of any State, District of Columbia, or the United States, other than a motor vehicle or traffic offense, shall notify the Commission within twenty days of his knowledge of such charge or of the arrest.

Section 1.8. A license or registration card which has been lost will be replaced by the Commission in the following manner:

(a) The longshoreman or licensee shall identify himself to the satisfaction of the manager of an employment information center by any papers in his possession or by the statement of other persons present. Such longshoreman or licensee shall also complete and file with the manager an application for a duplicate license or registration card, including an affidavit of loss of the original, upon a form to be provided by the Commission.

(b) Upon the presentation of such application to him and upon his being satisfied as to the identity of the longshoreman or licensee, the manager shall forthwith issue a temporary permit to the applicant which may be used in lieu of a license or registration card for not more than five days from the date of issuance. Within such period of five days the Commission will issue and deliver to the applicant a duplicate license or registration

card, as the case may be, provided the applicant is entitled thereto under the Compact.

Section 1.9. Any person holding a license under the Compact and any registered longshoreman who changes his name or his residence address at any time after applying for a license or for registration, shall immediately notify the Commission in writing.

Amendment to Regulation No. 1 - General Provisions

Section 1.10. In connection with any investigation conducted pursuant to Article IV of the Compact, a person questioned under oath shall have the right to be accompanied and represented by counsel, except that he shall not be so accompanied or represented by counsel who also represents a person who is a subject of the investigation, unless the Commission so authorizes.

(Adopted by the Commission, August 18, 1955.)

REGULATION NO. 2

Pier Superintendents and Hiring Agents

(Adopted by the Commission, November 16, 1953.)

Section 2.1. On or after the first day of December, nineteen hundred and fifty-three, no person shall act as a pier superintendent or as a hiring agent within the Port of New York District without first having obtained from the Commission a license to act as such pier superintendent or hiring agent, as the case may be, and no person shall employ or engage another person to act as a pier superintendent or hiring agent who is not so licensed.

Section 2.2. A person will be considered a "pier superintendent" whenever

(a) his work is performed at a pier or other waterfront terminal and includes the supervision, directly or indirectly, of the work of longshoremen in the course of supervision of the pier or terminal or its cargo handling operations; and

(b) he is employed by a carrier of freight by water or a stevedore, either directly or indirectly through a subsidiary or parent corporation of, or a contractor with, either of them.

Section 2.3. A person will be considered a hiring agent whenever

(a) he represents a stevedore or a carrier of freight by water; and

(b) his job includes selection of longshoremen for employment.

Section 2.4. No person will be licensed to act as a pier

superintendent or hiring agent for more than one employer, except at a single pier or waterfront terminal. A licensed pier superintendent or hiring agent may act for a single employer at more than one pier or waterfront terminal, and a single application will be sufficient for this purpose.

Section 2.5. A license to act as a pier superintendent or hiring agent will be issued only upon verified application submitted by the employer providing all the information called for upon forms supplied by the Commission. No person shall participate in any way, directly or indirectly, in the identification, selection or designation of a person for employment as a pier superintendent or a hiring agent except the employer. No person shall use, or attempt or threaten to use, any force, violence or restraint; or inflict or attempt or threaten to inflict, any injury, damage, harm or loss; or coerce or attempt to coerce, by threat or discrimination, violence or economic reprisal, or in any other way practice intimidation upon or against any employer in order to induce or compel said employer to select for or retain in employment any person as a pier superintendent or hiring agent. No person shall prevent, attempt to prevent, or otherwise interfere with the free exercise of discretion by any employer in selecting for or retaining in employment any person as a pier superintendent or hiring agent. No person shall pay, or give or offer or agree to pay, or give any valuable consideration to any person for the purpose of directly or indirectly influencing the discretion of any employer in

selecting for or retaining in employment any person as a pier superintendent or hiring agent. (Adopted by the Commission on October 27, 1954.)

Section 2.6. For the purpose of assisting the Commission to ascertain the character, integrity and identity of a prospective pier superintendent or hiring agent, each application for a license shall be accompanied by a photograph and the authenticated fingerprints of the prospective licensee on an identification record form furnished by the Commission.

Section 2.7. Following its examination of any application, the Commission may require the applicant to produce such further facts and evidence as may be necessary to determine whether or not the prospective licensee possesses the qualifications and meets the requirements necessary to obtain a license.

Section 2.8. Any prospective licensee who has been convicted of a crime or offense specified in Article V, Paragraph 3(b) of the Compact may submit evidence of a subsequent pardon in the form of the original or a photostatic copy of such pardon. Any prospective licensee who has been convicted of such crime or offense, and who desires to offer evidence to satisfy the Commission that he has conducted himself for a period of not less than 5 years in such manner as to warrant the granting of a license, shall attach to the application the original or a photostatic copy of any certificate of good conduct, official statement, or other form of relief from disabilities arising from the fact of conviction, which may be issued by a Board of Parole, or similar authority, and any other evidence, such as letters of character reference, as he may deem relevant to the

granting of a license. The Commission may require additional evidence, to be submitted upon such form as may be prescribed, as it may deem necessary.

Section 2.9. A license to act as a pier superintendent or as a hiring agent is valid/^{only}for employment with the employer who applied for the license. Upon the approval of an application, the Commission will issue and deliver a license to the pier superintendent or hiring agent by transmitting the license form to the applicant (employer) who shall be authorized to hand it to the licensee upon the commencement of the employment.

Section 2.10. Upon the termination of the employment of a licensee, without any understanding or arrangement for reemployment, or in the event of the failure of the applicant (employer) to employ the licensee within 30 days after issuance of the license, it shall be the duty of the applicant (employer) forthwith to notify the Commission of such termination of employment or failure to employ and to return to the Commission any license, badge or other evidence of issuance of a license in its possession.

Section 2.11. Except as provided in Section 1.8 of these Regulations, a temporary permit may be issued only after an application for a license has been completed and filed with the Commission in accordance with the applicable statutes and Regulations.

Section 2.12. The Commission will furnish each licensed pier superintendent and hiring agent a card, badge or other

REGULATION NO. 3

Stevedores

(Adopted by the Commission, November 16, 1953.)

Section 3.1. On or after the first day of December, nineteen hundred and fifty-three, no person shall act as a stevedore within the Port of New York District without having first obtained a license from the Commission, and no person shall employ a stevedore to perform services as such within the Port of New York District unless the stevedore is so licensed.

Section 3.2. A stevedore license is required by any person (other than an employee) who is engaged under a contract or other arrangement with a carrier of freight by water (including a parent corporation or a subsidiary corporation of such carrier), in the movement of waterborne freight carried or consigned for carriage by such carrier on vessels of such carrier berthed at piers, on piers at which such vessels are berthed or at other waterfront terminals, or in the provision of clerking and checking services in connection therewith. A stevedore license shall also be required by any person (other than an employee) engaged under contract or other arrangement with a licensed stevedore to perform all or any part of such movement of waterborne freight or such services. A stevedore license shall not be required by any person engaged exclusively in moving by means of floating mechanical equipment bulk cargo consisting of a single commodity loaded or carried without wrappers or containers and delivered by the carrier without transportation mark or count.

A carrier of freight by water shall not require a stevedore license even though it may perform all or part of the services for which a stevedore license would be required when performed by any other person, provided that such services are performed on its own account (or on account of a parent corporation or a subsidiary corporation of such carrier) or as an accommodation, not in the regular course of its business, at its own pier for another carrier of freight by water, or as part of its services for another carrier of freight by water for which it is a general agent. (Section 3.2 adopted by the Commission, February 3, 1954.)

Section 3.3. A stevedore's license will be issued only upon application made and executed upon forms furnished by the Commission. Each application for a stevedore license shall be accompanied by a personal character information form, to be furnished by the Commission, completed and verified under oath by the applicant, by each member of a partnership, and by each officer, each director and each natural person holding, directly or indirectly, 5% or more of any class of capital stock, if the applicant is a corporation. The Commission may, upon examination, require such additional evidence and information as may be required to establish the character of the real parties in interest.

Section 3.4. For the purpose of assisting the Commission to ascertain the character, integrity and identity of an applicant for a stevedore license, each application shall be accompanied by a photograph and the authenticated fingerprints on a

record identification form to be furnished by the Commission, of an individual applicant, each member of a partnership, each officer and each director and each natural person holding, directly or indirectly, 5% or more of any class of capital stock of a corporate applicant.

Section 3.5. For the purposes of this Regulation, Sections 2.7 and 2.8 of the Commission's Regulation No. 2, are incorporated herein and made a part hereof as though here set forth in full.

Section 3.6. Upon the approval of an application, the Commission will issue and deliver a stevedore license, which shall be prominently displayed at the licensee's principal place of business within the Port of New York District.

Section 3.7. The holder of a stevedore license shall notify the Commission forthwith, and in detail, of any of the following events:

(a) The making or execution of any term contract or arrangement for stevedoring services with a carrier of freight by water and of the termination or cancellation of such contract, but such notification shall not be required with respect to oral or written "spot" contracts or arrangements entered into with a carrier of freight by water or its agent for a single vessel operation;

(b) Any change in the officers, directors, stockholders owning 5% or more of the capital stock of any class or any change in the capitalization of the corporation.

Section 3.8. A temporary permit may be issued only after an application for a license has been completed and filed with the Commission in accordance with the applicable statutes and Regulations.

Section 3.9. For the purposes of Article VI of the Compact and this Regulation, "Waterborne Freight" shall not include freight loaded within the Port of New York District upon motor vessels not in excess of one hundred fifteen foot length. (Section 3.9 adopted by the Commission, March 10, 1954.)

Amendment to Regulation No. 3 - Stevedores

3.10 - Each holder of a stevedore license shall maintain a complete set of books and records containing a true and accurate account of the licensee's receipts and disbursements arising out of its activities within the port of New York district.

Every cash disbursement for goods or services in the amount of \$50 or more shall be supported by a voucher or other written record giving a description of the goods or services, the name of the person in authority who made or authorized the disbursement, the name of the payee, the amount, the date and the account to be charged.

Every cash disbursement for goods or services in an amount less than \$50 shall be supported by at least a signed petty cash slip describing the disbursement.

Every cash disbursement in the amount of \$50 or more for travel shall be supported by a voucher or other written record which shall state who did the travelling, the place travelled to, the date, and the amount disbursed.

Every cash disbursement in the amount of \$50 or more for entertainment shall be supported by a voucher or other written record which shall state who did the entertaining, the place and date of the entertainment, the number of

persons entertained, and the amount disbursed.

Every cash disbursement for travel or entertainmant in an amount less than \$50 shall be supported at least by a signed petty cash slip describing the disbursement.

Every cash disbursement in the amount of \$25 or more for a gift or gratuity shall be supported by a voucher or other written record which shall show the name of the person in authority who made or authorized the disbursement, the name of the person who received it, the amount, date, and the business or other purpose for the gift or gratuity.

(Adopted by the Commission, August 18, 1955.)

REGULATION NO. 4

Longshoremen

(Adopted by the Commission, November 16, 1953.)

Section 4.1. Registration as a longshoreman is required for any person who is employed to handle waterborne freight by a "carrier of freight by water", generally a steamship company, or by a stevedore, at a pier or other waterfront terminal. This includes, without being limited thereto, Gang Foremen, Dock Gang Foremen, Headers, Gangwaymen, Winchmen, Dockmen, Holdmen, Terminal Labor, Operators of Mechanical Equipment, Sorters, Baggage Porters, Timekeepers, Checkers and Clerks but does not include Hiring Agents or Pier Superintendents.

Registration is not required for jobs limited to the handling of liquid cargoes in bulk in tanks, or carriage by barge of bulk cargoes consisting of a single commodity (such as but not limited to 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. Jobs exempt from registration include, without limitation thereto:

Cargo Repairmen, Maintenance, Mechanical and Miscellaneous Workers, Horse and Cattle Fitters, Grain Ceilers, Marine Carpenters, Iron Workers, Ship's Cleaners and Sealers, Painters, Safety-men, Shenangos, Commissary Workers, Servicemen of Mechanical Equipment, Coopers, Gearmen, Sail-makers and Shop Foremen.

Section 4.2. A longshoreman may apply in person or by mail to have his name placed upon the longshoremen's register. Such application may be made at the administrative offices of the Commission, or at any employment information center.

Section 4.3. Forms of application to be placed on the longshoremen's register will be provided by the Commission. Each longshoreman making application shall, upon request, present for examination any United States Coast Guard Port Security Card which may have been issued to him.

Section 4.4. The Commission will furnish each registered longshoreman with a card, badge or other means of official identification, which he shall carry on his person at all times when he is at work or at any pier or waterfront terminal. Such identification shall be returned to the Commission promptly upon request, and when otherwise required by the Regulations.

REGULATION NO. 5.

Port Watchmen

(Adopted by the Commission, November 16, 1953.)

Section 5.1. On or after the first day of December, nineteen hundred fifty-three, no person shall act as a port watchman within the Port of New York District without first having obtained a license from the Commission, and no person shall employ a port watchman who is not so licensed.

Section 5.2. A license as a port watchman is required for any person employed in a job known as watchman, roundsman, detective, gateman, guard, or any similar job where the duties involve the protection of property at or on any pier or waterfront terminal, and such work is performed for the operator of the pier or terminal or for a carrier of freight by water. Employees of a parent or subsidiary corporation of such operator or carrier, or of a detective agency or other contractor, who perform such services and report to the pier superintendent are also required to hold a license as a port watchman.

Persons employed exclusively as protectors or guardians of persons (as distinguished from property) or exclusively in the protection or guarding of ships or vessels not included in the definition of "carrier of freight by water", or cargo not included in the definition of "waterborne freight", or for work on a pier or waterfront terminal not used for "waterborne freight", shall not require a license.

Section 5.3. A license to act as a port watchman shall be issued only upon written application completed and executed upon forms to be furnished by the Commission. Each application shall be accompanied by a photograph and the authenticated

fingerprints of the applicant, upon a record identification form to be furnished by the Commission. The applicant shall also submit the certificate of a duly licensed doctor of medicine of his own choosing, setting forth the information required, upon forms to be furnished by the Commission, to determine his mental and physical fitness.

Section 5.4. Each applicant shall be at least 21 years of age and shall meet the following standards of physical and mental fitness:

(a) He shall be free from marked varicosities in legs; marked arteriosclerosis; marked rheumatic condition; severe asthma; diabetes; serious heart condition; epilepsy; and marked tuberculosis.

(b) He shall have hearing within 80 per cent of normal; vision corrected to 20/30 in each eye; a blood pressure of less than 190. He shall be free of hernia, unless it is found to be properly trussed.

(c) He shall demonstrate to the satisfaction of his examining physician on the basis of such tests as may be required by such examiner that he possesses sufficient strength, vigor and agility to properly perform all of the duties of a port watchman.

(d) He shall be free of any mental illness which might cause his presence upon the waterfront to be hazardous to himself or to endanger the life or property of others.

Section 5.5. Any prospective licensee who has been convicted of a crime or offense specified in Article X, paragraph 3 (b) of the Compact, may submit evidence of a subsequent pardon in the form of the original or a photostatic copy of such pardon.

Section 5.6. Applicants shall be able to read, write and speak the English language.

Section 5.7. Notwithstanding any other provision of this Regulation no test of physical and mental fitness shall be required of any applicant where the application is filed before November 21, 1953, and a verified statement is made by the employer of the applicant, in the form and manner prescribed by the Commission, from which it appears that:

(a) The applicant is at the time of application employed in a capacity for which a port watchman's license is required, and has been regularly so employed by one or more employers for at least one year prior to the date of filing of the application;

(b) The applicant's services as a port watchman have been satisfactory to the employer in every way;

(c) The applicant is physically and mentally capable of carrying out the duties of a port watchman;

(d) The employer will continue to employ the applicant as a port watchman if a license is issued.

Section 5.8. The Commission will promptly notify each applicant of the Commission's determination and will furnish to licensed port watchmen a card or other official identification. The Commission will furnish, in the manner provided below, each employed port watchman with a badge to be worn at all times engaged in the performance of his duties at a pier or waterfront terminal.

Each employer shall request from the Commission a sufficient number of badges to provide each port watchman in its employ

with a badge. Each employer will deposit \$1.50 for each port watchman's badge which shall remain the property of the Commission. Each employer shall require each port watchman in its employ to reimburse it for such deposit.

Each employer will establish adequate procedures so that such badges will be worn only when the port watchman is actually engaged in the performance of his duties at a pier or waterfront terminal. Each employer will require the return of such badge upon the termination of the employment of the port watchman.

Each employer will maintain records, showing the assignment of each badge, the name of the port watchman and the pier or waterfront terminal where he is employed. Such records shall be kept available for inspection by employees or agents of the Commission. (Adopted by the Commission, March 31, 1954.)

Section 5.9. The Commission will maintain in its main administrative office, hereinafter called "the main center", a complete list of all licensed port watchmen.

Section 5.10. Port Watchmen may be employed through the main center in the manner provided by subsection (a) or (b) as follows:

(a) An employer may employ his regular roster of port watchmen in the following manner: The employer shall file a request in duplicate for the employment of his regular port watchmen listing the name, license (or temporary permit) number assigned by the Commission to each port watchman, and such other information as may be required on forms to be furnished by the Commission. Such requests shall be for

the following calendar month and shall be filed not less than five business days prior to the beginning of such month provided all or part of such advance filing time may be waived by the Director of Employment Information Centers, or his duly authorized representative, to the extent that unusual conditions make it impractical. Upon approval, a validated copy of the request form shall be returned by the Commission to the employer, and such copy shall be kept available by the employer at his principal office in the Port District. A port watchman duly listed on any approved request may be employed in accordance with the request without any personal appearance by him at the center. Replacements and substitutes for port watchmen listed on the regular roster may be employed upon supplemental request and approval following the procedure ~~above~~ and using forms to be furnished by the Commission.

No port watchman listed on a regular roster may accept employment as a port watchman except for the employer having the validated copy of the request form. No port watchman may be listed on more than one validated regular roster at any one time. Upon written request of either the employer or the port watchman on any such regular roster, the port watchman's name shall be stricken from the regular roster of such employer effective not later than twelve hours after the receipt of such request at the center. Any port watchman whose name has been so stricken shall be eligible for inclusion in another regular roster or for employment as a casual in accordance with the provisions of subsection (b).

Whenever conditions make it practicable the Commission may validate an already validated regular roster for the succeeding month.

(b) Any employer desiring to employ a port watchman other than those listed on his regular roster may file a request for the casual employment of such port watchman listing the name, license (or temporary permit) number and such other information as may be required on forms to be furnished by the Commission. Such requests shall be for a stated period not exceeding five days and shall be filed not less than twelve hours prior to the beginning of the time at which employment is intended, provided all or part of such advance filing time may be waived by the Director of Employment Information centers or his duly authorized representative to the extent that unusual conditions make it impractical. Upon approval, a validated copy of the request form shall be returned by the Commission to the employer, and such copy shall be kept available by the employer at his principal office in the Port District. A port watchman duly listed on any approved request may be employed in accordance with the request without any personal appearance by him at the center. Each employer shall notify the center in writing of any delay in the commencement of the stated period of employment and of any break in the continuity of work not less than six hours in advance thereof. Unless such notice is given and received within the time limit, any further employment of the port watchman on such request shall require the submission and approval of a new request. Where the employment of the

casual port watchman is to extend beyond the period for which approval has been given, an extension or extensions of the approval for additional periods, each for not more than five days, may be obtained by the filing of a supplementary notice in duplicate upon a form to be prescribed by the Commission.

REGULATION NO. 6.

Hearings and Determinations on Applications
For Registration and Licenses.

(Adopted by the Commission, November 18, 1953.)

Section 6.1. All applications, petitions or other communications to the Commission under this Regulation shall be in writing and delivered by first-class mail or by hand, addressed to the Secretary, Waterfront Commission of New York Harbor, 15 Park Row, New York 38, New York.

Section 6.2. Notices or other communications by the Commission shall be served personally or by registered mail or telegram, addressed to the last address on file with the Commission. The word "party" as used herein and hereinafter in this Regulation shall mean and include an applicant for registration, a prospective licensee and the applicant (employer) in the case of an application for a pier superintendent's or hiring agent's license. When any party is represented by an attorney, service upon such attorney shall be deemed proper service upon such party.

Section 6.3. 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.

Section 6.4. The Commission shall not deny any application for registration or for a license without giving the parties an opportunity to be heard at such time and place as the Commission shall determine and upon at least two days' prior notice (excluding Sundays). The hearing officer may be a Commissioner or an officer, employee or agent designated by the Commission to conduct hearings.

Section 6.5. The notice of hearing shall state the time, place and subject of hearing. Such notice shall be served upon the applicant for registration or prospective licensee and in the case of an application for a pier superintendent's or hiring agent's license, a copy of such notice shall also be served on the applicant (employer).

A petition for an adjournment of the date fixed for the hearing shall set forth in detail the grounds therefor. Such petition shall be made as far in advance of the date fixed for the hearing as may be practicable and may, for good cause, be granted by the hearing officer. If the hearing cannot be completed on the date fixed, it may be adjourned to a date fixed by the hearing officer.

The notice of hearing may be amended by the hearing officer at any time prior to the conclusion of the hearing. If such amendment is substantial and if a party so requests, the hearing officer may grant an adjournment of the hearing for such period of time as may be reasonable under the circumstances.

At any time prior to the close of the hearing, the hearing officer may, upon good cause shown, grant an adjournment.

Section 6.6. Notwithstanding the failure of the applicant for registration or prospective licensee or applicant (employer) to avail himself of the opportunity to be heard on the date set forth in the notice of hearing or on any adjourned date, the Commission may nevertheless take such action, either to grant or deny the application, as it deems proper.

Section 6.7. In the event a party does avail himself of the opportunity to be heard, he shall be prepared to proceed on the date set forth in the notice of hearing or on the adjourned date.

An applicant for registration or prospective licensee shall appear in person and may be represented at the hearing by an attorney who is a member in good standing of the Bar of the State of New York or of the State of New Jersey. An applicant (employer) shall be permitted to appear in person or by such an attorney.

Section 6.8. The hearing officer shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure in the conduct of hearings. He shall have authority to administer oaths, issue subpoenas, rule upon offers of evidence and otherwise so regulate the course of the hearing as to preserve fundamental concepts of fairness and to effectuate the purposes and provisions of the Waterfront Commission Compact.

At the request of a party the hearing officer shall issue subpoenas to compel the attendance of witnesses and the giving of testimony or production of other evidence on behalf of a party.

A party shall be afforded reasonable opportunity to present testimony under oath or other evidence relevant and material to the subject matter of the hearing and to cross-examine any witnesses who testify at such hearing. The introduction of unduly repetitious evidence shall be avoided and the hearing officer may curtail cumulative testimony. A stenographic record of the hearing shall be made and a transcript thereof may be furnished to any party upon payment by him of the costs thereof.

Oral argument shall be made only before the hearing officer and shall be included in the record of the hearing. Such oral argument may, in the discretion of the hearing officer, be curtailed provided that a party shall, in the event of such curtailment, be given an opportunity to submit his argument in writing. Briefs as to facts or law shall be received and may be required.

to be submitted. The hearing officer may fix the time within which briefs shall be filed and briefs received subsequent to such time need not be considered.

Section 6.9. Upon conclusion of a hearing before a hearing officer other than the Commission itself, such hearing officer shall, by written memorandum to the Commission, set forth appropriate findings, and shall state his recommendations for action by the Commission thereon unless otherwise directed.

A copy of the findings and recommendations of the hearing officer shall be furnished to the parties and Commission counsel, and each may submit written exceptions thereto and written argument thereon within ten days after receiving such findings and recommendations. A copy of the exceptions and argument shall be served upon each of the other parties or Commission counsel, as the case may be. Each party and the Commission counsel may also submit a memorandum in reply to such exceptions and argument within five days after being served with a copy of same. A copy of the reply shall be served in like manner as the exceptions and argument.

Exceptions, argument or replies submitted after the time fixed need not be considered by the Commission, unless the Commission grants an extension of time.

The record of the hearing together with the memorandum of the hearing officer, and any exceptions or argument duly submitted by any of the parties and Commission counsel shall be referred to the Commission for final determination and order. (Section 6.9 adopted by the Commission June 27, 1955).

Section 6.10. ~~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 hearing officer, be reopened for the presentation of new evidence. Such petition to reopen the hearing shall state in detail the nature of the new 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 additional evidence.

Upon petition, after the making of an order of the Commission denying an application for registration or a license, rehearing may be granted in the discretion of the Commission. Such a petition for rehearing shall state in detail the grounds upon which the petition 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 the facts and arguments in support thereof. Such petition shall be filed with the Commission not later than thirty days after service of the final order of the Commission upon the parties.

The Commission may upon its own motion grant a rehearing after the making of an order denying an application for registration or for a license.

Section 6.11. An order of the Commission denying an application for a license or registration shall unless otherwise stated forthwith revoke and annul any temporary permit or temporary registration issued pending final action on the application for a license or registration. (Section 6.11 Adopted by the Commission, March 10, 1954.)

~~Section 6.10.~~ 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 hearing officer, be reopened for the presentation of new evidence. Such petition to reopen the hearing shall state in detail the nature of the new 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 additional evidence.

Upon petition, after the making of an order of the Commission denying an application for registration or a license, rehearing may be granted in the discretion of the Commission. Such a petition for rehearing shall state in detail the grounds upon which the petition 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 the facts and arguments in support thereof. Such petition shall be filed with the Commission not later than thirty days after service of the final order of the Commission upon the parties.

The Commission may upon its own motion grant a rehearing after the making of an order denying an application for registration or for a license.

Section 6.11. An order of the Commission denying an application for a license or registration shall unless otherwise stated forthwith revoke and annul any temporary permit or temporary registration issued pending final action on the application for a license or registration. (Section 6.11 Adopted by the Commission, March 10, 1954.)

REGULATION NO. 7

Employment Information Centers

(Adopted by the Commission, November 20, 1953.)

Section 7.1. On and after December 1, 1953, no person shall directly or indirectly, hire any person for work as a longshoreman within the Port of New York District, except through the employment information center or centers designated by this Regulation. No person shall accept any employment as a longshoreman within the Port of New York District, except through such an employment center.

Section 7.2. The Commission will establish and maintain one or more employment information centers in each state within the Port of New York District. The employment of longshoremen and port watchmen shall be effectuated through the employment information center located nearest to the pier or other waterfront terminal at which the work is to be performed, except as the Director of Employment Information Centers or other duly authorized officer or employee of the Commission may otherwise permit or require under special circumstances to serve the convenience of longshoremen or their employers. For any such exception, the main administrative office of the Commission may be used as an employment information center.

Section 7.3. In addition to carriers of freight by water and stevedores, any parent corporation or subsidiary of a corporate carrier of freight by water or of a corporate stevedore, the employed persons to perform the services of longshoremen

pursuant to contract or other arrangement with such carrier or stevedore, is subject to the provisions of this Regulation applicable to employers of longshoremen.

Section 7.4. A longshoremen's register will be maintained in the main administrative offices of the Commission, and duplicates thereof will be kept and exhibited at each employment information center.

Section 7.5. Longshoremen may be employed through employment information centers in the manner provided by Section 7.6 or as follows:

(a) For purposes of this subdivision the term "permanent employee" shall mean an employee, such as but not limited to terminal labor, timekeeper or receiving and delivery clerk, who either by agreement or custom works by the week, or longer period, and from week to week, or longer period, and who by agreement or understanding between the employer and employee is not available for employment by any other employer during such period. An employer may employ a longshoreman as such a permanent employee through the appropriate employment information center in the following manner:

The employer shall file a request, in duplicate, for the employment of such longshoreman as a permanent employee for either a stated period or indefinitely, listing the name and Commission registration (or temporary registration) number of each such permanent employee and such other

information as may be required, on forms to be furnished by the Commission. Such request shall be filed not less than twenty-four hours prior to the beginning of the time for which employment is intended.

The manager of the information center shall promptly approve any such request which conforms with the Compact and Regulations. Upon such approval, the manager shall return a validated copy of the request form to the employer and such copy shall be kept available by the employer at the place of employment throughout the duration of the permanent employment. A longshoreman duly listed as a permanent employee on any such approved request may be employed in accordance with the request, and for the duration stated therein, without any personal appearance by him or of a hiring agent at the employment information center.

The employer shall notify the manager of the employment information center, in writing, whenever the employment as a permanent employee of a longshoreman duly listed on any such approved request is to be terminated without any agreement or understanding for re-employment, not less than twenty-four hours in advance of such termination, provided that the manager of the employment information center may waive all or part of such advance notification where and to the extent that unusual conditions make it impractical.

(b) An employer desiring to hire longshoremen as "regular employees" for work as dock or terminal labor shall do so through the Commission's employment information centers only as provided in Section 7.6 or in the following manner:

(1) The Commission will establish and maintain rosters of regular checkers and clerks, and rosters of other regular dock and terminal employees for each pier or waterfront terminal.

(2) Upon forms to be supplied by the Commission the employer shall list his regular checkers and clerks, and his other regular dock or terminal employees by name and registration number and shall certify (i) that they have received twelve days' employment from him in the preceding three-month period, and (ii) that he plans to employ them as regular employees. If the Commission is satisfied that the application is made in good faith, it will enter the names, each separately numbered, upon appropriate rosters. Additions and replacements may thereafter be made in the same manner, and subject to the same conditions.

(3) A regular employee shall be removed from the roster (i) at his own request, (ii) at the request of the employer who applied for his listing, or (iii) for violation of any provisions of the Compact resulting in his suspension or removal from the longshoremen's register.

(4) Regular employees shall be ordered not later than 4:00 p.m. through the Commission's employment information centers to commence employment during the following twenty-four hours. To accomplish this, the employer, on forms to be supplied by the Commission, shall:

(i) Post rosters of his regular checkers and clerks, and dock and terminal employees on a bulletin board at the entrance to the pier or waterfront terminal.

(ii) Not later than 4:00 p.m. each day appropriately indicate on these rosters the names and starting times for those men who are being ordered for employment during the following twenty-four hours.

(iii) Not later than 4:30 p.m. each day order from the employment information center the men indicated for employment on the bulletin board at the entrance to the pier or waterfront terminal. (An employee whose name has been so ordered may report directly at the pier or waterfront terminal without appearing personally at an employment information center.)

(iv) Within twenty-four hours notify the employment information center of any failure of an employee to receive the employment ordered.

(5) Whenever a regular employee, ordered as aforesaid, fails to report for or receive the work for which he was ordered, the vacancy may only be filled in the manner prescribed in Section 7.6 of this Regulation.

(6) On the first Friday ~~after the first Wednesday~~ of each month following the effective date of this Regulation the director of employment information centers shall remove from the rosters of regular checkers and clerks, and regular dock and terminal

employees, the names of those longshoremen who have not received regular employment during the preceding month. An exception shall be made, however, where the director is satisfied that the failure of the longshoreman to receive regular employment resulted from illness or some other sufficient cause and that the employer desires the Commission to retain his name upon the roster. The term "regular employment" shall mean employment from the employer at a pier or waterfront terminal (i) twelve days during the preceding month, or (ii) 80 per cent of the days when the employer gave employment to men of the employee's classification during that month, whichever is the lesser, or (iii) such other number of days or hours as the director shall establish either generally or to meet special situations. The time that a man works in a gang for the employer shall be credited to him in measuring the regularity of his employment.

(c) An employer desiring to hire longshoremen as a hatch gang, and longshoremen seeking to be hired as a hatch gang, hereinafter referred to as "a gang", shall do so through the Commission's employment information centers either in the manner prescribed in Section 7.6 or in the following manner:

(1) The Commission will establish and maintain a list of gangs and a roster of each gang which will

identify the members and the gang foreman.

(2) Longshoremen employed as a gang may be entered upon the list as a gang upon the application of an employer from whom such gang has received employment. Upon a form to be supplied by the Commission, the employer shall identify the members and the foreman of the gang and certify (i) that the longshoremen have received employment from him as a regular or extra gang, as the case may be, since December 1, 1953, (ii) that he believes they are qualified to function as a gang, and (iii) that he believes the gang foreman is qualified to perform his duties as such. The employer shall also indicate whether the gang is to be classified as "regular" or "extra" within the definition contained in the current collective bargaining agreement. If the Commission is satisfied that the application is made in good faith, it will issue to the gang an identifying number and enter it upon the list.

(3) A gang may also be entered upon the list on the Commission's own initiative where such action will, in the opinion of the Commission, further the purposes of the Compact, or, on the application of longshoremen seeking to be hired as a gang, if the Commission is satisfied that the application is made in good faith, that it is voluntary and uncoerced, and that such listing will further the purposes of the Compact.

(4) Certification by an employer pursuant to paragraphs (2) and (6) of this subdivision shall not constitute a representation by the employer to any person other than the Commission as to the fitness or ability of the gang or any of its members and shall impose no civil liability upon the employer to any such person.

(5) A gang shall be removed from the list (i) at the request of a majority of its members, or (ii) by the Commission on its own initiative when in its opinion such action will further the purposes of the Compact.

(6) When a longshoreman shall cease to be a member of a gang or its foreman, to fill the vacancy, a longshoreman may be added to the roster of a gang or identified as its foreman upon the application of the employer who originally certified the gang. Said employer shall, upon a form to be supplied by the Commission, certify, as the case may be, (i) that he believes the longshoreman is qualified to serve in the gang, or (ii) that he believes the gang foreman is qualified to perform his duties as such. Where a gang has been listed by the Commission on the Commission's initiative or on the initiative of the members of the gang, a vacancy may be filled upon the application of a majority of the members of the gang

who shall certify, upon a form to be supplied by the Commission, that they believe that the replacement is qualified to serve as a member of the gang. If the Commission is satisfied that the application is made in good faith, it will make an appropriate change in the roster.

(7) The availability of gangs for employment to commence during the following twenty-four hours shall be indicated at the Commission's employment information centers on bulletin boards maintained at said centers. Every gang will be posted as available unless not later than 3:00 p.m. (i) the gang foreman notifies the employment information center that his gang does not desire to commence employment during the following twenty-four hours, or (ii) a hiring agent notifies the employment information center that he has already ordered the gang for employment.

(8) Regular gangs shall be ordered not later than 4:00 p.m. through the Commission's employment information centers to commence employment during the following twenty-four hours. To order regular gangs, the employer, on forms to be supplied by the Commission, shall:

(i) Post on a bulletin board at the entrance to the pier or waterfront terminal a list of his regular gangs identified by Waterfront Commission number and gang foreman.

(ii) Not later than 4:00 p.m. each day appropriately indicate on this list the gangs and starting times for those gangs which are being ordered for employment during the following twenty-four hours.

(iii) Not later than 4:30 p.m. each day order from the employment information center the gangs indicated for employment on the bulletin board at the entrance to the pier or waterfront terminal. In the absence of notice to the contrary given to the employment information center within twenty-four hours it will be assumed that each gang so ordered reported for the work for which it was ordered. (Members of gangs so ordered may report directly at the pier or waterfront terminal without appearing personally at an employment information center.)

(9) Extra gangs shall be ordered through the Commission's employment information centers between 2:00 and 3:00 p.m. if they are wanted for employment to commence later on the same date, and between 3:00 and 4:00 p.m. if they are wanted for employment to commence on the next day. To order extra gangs, the hiring agent shall appear personally at the employment information center and make his selection from among the gangs posted on the bulletin board or otherwise listed by the Commission, and notify a member of

the center staff of his selection. Each foreman of an extra gang, or of a regular gang seeking employment as an extra gang, shall appear at the employment information center or keep the center informed how he may be contacted between 2:00 and 4:00 p.m. to accept or reject employment offered his gang. If the gang foreman is personally present at the employment information center when the hiring agent selects his gang, the hiring agent shall offer the employment directly to the gang foreman and receive directly his acceptance or rejection. Otherwise, in the presence of the hiring agent, a member of the center staff shall contact the gang foreman to notify him of the employment offered, and receive his acceptance or rejection. When the gang foreman has signified his acceptance of the employment offered, the hiring agent, on a form to be supplied by the Commission, shall order the gang. From the time when an extra gang reports for employment until the time when the employer ceases to require its services from day to day, it may be ordered from day to day in the same fashion as if it were one of the employer's regular gangs.

(10) The employer shall immediately notify the center of any cancellation of the employment of a gang and of the cause thereof. If orally reported, this shall be confirmed in writing.

(11) Whenever there is a vacancy in a gang reporting for work, such vacancy may be filled by the employment of a casual in the manner prescribed in Section 7.6 of this Regulation, or by the transfer of a man ordered for dock labor.

(d) Whenever an employer desires to employ a gang, and the gang is already at work for another employer, the hiring agent may obtain oral authorization of the Commission if the conditions for employment arise under circumstances which do not permit the filing of a request within the time required above. Such authorization shall become invalidated unless the employer shall within twenty-four hours thereafter file with the Commission a confirmation of the employment of the gang in question, upon a form to be supplied by the Commission.

(e) When employment is anticipated for a Saturday, Sunday or holiday, or the next regular working day thereafter, the requirements of paragraph (4) of subdivision (b) and paragraphs (7), (8) and (9), of subdivision (c) of this section shall be fulfilled on the preceding regular working day except, when men are ordered to continue from Saturday to Sunday, the requirements shall be fulfilled not later than 3:00 p.m. on Saturday.

(f) The Commission may, where special circumstances warrant, permit a variance from any of the foregoing provisions of subdivisions (b) and (c) of this section when,

in the opinion of the Commission, such variance would further the purposes of the Compact.

(g) The hiring agent who signs a request for the employment of a longshoreman as a permanent employee, regular employee or as the member of a gang, pursuant to any subdivision of Section 7.5, shall be personally responsible for determining (and shall take such action and follow such procedures as may be reasonably necessary to enable him to determine), not only at the time of making the request but also throughout the period of approved employment, that each longshoreman listed on any such request is properly identified thereon and that such longshoreman is included in the longshoreman's register. (Adopted by the Commission February 11, 1955, amended March 17, 1955; to be effective April 1, 1955.)

Section 7.6. Any employer desiring to employ longshoremen other than permanent employees, or those ordered pursuant to Section 7.5 as regular employees, or as members of a gang, shall select such longshoremen by a licensed hiring agent who shall be personally present and who shall make his selection from among longshoremen personally present at the employment information center. (Adopted by the Commission February 11, 1955; amended March 17, 1955; to be effective April 1, 1955.)

Section 7.7. At the employment information center, a longshoreman shall present his Commission registration card upon request and shall follow the posted instructions. The Commission will validate a daily ticket for each registered longshoreman

who is selected for and agrees to employment. When the services of longshoremen validated under this section are required by an employer for two or more successive days, the employer, on a form to be supplied by the Commission, may daily renew the employment authorized by the initial validation in order to eliminate the necessity of such men appearing personally for selection on each of the successive days at an employment information center. The form shall be executed in triplicate by the Hiring Agent for the employer and two copies shall be submitted to the appropriate information center not later than 4:30 p.m. of each day previous to the day for which employment is to be extended. The third copy shall be posted on the bulletin board of the appropriate pier or waterfront terminal not later than 4:00 p.m. At the employment information center, a hiring agent shall identify himself and present his Commission license upon request and shall also follow the procedure prescribed and posted at the information center.

(Adopted by the Commission, March 30, 1955; to be effective April 1, 1955.)

Section 7.8. Any registered longshoreman who has appeared in person at an employment information center at the customary time when hiring starts, and has failed to obtain employment after a reasonable time shall be entitled to receive from the information center a form of record of his ~~appearance~~ and failure to obtain employment for that day (to be known as a ~~daily~~ show-up record).

Section 7.9. Each employer of persons licensed or registered under the Compact shall provide the manager of the nearest employment information center with advance information of employment opportunities for longshoremen, expected to be available each day. The manager shall post such information and otherwise make it readily available for longshoremen in the employment information center.

Section 7.10. Each employer of longshoremen or any duly authorized agent of such employer shall upon request furnish the Commission with information as to the name, registration and social security numbers, hours and days worked, and the compensation paid therefor, for each longshoreman employed by such employer. Such information shall be furnished upon request on or before the first day of February, May, August and November for each quarter calendar year, respectively, next preceding. Such information may be furnished in the form of punched cards, or listings made therefrom, or on forms to be furnished by the Commission.

Section 7.11. No person, unless duly authorized by the Commission shall, in or upon any area, stairway or any other appurtenance of an employment information center:

- (a) sell or offer for sale any article of merchandise;
or
- (b) conduct or solicit any business or trade; or
- (c) solicit alms or funds or contributions for any
purpose; or

(d) post, distribute or display signs, advertisements, circulars, printed or written matter.

No person who is unable to give satisfactory explanation of his presence shall loiter in or about any toilet, area, stairway or other appurtenance of an employment information center.

No person shall gamble, conduct or engage in any game of chance in or upon any area, stairway or any other appurtenance of an employment information center, nor deface, mark, break or otherwise damage any part of a center or any Commission property therein, nor create a disturbance in or about an employment information center or do any act or thing which shall result in the creation or maintenance of a nuisance in or about any employment center.

Any permission granted by the Commission, directly or indirectly, expressly or by implication, to any person or persons to enter upon or use an employment information center or any part thereof is conditioned upon acceptance of and compliance with the provisions of this section.

Section 7.12. No persons except licensed hiring agents, gang foremen and registered longshoremen seeking employment shall have access to the employment information centers between 7:30 and 8:30 a.m. and 2:00 and 4:30 p.m. without authority from the Commission. It shall be the policy of the Commission to grant to representatives of the union permission to have such access at hiring hours for the purpose of observing compliance with any legal collective bargaining agreement regulating hiring practices, provided that a signed memorandum is filed with the

Commission setting forth in detail the agreed basis for hiring.
(Adopted by the ~~Commission~~ February 11, 1955; amended March 17,
1955; to be effective April 1, 1955.)

Section 7.13. No person shall participate or attempt to participate in any way directly or indirectly in the selection or designation of a person for employment as a longshoreman, or of a gang for employment except a licensed hiring agent or his superior. (Adopted by the Commission February 11, 1955; amended March 17, 1955; to be effective April 1, 1955.)

REGULATION NO. 8

Assessments.

(Adopted by the Commission, November 23, 1953.)

Section 8.1. As used in this Regulation, the terms "longshoremen", "pier superintendents," "hiring agents," and "port watchmen" shall have the same meaning as they have in Regulations 4.1, 2.2, 2.3 and 5.2. The term "gross payroll payments" includes all amounts paid or credited to longshoremen, pier superintendents, hiring agents or port watchmen, whether as "wages," "hourly rate," "traveling expense" (other than amounts paid to cover actual transportation costs (incurred) or otherwise.

Section 8.2. Every employer of longshoremen, pier superintendents, hiring agents or port watchmen for work or labor within the Port of New York District shall make returns on forms to be furnished by the Commission on or before the 15th of January, April, July and October immediately following any calendar quarter during which an employer has made any gross payroll payments. Returns should be received at the main administrative offices of the Commission, 15 Park Row, New York 38, N. Y., on or before the date due. When the date due falls on a Sunday or a legal holiday the return will be due on the next succeeding day.

Section 8.3. Copies of the prescribed return forms will, so far as possible, be furnished to employers by the Commission. Failure on the part of any employer to receive a blank form will not, however, excuse him from making a return.

Section 8.4. Whenever good cause exists, the Commission is authorized to grant an extension of time in which the return of an employer may be filed. The application for such extension must be made prior to the due date. As a condition of granting an extension of time for filing a return, the Commission may require the submission of a tentative return and the payment of the assessment based on such tentative return.

Section 8.5. On or before January 15, 1954, each employer shall compute and pay his assessment at the rate of $1\frac{1}{2}\%$ of gross payroll payments for the partial calendar quarter beginning December 1, 1953 and ending December 31, 1953. On or before April 15 and July 15, 1954 each employer shall compute and pay his assessment at the rate of $1\frac{1}{2}\%$ of the gross payroll payments for the calendar quarters ending March 31 and June 30, respectively.

On or before October 15, 1954 each employer shall compute and pay his assessment at the rate, not in excess of 2%, to be fixed by the Commission in accordance with the provisions of Article XIII of the Compact for gross payroll payments for the calendar quarter ending September 30, 1954. Thereafter each employer shall compute and pay his assessment at the rate fixed by the Commission.

Section 8.6. If in the opinion of the Commission the return of any employer in any essential respect is incorrect, the Commission may revise such return and may audit and state an account according to such revised return for the amount due from such employer for the assessment, penalties and interest.

If any employer fails to make a return, the Commission may estimate his gross payroll payments from any information available to it, and for this purpose may examine or cause to be examined his books and records, and may take testimony, and require proof material for its information, and may audit and state an account according to such information of the amount due from the employer for the assessment, penalties and interest. Nothing in this Regulation is intended to or shall be construed to limit the investigating or auditing powers of the Commission under the Compact.

Section 8.7. For the purpose of this Regulation, the New York Shipping Association and any other association of employers, which makes payments to longshoremen or port watchmen for vacation benefits, shall be deemed an employer making gross payroll payments to the extent of such vacation benefit payments.

Section 8.8. For the purpose of computing gross payroll payments, salaries and other compensation of corporate officers and other persons of equivalent managerial authority who hold licenses as pier superintendents or hiring agents and who perform such licensed functions only in emergency or other unusual conditions, may upon submission of adequate evidence, be included only to the extent that such compensation does not exceed \$5,00 per annum. (Section 8.8 Adopted by the Commission, January 20, 1954.)

in writing and shall set forth in detail the grounds therefor, and may for good cause be granted by the hearing officer. If the hearing cannot be completed on the date fixed, it may be adjourned to a date fixed by the hearing officer.

The conduct of the hearing shall be governed in so far as applicable by the provisions of §6.7, §6.9 and §6.10 of Regulation No. 6 as if the same had been set forth here at length. (Adopted by the Commission, September 30, 1954.)

Section 8.9. Petitions for a hearing on the determination of a deficiency in the payment of the assessment shall be in writing and delivered by first class mail or by hand, addressed to the Secretary, Waterfront Commission of New York Harbor, 15 Park Row, New York 38, New York. Such petitions shall contain in this order the following information:

(a) The name and address of the employer, commission license number, if any, and the period covered by the deficiency;

(b) The date of the deficiency notice (together with a copy of the notice annexed to the petition);

(c) The amount of the deficiency determined;

(d) A concise enumeration of the errors upon which the Commission based the determination of the deficiency (Care should be taken so that matters which properly belong in the next paragraph are not repeated here);

(e) A numbered listing of each of the facts upon which the petitioner seeks to have his assessment for the aforesaid period fixed (Each fact should be separately stated so that the Commission may admit or deny each one.).

The petition shall be sworn to before a person authorized to administer oaths.

The Commission, or the hearing officer designated by the Commission to conduct the hearing, shall fix the time and place of the hearing on any such petition upon at least five days' notice. A request for an adjournment of the hearing shall be

REGULATION NO. 9

Proceedings to Revoke, Cancel or Suspend
Registrations and Licenses

(Adopted by the Commission, January 13, 1954.)

Section 9.1. Proceedings to revoke, cancel or suspend a license or registration may be instituted by the Commission on its own initiative or on complaint of any person, including any public official or agency. The conduct of such proceedings shall be governed by this Regulation.

Section 9.2. All complaints, petitions or other communications to the Commission shall be in writing and delivered by first-class mail or by hand, addressed to the Secretary, Waterfront Commission of New York Harbor, 15 Park Row, New York 38, New York.

Section 9.3. Notices or other communications by the Commission shall be served personally or by registered mail or telegram, addressed to the last address on file with the Commission. The word "party" as used herein and hereinafter in this Regulation shall mean and include the licensee, registrant and, in the case of a proceeding instituted by the Commission on complaint, the complainant. When any party is represented by an attorney, service upon such attorney shall be deemed proper service upon such party.

Section 9.4. 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.

Section 9.5. The Commission shall give the parties an opportunity to be heard at such time and place as the Commis-

sion shall determine and upon at least ten days' prior notice.

Upon instituting a proceeding to revoke, cancel or suspend a license or registration, the Commission may forthwith order the temporary suspension of the license or registration, pending final action in the proceeding, if in its opinion the continuance of the license or registration until such time is inimical to the public peace or safety. The Commission, in its discretion may abrogate a temporary suspension order.

Section 9.6. The notice of hearing shall state the time and place of hearing and the nature of the complaint. Such notice shall be served upon the parties to the proceeding.

The hearing officer may be a Commissioner, or an officer, employee or agent designated by the Commission to conduct hearings.

A petition for an adjournment of the date fixed for the hearing shall set forth in detail the grounds therefor. Such petition shall be made as far in advance of the date fixed for the hearing as may be practicable and may, for good cause, be granted by the hearing officer. If the hearing cannot be completed on the date fixed, it may be adjourned to a date fixed by the hearing officer.

The notice of hearing may be amended by the hearing officer at any time prior to the conclusion of the hearing. If such amendment is substantial and if a party so requests, the hearing officer may grant an adjournment of the hearing for such period of time as he deems reasonable under the circumstances.

At any time prior to the close of the hearing, the hearing officer may, upon good cause shown, grant an adjournment.

Section 9.7. Notwithstanding the failure of the parties, or any of them, to avail themselves of the opportunity to be heard on the date set forth in the notice of hearing or on any adjourned date, the Commission may nevertheless take such action, either to revoke, cancel or suspend the license or registration or reprimand the licensee or registrant or dismiss the charges against the licensee or registrant or take such other action as it deems proper.

Section 9.8. In the event a party does avail himself of the opportunity to be heard, he shall be prepared to proceed on the date set forth in the notice of hearing or on the adjourned date. The licensee or registrant shall appear in person and may be represented at the hearing by an attorney who is a member in good standing of the Bar of the State of New York or of the State of New Jersey. The complainant shall be permitted to appear in person or by such an attorney.

Section 9.9. The hearing officer shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure in the conduct of hearings. He shall have authority to administer oaths, issue subpoenas, rule upon offers of evidence and otherwise so regulate the course of the hearing as to preserve fundamental concepts of fairness and to effectuate the purposes and provisions of the Waterfront Commission Compact.

At the request of a licensee or registrant the hearing officer shall issue subpoenas to compel the attendance of witnesses and the giving of testimony or production of other evidence on behalf of such licensee or registrant.

A party shall be afforded reasonable opportunity to present testimony under oath or other evidence relevant and material to the subject matter of the hearing and to cross-examine any witnesses who testify at such hearing. The introduction of unduly repetitious evidence shall be avoided and the hearing officer may curtail cumulative testimony. A stenographic record of the hearing shall be made and a transcript thereof may be furnished to any party upon payment by him of the costs thereof.

Oral argument shall be made only before the hearing officer and shall be included in the record of the hearing. Such oral argument may, in the discretion of the hearing officer, be curtailed provided that a party shall, in the event of such curtailment, be given an opportunity to submit his argument in writing. Briefs as to the facts or law shall be received and may be required to be submitted. The hearing officer may fix the time within which briefs shall be filed and briefs received subsequent to such time need not be considered.

Section 9.10. Upon conclusion of a hearing before a hearing officer other than the Commission itself, such hearing officer shall, by written memorandum to the Commission set forth appropriate findings, and shall state his recommendations for action by the Commission thereon unless otherwise directed.

A copy of the findings and recommendations of the hearing officer shall be furnished to the parties and Commission counsel, and each may submit written exceptions thereto and written argument thereon within ten days after receiving such findings and recommendations. A copy of the exceptions and argument shall be served upon each of the other parties or Commission counsel, as the case may be. Each party and Commission counsel may also submit a memorandum in reply to such exceptions and argument within five days after being served with a copy of same. A copy of the reply shall be served in like manner as the exceptions or argument.

Exceptions, argument or replies submitted after the time fixed need not be considered by the Commission, unless the Commission grants an extension of time.

The record of the hearing together with the memorandum of the hearing officer, and any exceptions or argument duly submitted by any of the parties and Commission counsel shall be referred to the Commission for final determination and order. (Section 9.10 adopted by the Commission June 27, 1955.)

Section 9.11. 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 ~~hearing officer~~, be reopened for the presentation of new evidence. Such petition to reopen the hearing shall state in detail the nature of the new 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 additional evidence.

Upon petition after the making of an order of the Commission revoking, suspending or cancelling a license or registration or reprimanding a licensee or registrant or dismissing the charges against a licensee or registrant, rehearing may be granted in the discretion of the Commission. Such a petition for rehearing shall state in detail the grounds upon which the petition 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 the facts and arguments in support thereof. Such petition shall be filed with the Commission not later than thirty days after service of the final order of the Commission upon the parties.

The Commission may upon its own motion grant a rehearing after the making of an order revoking, cancelling or suspending a license or registration or reprimanding a licensee or registrant or dismissing the charges against the licensee or registrant.

Section 9.12. For the purposes of proceedings under this regulation, a temporary permit or temporary registration shall be deemed to be a license or registration. (Section 9.12 Adopted by the Commission, March 10, 1954.)

REGULATION NO. 10.

Public Loading

(Adopted by the Commission, January 20, 1954.)

Section 10.1. No person shall solicit, collect or receive any fee or other compensation for the loading or unloading of waterborne freight onto or from vehicles other than railroad cars at piers or at other waterfront terminals within the port of New York district unless:

1. Such person, or his employee, shall have actually performed the loading or unloading services; and
2. Such person is
 - (a) Carrier of freight by water, but only at piers at which its vessels are berthed; or
 - (b) Other carrier of freight (including but not limited to railroad and trucker), but only in connection with freight transported or to be transported by such carrier; or
 - (c) Operator of a pier or other waterfront terminal (including railroad, truck terminal operator, warehouseman and other person), but only at a pier or other waterfront terminal operated by it; or
 - (d) Shipper or consignee of freight, but only in connection with freight shipped by such shipper or consigned to such consignee; or
 - (e) Stevedore licensed under Article VI of the Compact, whether or not such waterborne freight has been or is to be transported by a carrier of freight by water with which such stevedore shall have a contract of

the type prescribed by subdivision (d) of Section 3 of Article VI of the Compact.

Section 10.2. No person shall load or unload or assist in loading or unloading waterborne freight onto or from vehicles other than railroad cars at piers or at other waterfront terminals within the port of New York district, for a fee or other compensation, other than the persons referred to in Section 10.1 (2) of this Regulation and their employees.

Nothing herein contained shall be deemed to permit any such loading or unloading of any waterborne freight at any place by any such person by means of any independent contractor, or any other agent other than an employee, unless such independent contractor is a person permitted by this Regulation to load or unload such freight at such place in his own right. (Adopted by the Commission, November 22, 1954.)

Section 10.3. No person shall, by the use of force, threats, intimidation, or other coercive tactics practiced by himself or by others, require, or attempt to require the utilization of his or of any other person's services to perform such labor. (Adopted by the Commission, November 22, 1954.)

Section 10.4. As used in this Regulation the term "employee" shall not include a person who:

(a) Offers himself for employment solely to perform such labor, or is employed for the sole purpose of performing such labor, or

(b) Is selected or hired for employment for such labor at or in the vicinity of piers or other waterfront terminals, or

(c) Is paid other than a weekly, daily or hourly wage, with appropriate deductions for Federal withholding and social security taxes for such labor, or

(d) Shares in fees collected by his employer for such loading or unloading services, or

(e) Participates in or contributes to pooled earnings of other persons performing such labor, or

(f) Is not recorded on the payrolls of the employer for whom he performs such labor in the same manner as other employees, or

(g) Is not subject to the direct and immediate supervision of his employer in the performance of such labor, or

(h) Uses or leases to his employer to perform such loading or unloading services, equipment (such as escalators, hi-los, fork trucks, cranes, etc.) owned by him directly or indirectly, in whole or in part. (Adopted by the Commission, November 22, 1954.)

REGULATION NO. 11.

Petition for an Order to Remove an Ineligibility by
Reason of Criminal Conviction.

(Adopted by the Commission, February 3, 1954.)

Section 11.1. A petition for an order to remove an ineligibility by reason of criminal conviction pursuant to Article V, Section 3, Subdivision (b), and Article VI, Section 3, Subdivision (e), should be made by an individual or his duly authorized representative on forms to be furnished by the Commission. When the petition shall have been examined and such further inquiry and investigation made as the Commission shall determine proper, the Commission will make a formal determination. The petitioner will be notified of the decision.

Papers filed in connection with such petition will not be returned nor will any copies be furnished.

REGULATION NO. 12

Regularization of Longshoreman's Employment
(Adopted by the Commission, June 28, 1954)

Section 12.1. To qualify for retention upon the Longshoremen's Register, a man admitted to that Register prior to April 1, 1955, must work as a longshoreman or apply for such work at an Employment Information Center for forty-eight days, distributed at least eight days to each month during at least five of the six months commencing July 1, 1955. (Adopted by the Commission, June 23, 1955.)

Section 12.2. Longshoremen removed from the register pursuant to Article IX for failure to accrue the minimum number of days required by Section 12.1 of this regulation may apply for immediate reinstatement pursuant to Section 4 of such article upon forms to be furnished by the Commission.

Section 12.3. No longshoreman shall be removed from the register pursuant to Article IX except upon two weeks' notice of his failure to accrue the minimum number of days required by Section 12.1 of this Regulation.

REGULATION NO. 12

Regularization of Longshoremen's Employment
(Adopted by the Commission, June 28, 1954)

Section 12.1. To qualify for retention upon the Longshoremen's Register, a man admitted to that Register prior to October 1, 1955, must work as a longshoreman or apply for such work at an Employment Information Center for forty-eight days, distributed at least eight days to each month during at least five of the six months commencing January 1, 1956. (Adopted by the Commission, December 29, 1955.)

Section 12.2. Longshoremen removed from the Register pursuant to Article IX for failure to accrue the minimum number of days required by Section 12.1 of this regulation may apply for immediate reinstatement pursuant to Section 4 of such article upon forms to be furnished by the Commission.

Section 12.3. No longshoreman shall be removed from the Register pursuant to Article IX except upon two weeks' notice of his failure to accrue the minimum number of days required by Section 12.1 of this regulation.

Amendment to Regulation No. 7 - Employment Information Centers

Section 7.5(f) The Commission may, where special circumstances warrant, permit a variance from any of the provisions of this Regulation 7 where, in the opinion of the Commission, such variance would further the purposes of the Compact. (Adopted by the Commission, January 24, 1956.)

Amendment to Regulation No. 1 - General Provisions

1.11. An application for a license or registration shall be submitted on a form to be provided by the Commission. (Adopted by the Commission, February 17, 1956.)

1.12. Applications or petitions submitted to the Commission may be withdrawn only with the permission of the Commission. Licenses or registrations may be surrendered only with the permission of the Commission. Where such withdrawal or surrender is sought, the Commission may nevertheless order a hearing or permit the continuance of a hearing under subdivisions 1 or 3 of Article XI, as appropriate, or accept the withdrawal or surrender with prejudice to renewal or reinstatement. (Adopted by the Commission, February 17, 1956.)

1.13. After an application or petition has been denied, or withdrawn with prejudice, or a license or registration has been surrendered with prejudice, no further application therefor may be submitted except upon leave of the Commission for good reason shown. (Adopted by the Commission, February 17, 1956.)