

The image is a cover for a report. It features a large, dark grey and black ship's hull in the foreground, curving from the top right towards the center. The hull has some white markings and a red section at the bottom. In the background, a large bridge with a prominent arch is under construction over a body of water. The sky is blue with some light clouds. The sun is visible in the upper left, creating a lens flare effect. The text is overlaid on the image.

The Power of Collaboration

NYSA 2018 Annual Report

Mission Statement

The mission of New York Shipping Association is to represent the interests of its members in maximizing the efficiency, cost-competitiveness, safety and quality of marine cargo operations in the Port of New York and New Jersey.

NYSA will accomplish this mission:

Through negotiation of fair collective bargaining agreements with the International Longshoremen's Association and the Port Police and Guards Union;

Through effective implementation of those collective bargaining agreements; and judicious management of the various funds created thereunder;

Through strong advocacy of our members interests in the public, government and business communities;

Through close collaboration with other maritime and maritime-related organizations who share common interests;

Through partnering with public agencies tasked with the improvement of the region's transportation system; and

Through frequent communications with members to insure that their interests are well served.

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The Power of Collaboration

New York Shipping Association, Inc. * 2018 ANNUAL REPORT

PRESIDENT'S MESSAGE

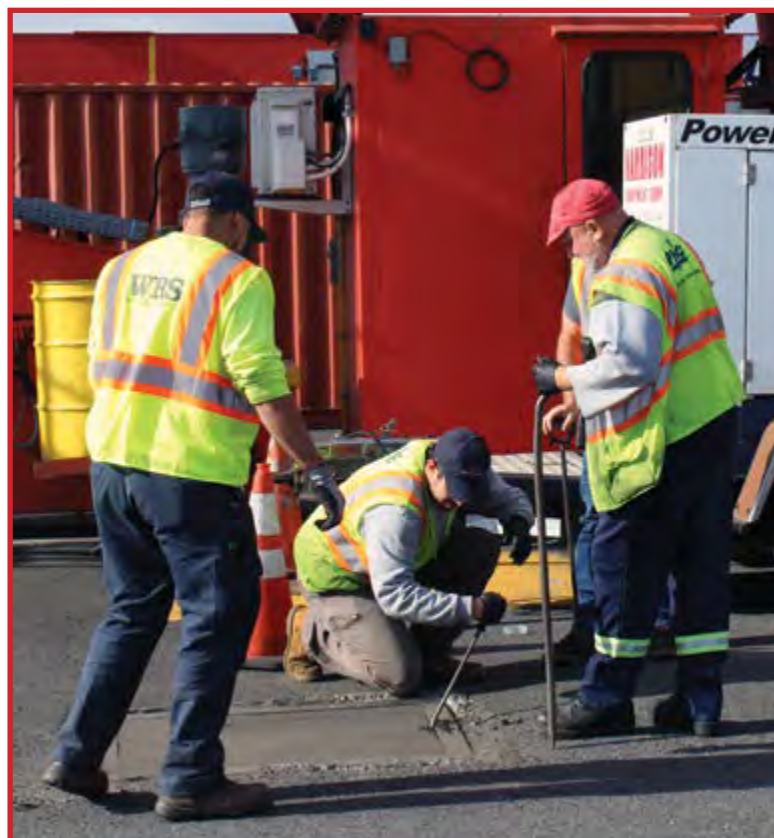


“Teamwork is the ability to work together toward a common vision. The ability to direct individual accomplishments toward organizational objectives. It is the fuel that allows common people to attain uncommon results.” – Andrew Carnegie

2018 was a year of continued evolution and achievement for members of the New York Shipping Association and the port community of New York and New Jersey. The highlight of 2018 was concluding a six-year Local Collective Bargaining agreement between the NYSA and the International Longshoremen’s Association (ILA), as well as concluding a six-year Master Contract between the United States Maritime Alliance (USMX) and the ILA. Both agreements came without fanfare or the threat of disruption long before the expiration of the September

30, 2018 contract. The bargaining objective of NYSA and our members was to continue our focus on improved productivity. I believe this objective was achieved. For the first time our local contract has specific productivity measurements and targets as outlined in the agreed Productivity Improvement Program. Each year of the six-year agreement the production targets are increased raising the bar at each facility. If the goals are not achieved, there are specific corrective actions to be taken. Another key provision of the new contract impacting productivity are stricter absentee provisions. Absenteeism, securing replacements and the lost time it creates, has been identified as one of the key factors impacting production. This new agreement goes as far as removing chronic offenders from the industry. We also have an agreement to implement hiring or ordering labor on Saturday for work performed on Sundays and Mondays. Currently and historically labor orders for Saturday through Monday are made on Fridays. Moving the ordering time closer to the activity will improve accuracy resulting in less payment for unproductive time. The changes must be implemented as they come at a cost. Foremen were given a wage differential to drive the productivity since they are most likely to be charged with implementing corrective action on productivity issues where needed. There is also an improved pension with two window periods to incentivize long-time workers to retire. Weekend hiring when implemented will also come at an additional cost but it’s estimated that the savings generated by moving the ordering time closer to the activity will more than offset the additional cost.

Productivity slipped in 2018 for the first time in four years for a variety of reasons. When the Bayonne Bridge roadway was raised in 2017 it resulted in a shift of volume amongst the terminal facilities. Simultaneously there were changes in the alliance structure adding to the redistribution of cargo amongst the facilities. 2018 was an adjustment to these large scale changes and cargo flows.



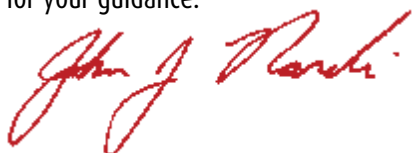
The labor supply in the Port was also beginning to feel the strain from 5% year over year cargo growth each year since 2013. We also have an attrition rate of roughly 2% per year. To begin to address the labor demand created by the factors in 2018, the industry added 141 new longshore workers. We also plan to add several hundred more in 2019 and beyond. Bringing new workers into the industry continues to be a challenge for the Port of NY & NJ with the unique structure of having a Waterfront Commission overseeing various issues. NYSA fully supports the defined register of employees, background checks and oversight of criminal activity. We are hopeful that the hiring plans for 2019 will not see the delays of the past and we are also hopeful that legislation which has been passed in New Jersey has the desired effect of modernizing the oversight of port activities from a law enforcement perspective.

In 2018 NYSA also continued to Co-Chair the Council on Port Performance (CPP) with the Port Authority of New York and New Jersey. This forum is vitally important for the exchange of ideas on what steps need to be taken to improve the Port's performance short-term and long-term. In 2018 the CPP had been operating for over four years and many changes, upgrades and CPP achievements had taken place over that time, because it was decided that the Council should re-evaluate the original recommendations of the original Task Force on Port Performance to see if the outstanding points are still valid or if additional recommendations needed to be added. After evaluating all of the successes and open items it was decided that the new priorities of the CPP would be as follows:

- 1 – Development of a Crises Management & Communication Plan – which is mainly focused on Cyber Attack preparation and management.
- 2 – Rail Network Optimization
- 3 – Supply Chain Analysis – Recognizing that factors outside of the Port area can have dramatic impact on our operations.
- 4 – Efficient Chassis Provisioning – with the continued hope of establishing a port wide grey pool
- 5 – Reporting of Current Conditions and Key Performance Indicators via Integrated Dashboard
- 6 – Workforce Development Implementation Team – the challenge of developing a qualified labor pool for all aspects of the supply chain is probably the greatest our industry faces. The success of this working group will be key to handling the future freight demands of our region.

Ultimately, if we are to continue to grow and service the modern Ultra Large Container Vessels, the Port of NY & NJ will need to deliver on all aspects of its productivity improvement aspirations. I'm confident that with the ongoing investment in infrastructure by our members, the provisions of our new contract, the addition of qualified, trained longshore labor and workers in the supply chain, and last but not least, the collaborative efforts to improve operations by all stakeholders, that we will get the productivity needle back in the right direction.

I would also like to use this opportunity to give special thanks to longtime NYSA General Counsel, Donato Caruso, Esq. (Dan) of the Lambos Firm who will be handing the reins of this position to Mr. William Spelman. Dan has a 50-year history confronting legal matters in the labor relations sector of the longshore industry. He held the Chief Counsel position at NYSA for over 15 years and has guided NYSA and the industry through every challenge confronted with expertise and integrity. I would again thank you for your guidance.



John J. Nardi
President







PORT POLICE AND GUARDS UNION (PPGU)

The Port Police and Guards Union are one of the most important segments of the labor force that are always prepared and ready to defend the Port of New York & New Jersey. The escalation of cargo volumes have required increased hours of operation at the terminals and infrastructure improvements in the Port have generated new challenges for this area of the workforce. The union is comprised of 326 active members who are responsible for guarding key access points and patrolling all perimeters of the marine container terminals, auto terminals and passenger ship/public berths. This surveillance is executed 24 hours a day, 7 days a week and 365 days per year.

In January 2018, a new five-year contract was entered into that will expire on December 31, 2022.





TRAINING & SAFETY

TRAINING

Safety, Productivity and Professionalism are the driving forces behind the NYSA-ILA-PPGU Training Center’s mission, which is to coordinate and provide essential and effective training for the labor workforce throughout the New York & New Jersey harbor.

Besides welcoming and orientating new employees to the workforce, NYSA works closely with the Marine Terminal Operators to understand their individual strategic operating plans. In doing so, NYSA is in a better position to prepare for future labor demands and associated training requirements.

The state-of-the-art facility is now the home of two Full-Mission Simulators, which include training systems for Ship-to-Shore Cranes, Straddle Carriers and RTGs. Trainees are introduced to specialized equipment in an instructor-led controlled environment where they are taught the specific equipment fundamentals, as well as, safe operating techniques. Each trainee works independently through a succession of scenarios before being assessed at three different levels. Trainees, who successfully complete the program are then returned to their List Terminals for practical training on specialized equipment in a live environment.

Classroom Training in 2018 included Initial and Refresher Hazardous Materials Training, Foreman Leadership Safety Training, Respect & Dignity in the Workforce, New Employee Orientation, PIT (Power Industrial Truck) Training for Forklift and Hustler, and Gang (Hold) Training for those new to the industry.

The Center is also utilized by the Port Police & Guards Union (PPGU) for their training efforts. Each year, PPGU Training includes Security Officer Training for new members, as well as, an Annual Refresher Course for all members. In 2018, there were 305 members credited with attending the Annual Refresher Course.

The NYSA-ILA-PPGU Training Center continues to connect our port partners and regularly welcomes the Terminal Operators, Industry Organizations, and Governmental Agencies to conduct meetings, seminars and specialized training sessions for both labor and management teams.

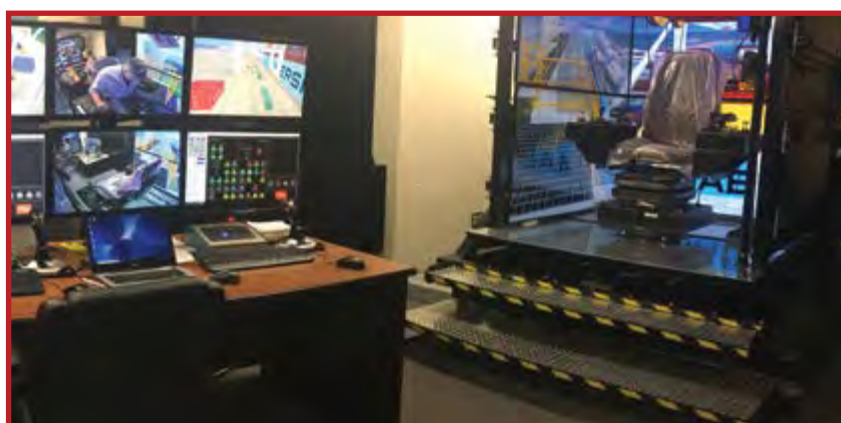
Equipment Training Skill Certifications - Contract Year 2018

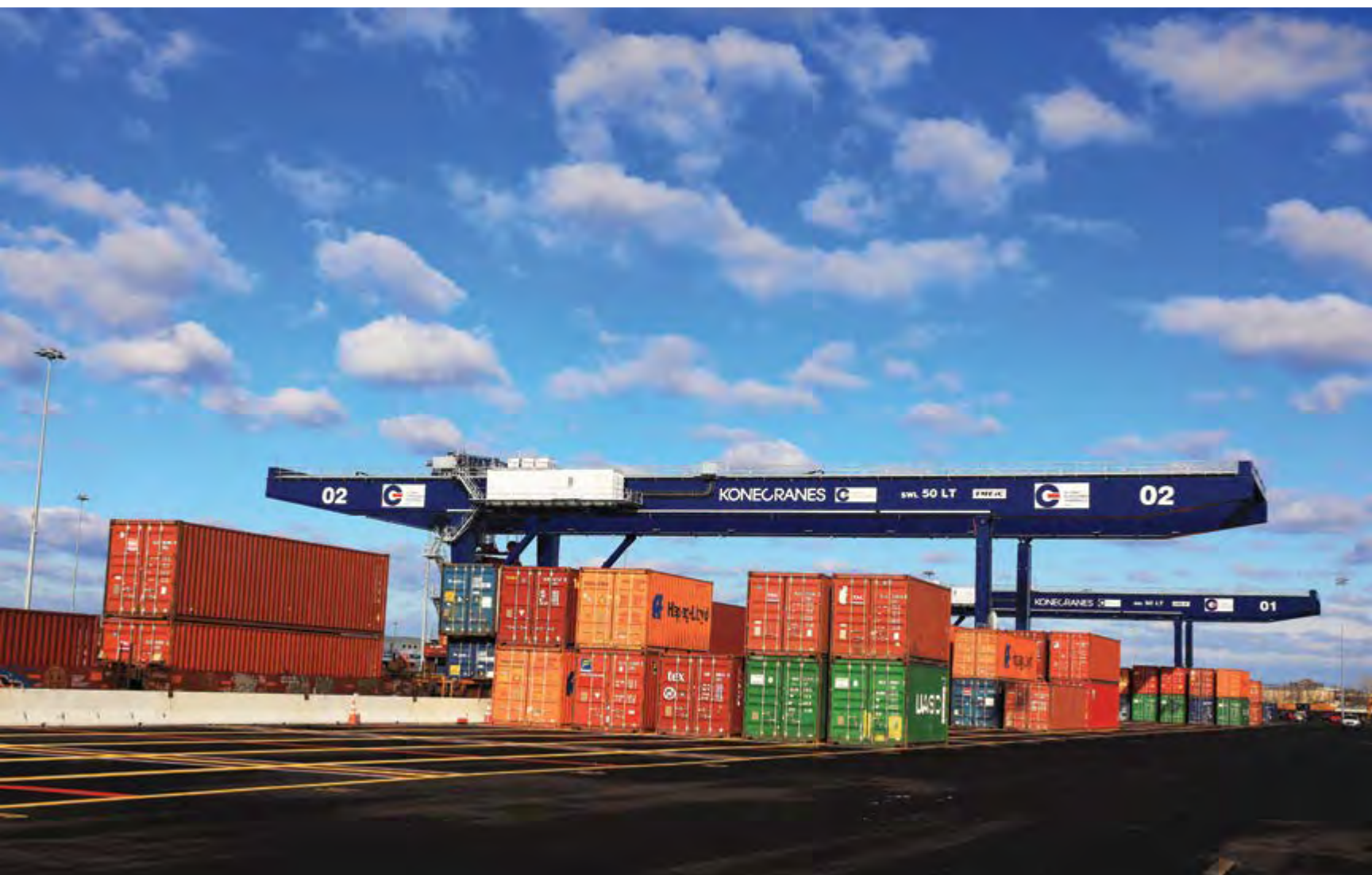
	New Certifications	Recertifications
Hustler Driver	68	825
Straddle Carrier	24	159
Crane Operator	31	120
Top Loader	15	223
Stacker (DS, RS, HC)	93	299
Noell Carrier/N4	33	219
Yard Carrier	46	8
Empty Handler	26	246
Forklift	70	818
RTG/Transtainer	53	159
Shuttle Sprinter	6	35
Rail Mounted Gantry	10	9
TOTAL	475	3120

*Equipment training is accomplished by an independent training company using certified ILA Trainers, as well as, at all employer terminals throughout the Port of New York and New Jersey.

Classroom Training Contract Year 2018

Hazardous Materials Training	509
Foreman Leadership Safety Training	250
Respect & Dignity Training	649
New Employee Orientation	122
PPGU Security Officer Training	24
PPGU Waterfront Commission Annual	305





SAFETY

Safety and Training Initiatives are the foundation on which NYSA and its members build and maintain a productive, reliable and safety conscious workforce. NYSA and its member terminals' commitment to safety remained unwavering in 2018. Our joint aim is to ensure that all of those working on the waterfront understand the importance of working safely and without self-driven distractions. Maintaining a safe workplace is the responsibility of each individual working on any of the Cargo, Cruise or Automobile Terminals and that message is consistently instilled during safety meetings throughout the harbor.

The NYSA Safety Committee and the NYSA-ILA Joint Safety Committee worked diligently to reinforce and promote port safety initiatives in all sectors of the port community. "Safety First" is the undeniable goal of both committees and remains the mantra of all labor and management teams.

In 2018, NYSA an active member of NMSA (National Maritime Safety Association) continued to play a role in advising policymakers on initiatives to enhance safety for workers on the waterfront. With representatives on both the NMSA Board of Directors and Technical Committee, NYSA collaborated with OSHA (U.S. Department of Labor's Occupational Safety Health Administration), MACOSH (Maritime Advisory Committee for Occupational Safety and Health), and other national organizations to enhance safety protocols for workers in the maritime industry. The organizations regularly review industry standards and practices in order to increase safety awareness on the waterfront, share best practices and promote accident prevention measures.

The NYSA Safety Awards for 2018 were presented to the employers and their employees at each terminal's respective Safety Luncheon. This venue allows for a larger group of safety-committed individuals to be present and recognized for their safety consciousness.

The awards are based on the Lowest Lost-Time Incident Frequency Rate and the Greatest Reduction of Lost-Time Incident Frequency Rates over the previous year. Lost-Time Incidents are also reported directly to OSHA by each of the terminals.

Those terminals presented with the NYSA Safety Awards for 2018 and recognized for their efforts were APMT, Maher Terminals, Red Hook Container Terminal/Brooklyn and Red Hook Container Terminal/Newark.





HIGHLIGHTS for contract year ended September 30, 2018



EMPLOYMENT:

- * 3,600 Registered Union Members
- * 11.7 Million Hours Worked (6% increase from 2017)
- * Wages Paid: \$50 million increase from 2017
- * Fringe Benefit Costs: \$5 million increase from 2017



CARGO:

Containers that fit directly on a chassis

- * 4.1 Million — 6.3% increase over 2017



VEHICLES: 622,000

Roll-on / Roll-off cargo, which is driven off the ship with its own wheels

- * 3.5% increase over 2017



WORK HOURS & RATES Contract Year 2018

CRAFTS	Rate	ST Hours	OT Hours	Total Work Hours	Average Age	# Ind.
	20.00	36,868.5	27,071.0	63,939.5	36.3	113
	23.75	428,020.0	698,932.5	1,126,952.5	40.5	428
Longshore	29.40	175,839.0	313,606.5	489,445.5	40.5	177
	35.00	2,006,039.5	3,344,414.0	5,350,453.5	50.5	1,645
	Total	2,646,767.0	4,384,024.0	7,030,791.0	47.3	2,363
	20.00	3,672.0	5,194.0	8,866.0	35.5	4
Checkers	23.75	160,176.0	227,075.5	387,251.5	37.9	101
	29.40	48,884.0	72,015.0	120,899.0	41.6	30
	35.00	850,094.5	1,463,450.0	2,313,544.5	51.1	548
	Total	1,062,826.5	1,767,734.5	2,830,561.0	46.8	683
	20.00	3,533.0	2,203.0	5,736.0	31.6	8
Maintenance	23.75	92,610.0	174,246.5	266,856.5	38.8	76
	29.40	51,193.5	97,695.0	148,888.5	41.8	50
	35.00	531,927.5	862,674.0	1,394,601.5	51.6	392
	Total	679,264.0	1,136,818.5	1,816,082.5	48.5	526
ALL CRAFTS		4,388,857.5	7,288,577.0	11,677,434.5	47.3	3,572

EQUIPMENT OPERATOR WORK HOURS

Contract Year 2018

Skill	Base Rate	Work Hours	% of Total
	23.75	44,095.0	6.0%
Crane Operator	29.40	30,646.5	4.2%
Transtainer Operator	35.00	658,545.5	89.8%
RTG Operator	Total	733,287.0	
	23.75	406,779.0	21.7%
Straddle Carrier	29.40	219,390.5	11.7%
Noell Carrier Operator	35.00	1,248,892.5	66.6%
	Total	1,875,062.0	
	20.00	17,103.5	1.4%
	23.75	253,650.5	21.1%
Hustler Operator	29.40	99,561.0	8.3%
	35.00	830,446.0	69.2%
	Total	1,200,761.0	
	20.00	1,506.0	0.3%
	23.75	61,915.0	9.5%
Other Container Handling Equipment	29.40	38,530.0	5.9%
	35.00	547,782.0	84.3%
	Total	649,733.0	

ASSESSMENT RATE TABLE

Description	Rate
House Containers within 260 miles	\$89.00 Per Container
House Containers within 260 miles-Bermuda Trade	25.00 Per Container
House Containers over 260 miles	21.00 Per Container
House Containers cargo laden - Railed	10.00 Per Container
Mafis with 43 tons or less cargo weight	150.00 Per Mafi
Transshipped	25.00 Per Container
Inland Transfers	55.00 Per Container
Loaded Waste Containers-Barge to Rail	17.20 Per Container
Empty Containers	40.00 Per Container
Empty Mafis	40.00 Per Mafi
Empty Waste Containers-Rail to Barge	17.20 Per Container
Empty Containers-Bermuda Trade	25.00 Per Container
Uncontainerized or unboxed Autos-Trucks-Buses	8.15 Per Unit
Breakbulk	6.00 Per Ton
Mafis with greater than 43 tons cargo weight	6.00 Per Ton
Bananas	0.09 Per Box
Excepted Cargo	14.00 Per Hour
Passenger Assessment	14.00 Per Hour
PPGU Assessment	16.75 Per Hour

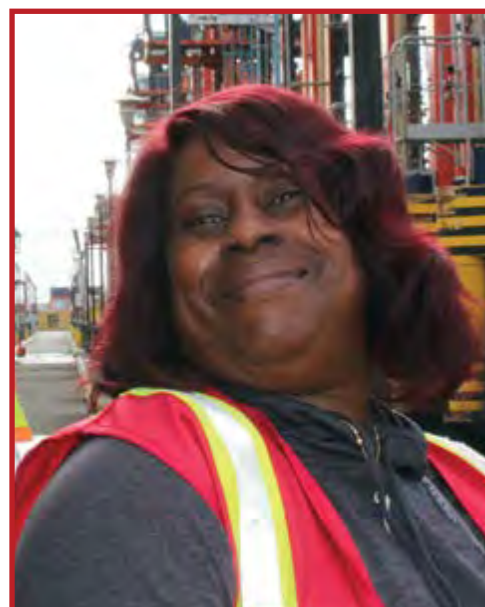
EXPANDING THE POOL OF PORT WORKERS

NYSA collaborated with the ILA to implement the Hiring Plan, a key part of the Collective Bargaining Agreement since 2013, to bring new employees into the Port. The hiring plan continues to reflect the NYSA and ILA recognition of Veterans as a valuable workforce resource by ensuring that 51% of those hired are Veterans.

In 2018, NYSA and the ILA worked together to provide 139 additional employees to meet the labor needs of employers in the following sections of the Port:

- ✱ 55 – Brooklyn
- ✱ 20 – Staten Island
- ✱ 50 – Elizabeth/Newark
- ✱ 14 – Bayonne

Candidates ultimately hired, successfully navigated their way through a multi-step qualification progression which included: a multi-employer interview process, application to the Waterfront Commission to be added to the register, approval by the Waterfront Commission and registration, TWIC (Transportation Worker Identification Credential) issuance, and meeting the requirements of physical exams and drug testing. Entering the workforce initially ready for work as Car Drivers and Baggage Handlers, by the end of the year many had also been trained for operating specialized equipment.



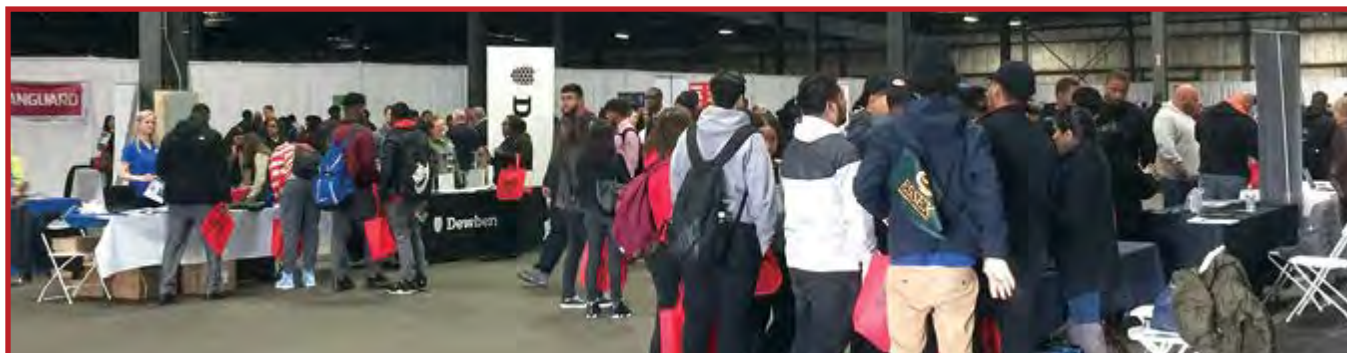
COUNCIL ON PORT PERFORMANCE (CPP) WORKFORCE DEVELOPMENT IMPLEMENTATION TEAM (WDIT)

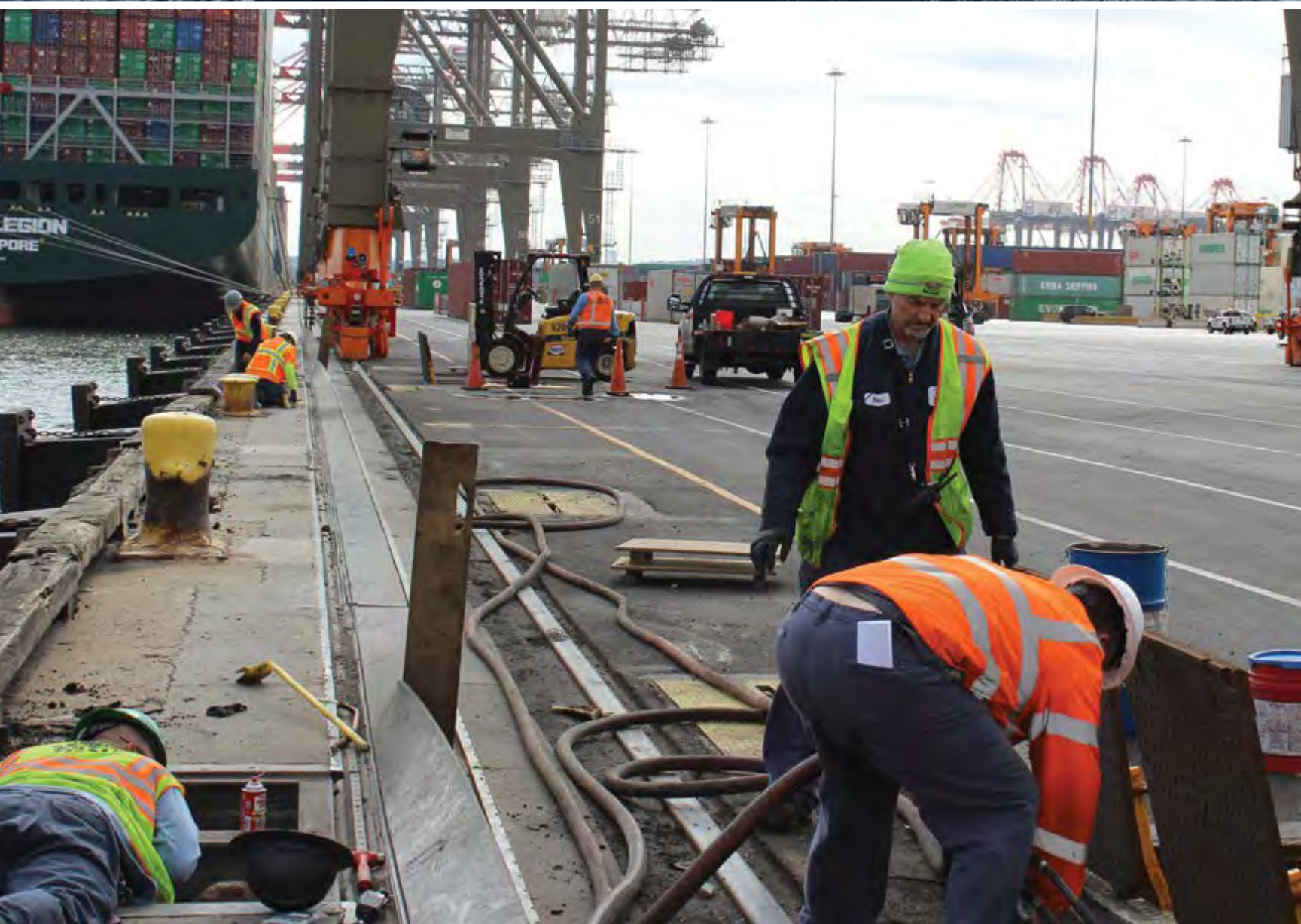


Since its launch in September of 2016, the Workforce Development Implementation Team (WDIT) of the Council on Port Performance (CPP) has raised awareness of the Transportation, Logistics and Distribution (TLD) industry and the vital role it plays in the region. Members include stakeholders representing trade associations, planning organizations, marine terminal operators, equipment providers, trucking companies, supply chain and logistics management, warehousing and distribution centers, Beneficial Cargo Owners, academia, host communities and other governmental partners. NYSA has been an active participant in the WDIT, with Susan Winfree chairing a subcommittee focusing on Education & Curriculum. Other subcommittees focus on Marketing & Awareness and the creation of a Job Bank.

In 2018, NYSA contributed to WDIT efforts by participating in the first of its kind Port of New York & New Jersey Transportation, Logistics and Distribution (TLD) Career Awareness & Job Expo

held in the Elizabeth area of the Port. Students from high schools in the area, as well as active job seekers had an opportunity to meet with employers from throughout the supply chain. Additionally, NYSA participated in a WDIT hosted TLD Job Fair at the Donald Payne School of Technology in Newark and a Maritime Career Awareness & Job Expo hosted by the NYEDC at the Brooklyn Cruise Terminal.





TECHNOLOGY ENHANCEMENTS

As our business processes evolve, so should our hardware and software. In 2018, we evaluated the telephonic systems of both the Labor Hiring Center and NYSA's offices. With such a high reliance upon the operations of our phone systems, it made sense to look for a more reliable and more cost effective way to operate. The time to stake the reliability and functionality of our communications on a 12-year-old costly phone system affected by power outages causing downtime had past. The solution was to move our communications to an advanced cloud-based system. This system provides NYSA with the following advantages;

1. Reliability

- a. A fully geographically redundant environment
- b. Provides real-time disaster recovery

2. Security

- a. Transmission security using Transport Layer Security (TLS) to prevent interception of communications
- b. HIPPA compliance safeguards

3. Quality of Service

- a. HD voice and video utilizing the Opus interactive codec
- b. Real-time service reports — allow proactive instead of reactive actions

Technology Enhancements are a continual process and 2019 will not disappoint. We have just engaged RDA Corp to begin the project of modernizing the NYSA Reporting/Employee System. This project will be ongoing for the next few years. We have begun additional enhancements to our Labor Hiring System expected to be implemented in the first quarter of this year.



INDUSTRY HIGHLIGHTS & SPECIAL EVENTS



International Maritime Hall of Fame Awards

On May 9, 2018, Donato Caruso, Esq., Managing Partner at The Lambos Firm and Chief Counsel for NYSA, was one of five esteemed honorees at the 25th Annual International Maritime Hall of Fame Awards. John Nardi presented Mr. Caruso with his award during the event that took place at the Grand Hyatt New York.

Teddy Gleason Scholarship Program

New York Shipping Association and the International Longshoremen's Association, AFL-CIO awarded eight new scholarships to future college students through the Teddy Gleason Scholarship Program at a luncheon at the Hyatt Regency Jersey City on June 11, 2018.

The award recipients are dependents of ILA members that work for NYSA member companies and will each receive an annual grant of \$6000 a year for each of their four years in college. The scholarship selection process is based on academic performance and aptitude testing amongst other criteria and applies to those individuals who plan to continue their education at undergraduate, apprentice or other training programs at any accredited colleges, universities and institutions of higher learning.

The College Scholarship Service, which is an independent company based in Princeton, NJ, is responsible for the selection of the scholarship recipients. The 2018 recipients will be attending New York University, The College of New Jersey, Howard University, Rutgers University, Lipscomb University, Temple University, and Tufts University.

The NYSA-ILA Scholarship Fund is open to dependents of active and retired ILA members in the Port of New York and New Jersey. The scholarship program was founded in 1981 following collective bargaining between the ILA and NYSA employers and provides \$192,000 a year in assistance to 32 students.



SCI's Port Packing Day

On November 2, 2018, employees from NYSA joined Stephen Lyman, Director of the Seamen's Church Institute to participate in their annual Port Packing Day. The yearly event is an open house where volunteers from the port community gather to help pack knitted hats/scarves, toiletries and other items that are collected throughout the year by SCI's Christmas at Sea program. This program began in 1898 during the Spanish American Civil War where volunteers gathered knitted items and distributed them



to the mariners who spent their holidays at sea. This year a total of 1772 gifts were packed and distributed over the holiday season to the seafarers that visited the Port between November 15, 2018 and January 15, 2019. The knitted items are donated by individuals and knitting groups from across the country.

Maritime Industry “Good Scout” Award Luncheon

On November 16, 2018, the 37th Annual “Good Scout” Award Luncheon was held at the Hilton Garden Inn in Staten Island, NY. The Good Scout Award Honorees included James Mara, President of Metropolitan Marine Maintenance Contractors Association, Inc. and John Daggett, Vice President & Executive Board Member of the Atlantic Coast District and Business Agent of ILA Local 1804-1. The James E. West honor was awarded to Assemblywoman Annette M. Quijano of District 20 who is the Deputy Majority Leader in the New Jersey State Legislature. NYSA had the pleasure of joining the maritime industry in celebrating the achievements of these highly regarded individuals, recognizing them for their meritorious contributions to the port community.

The proceeds from the awards luncheon benefit the Greater New York Councils and the Patriots’ Path Council, Boy Scouts of America that are organizations based in New York and New Jersey that are dedicated to preparing young people to make ethical choices and to develop healthy habits while instilling in them the framework needed to build strong values and commendable character traits.



The 2018 Connie Awards

The Connie Awards were held on December 10, 2018 at the Renaissance Newark Airport Hotel in Elizabeth, NJ. The honorees this year included Michael Wilson, Senior Vice President of Business Operations of Hamburg Sud North America and Roy A. Schleicher, President of Schleicher Solutions LLC.

At this year’s event, NYSA funded a scholarship that was awarded to a student at SUNY Maritime. Admiral Michael Alfultis, President of SUNY Maritime accepted the award on the student’s behalf.







PORT AUTHORITY OF NEW YORK & NEW JERSEY

Era of Big Ships at the Port of New York and New Jersey

Following the completion of the Bayonne Bridge Navigational Clearance Project in 2017, this was the first full year of “big ships” in the PONYNJ. 35% of all container vessel calls in the Port were of the 8,000 TEU class or larger and 61% of all containers handled in 2018 were carried on those same vessels. Just 5 years ago, only 16% of all containers in the PONYNJ were on an 8,000 TEU or larger vessel.

New Start Harbor Navigation Study

The Port Department pursued and established key connections with the Office of Management and Budget (OMB), Army Corps Headquarters, Coast Guard Headquarters and legislators to gain support toward securing both Authorization and Appropriations for a FY 2019 New Start Study in the Army Corps of Engineers Work Plan. The purpose of the New Start Study will be to ensure Federal channels in the PONYNJ are adequately sized to safely handle Neo-Panamax vessels and accommodate larger vessels long into the future. Authorization for the Study was received on April 11th and the Study was appropriated on November 21st.

Workforce Development Initiatives

It was an active and rewarding year for the Council on Port Performance (CPP) Workforce Development Implementation Team (WDIT). The WDIT hosted several significant events throughout the year. On Wednesday, April 18, 2018, the first ever Career Awareness & Job Expo for the PONYNJ was held in a vacant warehouse in the Port. Over 550 high school juniors and seniors and approximately 200 job seekers came out to meet with more than 50 companies and maritime college-level institutions. Participants shared their career journeys and spoke about jobs, training, and skill sets needed to keep the Transportation, Logistics, and Distribution (TLD) industry robust and thriving. The feedback received, from our host communities, participating high schools, job seekers, educators, and potential employers was extremely positive. Phrases such as “a home run,” “fabulous,” “I can’t believe this is in my backyard,” and “incredibly inspiring for our youth” were just some of the remarks shared. With that feedback, the WDIT pushed forward to implement a dedicated TLD Job Fair on October 4, 2018 at the brand new Essex County Donald M. Payne Sr. School of Technology in Newark. Survey results proved this was another successful effort as many of the participating companies reported hiring candidates they met at the event. In addition to these major events, the WDIT supported several other events around the region.



Environmental Initiatives

The port community was active in a number of environmental initiatives throughout the year, all geared toward improving the Port's effect on our nearby host communities. Among the initiatives:

- * **Earth Day** – Held the 1st Earth Day clean up event with more than 40 Port Department volunteers and collected 137 bags of waste totaling 4,110 pounds. Several tenants joined in the Earth Day efforts and cleaned up the space around their own operations.
- * **Environmental Management System** – The Port Department's Environmental Management System (EMS) was updated and certified to the newest standard and received ISO 14001:2015 certification in the spring.
- * **Clean Vessel Incentive** – The Clean Vessel Incentive (CVI) Program has been renewed for another five-year period. The CVI encourage ocean-going vessel operators that call at Port Authority marine terminal facilities to make voluntary engine, fuel, and technology enhancements that reduce emissions beyond regulatory environmental standards set by the International Maritime Organization (IMO). CVI also encourages vessel operators to reduce air emission through speed reduction to 10 knots or less within 20 nautical miles of the Territorial Sea Line, which provides cash incentives to ocean carriers who burn low sulfur fuel and/or reduce speed has been renewed for an additional five-year period. The program is estimated to reduce 26,910 tons of carbon dioxide, the equivalent of 2.4 million gallons of diesel during the 5-year period.
- * **Environmental Pilot Projects** – A hybrid yard tractor retrofit pilot project was conducted at Global Container Terminal New York and APM Terminal. The initiative yielded a 23% fuel saving and 35% decrease in Criteria Air Pollutant emissions. With these favorable results, the terminal operators may in the future opt to leverage federal grant funding available through the Port Authority to upgrade some of their cargo handling equipment. The Port Authority has also entered into an agreement with Maher Terminals to conduct a demonstration project with an all-electric straddle carrier, the first of such in the US.
- * **Charging Stations** – Electric vehicle charging stations have been installed at the Port Authority's Administration Buildings in Port Newark and in Brooklyn.

Launch of North American Marine Highway Alliance

The North Atlantic Marine Highway Alliance was established and launched in coordination with the NYCEDC to research and promote moving cargo by barge. The alliance functions in a similar fashion to the Council on Port Performance and is composed of port stakeholders who work collaboratively to improve efficiency in the Port by moving cargo off of congested roadways and onto the water.

Port of New York and New Jersey Intermodal Rail Operations Summit

On December 6, 2018, the first ever Rail Summit was held at the NYSA-ILA-PPGU Training Center auditorium in Elizabeth. This important event brought together the major stakeholders from Norfolk Southern, CSX, Conrail, the Marine Terminal Operators, Customs and Border Protection and Port Authority staff to collectively work together on identifying key issues that need to be improved within the rail network. The event discussions identified key action items to improve service in the PONYNJ and opened up better communication channels between all the parties. The Rail Summit was well received from all of the stakeholders.

Wharf Replacement Program

Planning Authorization for the comprehensive Wharf Replacement Program was obtained in May. An \$8.6M contract was awarded to CH2M/Jacobs for the planning, conceptual design, prioritization, and sequencing of replacing all Port wharfs. The two-year analysis will provide the Port Department with a sequential guide map to rehabilitate and/or replace its existing wharfs.

Auto Incentive Plan

A targeted incentive program to boost waterborne auto business at the PONYNJ has been renewed. The five-year program is designed to provide existing auto manufacturers incentives to increase automobile volumes through the Port to attract new automotive manufacturers and to move more fuel efficient vehicles through the Port.





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Dredging Project Status

Maintenance Projects:

- * New York Harbor, Sandy Hook Channel (FY17) – Maintenance dredging contract awarded in September 2017. All work was completed in February 2018.
- * New York and New Jersey Harbor, Newark Bay – Maintenance contract awarded in June 2018 for the 50ft reaches. All work was completed in November 2018.
- * New York and New Jersey Channels, Ward Point Bend – Maintenance dredging contract awarded in August 2018. All work was completed in September 2018.
- * New York Harbor, Sandy Hook Channel (FY18) – Maintenance dredging contract awarded in August 2018. Work to be performed in 2019.

Ongoing & Completed Construction Projects:

The status of the NY/NJ Harbor 50' Deepening project encompasses both dredging contracts and mitigation contracts as follows:

Ambrose Channel

- * First contract for Outbound half of entrance channel (S-AM-1) completed in June 2008.
- * Second contract for inbound portion of channel (S-AM-2a) completed May 2010.
- * Third contract (S-AM-2b) (portion of Inbound half) awarded in February 2009 and completed in January 2011.
- * Fourth and fifth contracts (S-AM-3a and S-AM-3b) awarded in September 2011 and completed in October 2012 and January 2013, respectively.

Anchorage Channel

- * First contract (S-AN-1a) completed in October 2008.
- * Second contract (S-AN-1b) awarded in September 2009 and completed in January 2011.
- * Third contract (S-AN-2) awarded in March 2010 and completed in March 2011.
- * Fourth contract (S-AN-UC) awarded in December 2015 to remove material overlying several utility corridors which lie within and across the southern Anchorage Channel as well as Port Jersey Channel. The contract was completed in September 2016.

Port Jersey Channel

- * Port Jersey contract 3 (PJ-3) awarded in October 2007 and completed in July 2010.
- * Port Jersey contract 4 (PJ-4) (over PVSC tunnel) awarded in March 2011 and completed in October 2012.
- * Shoal Removal contract #1 awarded in August 2013 and completed in September 2015.

Kill van Kull

- * First contract (KVK 5) completed as part of 45 ft. deepening project in December 2004.
- * Second contract (S-KVK-2) completed in March 2007.
- * Third contract (S-KVK-1) awarded in June 2008 and completed in September 2011.

Newark Bay

- * First contract (S-NB-1) awarded in June 2007 and completed in January 2011.
- * Second contract (S-E-1) awarded in 2009 and completed in April 2010.
- * Third contract (S-NB-2) awarded in September 2010 and completed in September 2012.
- * Fourth contract (S-SR-2) awarded in September 2013 and completed in February 2015.

Arthur Kill

- * First contract (S-AK-1) awarded in September 2010 (included as part of S-NB-2 contract above) and completed in September 2012.
- * Second contract (S-AK-2) awarded in September 2011 and completed in March 2013.
- * Third contract (S-AK-3) awarded in January 2013 and completed in December 2014.

Bay Ridge Channel (50 ft.)

- * Deferred from construction as per Port Authority letter dated December 21, 2011.



Arthur Kill (41/40 ft.)

- * Contract (AK-4) awarded in December 2014 to GLDD to deepen 40 ft. segment from NYCT to Phillips 66 Refinery. The Contract was completed in July 2017.
- * With the removal of the dolphins protecting the Staten Island side footing of prior Goethal's Bridge, a small area (< 1 acre) 40 ft. navigation channel deepening is being planned for 2019 or 2020 to be accomplished as part of a Corps maintenance dredging contract that may be done in the area.

50 ft. Project Mitigation

- * Elders East Marsh Island (Jamaica Bay, NY) – Completed restoration of 40 acres of wetlands in July 2007.
- * Woodbridge Creek, NJ – Completed in November 2008.

Restoration (Beneficial Use of Dredged Material)

- * Elders West Marsh Island (Jamaica Bay, NY) – Completed in August 2010. A total of 302,000 CY of sand was placed and 51 acres of marsh island habitat created.
- * Lincoln Park (NJ) – A total of 339,235 CY of sand was placed from contract 1b (S-AN-1b & S-AM-2b) in 2010 in partnership with the PANYNJ, NJDEP, NOAA, Hudson County, Yellow Bar Hassock Marsh Restoration (Jamaica Bay, NY) – Options for sand placement awarded as part of S-AM-3b contract and via separate planting contract awarded in January 2012. Placement and planting was performed winter into spring of 2012 restoring 46 acres of marsh. Impacts from Hurricane Sandy necessitated replanting of significant areas of the marsh, which was completed in June 2014.
- * Black Wall and Rulers Bar (Jamaica Bay, NY) – Options for sand placement were awarded as part of S-AM-3b contract and sand was placed in September and October 2012. Placement of 150,000 CY was placed at Black Wall creating and additional 20 acres of island and 92,000 CY of sand was placed at Rulers Bar for an additional 10 acres of island. A community based planting effort (NYCDEP, American Littoral Society, Jamaica Bay Ecowatchers and Jamaica Bay Guardian) was completed in summer of 2014 planting 14.5 acres and 8 acres at Black Wall and Rulers Bar, respectively.

Corps Navigation Studies in PONYNJ

- * The Corps Norfolk and New York Districts are evaluating possible expanded/deepened anchorage areas in support of the 50 ft. navigation project with the tentatively selected plan to be identified in the summer of 2019.
- * The Corps announced in the fiscal year 2019 work plan released on November 21, 2018 that the Corps would start a new navigation study entitled “New York and New Jersey Harbor Deepening Channel Improvements, NY & NJ”. Both the anchorage and channel improvement studies are and will be sponsored and partnered with the Port Authority of New York and New Jersey.





GOVERNMENTAL AFFAIRS HIGHLIGHTS 2018

As mentioned in last year's 2017 Annual Report, there was growing optimism that legislative breakthroughs for the port industry may be on the horizon. The expectation was that if these breakthroughs would occur, they would unlock the industry's economic growth potential just as the Super-Ultra-Large Container Vessel Era was getting underway in the PONYNJ. Improving relationships with the leadership of New York State Executive and Legislative Branches of government presented cause for optimism that the final key to unlock the PONYNJ's economic potential, Waterfront Commission of New York Harbor (WC) modernization, may be close at hand. Critically needed modernization of the WC was being discussed in a much more serious manner than in years past. Cooperation between the two partner states of this important bi-state compact is essential to achieve the maximum societal benefit for the residents of the Port's service area and to ensure an efficient evolution over time of the Commission's role as a modern relevant law enforcement presence in the PONYNJ. Entering 2018 the still unanswered question remained, do the two states come together to modernize the WC or does one state move in isolation?

State of New Jersey

As the 2017 edition of the NYSA Annual Report reflected in the New Jersey portion of the Governmental Affairs section concluded, the outcome of Bills S-3502 (Sweeney/Sarlo/+1) and A-2179 (Quijano/Giblin/Wimberly/+17), which directs the Governor to withdraw from the compact establishing the Waterfront Commission of New York Harbor; dissolves Commission; transfers NJ operations to the State Police, was still in question. Calendar year 2018 activities began on January 8th with the reconvening of the New Jersey General Assembly for its final opportunity to vote prior to their January 16, 2018 return to reorganize for the 218th session of the New Jersey Legislature, and for the inauguration of the state's 56th Governor.

At the top of the list of legislation of interest to the industry on January 8th was S-3502/A-2179. Introduced in November of 2017 by New Jersey's legislative leadership in large part as the result of New York State's decision not to take action on two New Jersey legislative initiatives designed to modernize the WC processes for adding new workers to the longshoremen's register and provide greatly needed oversight of the Commission. S-3502/A-2179 also took into account that the vast majority (90+%) of port commerce in the PONYNJ occurs within the borders of the State of New Jersey. It had been eleven years since the first initiative was passed in New Jersey recognizing that antiquated WC hiring practices were negatively impacting the state's economy. When called for a vote on the floor of the General Assembly, S-3502/A-2179 passed overwhelmingly by a vote of 66 {Yes}, 1 {No}, 1 {Abstain} and headed to the desk of Gov. Chris Christie for his decision.



An important aside in the history of S-3502/A-2179 was that a previous version of this legislation S-2277/A-3506 passed all committee and floor votes (one committee vote shy of unanimous) during the 2014-2015 legislative session only to be conditionally vetoed by Gov. Christie on May 7, 2015. As the days grew closer to two-term Gov. Christie's transition of power of his office to then Governor-Elect Phil Murphy on January 16, 2018 at 12:00 PM, widespread speculation grew as to what the governor's ultimate decision would be this time around.

The morning of Inauguration Day saw the port industry's significance to the economy of the State of New Jersey and the need for the state to send a strong message. Practices of the past would no longer be tolerated. In one of his final acts in office, Gov. Christie approved N.J.P.L.2017, c.324 into law. However, before the sun set on the inauguration day of Governor-Elect Phil Murphy, the WC filed for an injunction in Federal court to block the governor (Waterfront Commission vs. Governor Phil Murphy) from beginning the process of withdrawal from the compact and turning over WC functions to the New Jersey State Police. The case has since been heard in Federal court. The New Jersey State Senate (Senate President Steve Sweeney) and General Assembly (Speaker Craig Coughlin) have, as an illustration of unity and a demonstration of how to act in the best interests of the State of New Jersey, joined Gov. Murphy as co-defendants in the legal action. Although the presiding judge ruled in favor of the WC by granting the injunction, the WC has been granted a motion to file for Summary Judgment in an attempt to have the case thrown

out. The State of New Jersey then filed a response containing their reasons why the case should move to the discovery phase, which was followed by the Commission's filing of briefs arguing why the case should not proceed to discovery that are all now in the hands of the presiding judge for her review and decision (see 2018 Report of Counsel for a more detailed legal description of events).

The likelihood that this matter will end regardless of the presiding judge's next decision on the matter is uncertain. There are several differing legal opinions on how this unique legal matter will ultimately be resolved and what legal forum it might eventually ascend to for the final decision. Regardless, NYSA will continue to put forth sensible ideas and solutions for the states of New Jersey and New York to consider which we believe are the best options for improving the efficiency and productivity of our industry, and for sustaining its contribution to regional, national, and global economic growth that we deliver.



New York State

Although major inroads were made in 2018 with regard to improving the level and frequency of contact with the Executive Branch of government in New York State, again our legislative agenda did not progress forward. S-3312 (Lanza)/A-3270 (Cusick/Farrell) which is an act to amend the Waterfront Commission Act, in relation to empowering the WC to accept applications in the longshoreman's register; and amend Section 5-p. of such act relating thereto and S-3864 (Savino)/A-2876 (Cusick) which requires the Waterfront and Airport Commission to submit meeting minutes to the governors of New York and New Jersey for review and approval; provides gubernatorial veto power; expands gubernatorial oversight powers; prohibits the Commission from promulgating regulations, or retaining counsel, private consultants or auditors without approval of the governors of New York and New Jersey, made no movement before members of the New York Legislature ended their legislative session.

However, on June 4, 2018, Senators Andrew Lanza (R) and Diane Savino (D) of Staten Island, NY, introduced S-8917 which is an Act to amend the executive law, in relation to empowering the Division of State Police to patrol the Port of New York waterfront and to dissolve the WC. A similar bill was not introduced in the New York State Assembly in the 2017-2018 legislative session. There is a strong probability this legislation will be reintroduced in both houses in the 2019-2020 legislative session joining the list of measures designed to improve the competitive posture of the PONYNJ.



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NOTES FROM WASHINGTON, DC

PAUL H. BEA, JR.



2018 Legislative Issues and Action in Washington, DC

While the Port region is the nation's financial and logistics center, the Nation's Capital is where taxing, finance, and freight-related law is written, thus requiring NYSA's close attention. This year saw changes in Federal policy considered by the Trump Administration and Congress and as 2018 came to a close, we were given even more reason to keep a "weather eye" on Washington.

Detention and Demurrage

The Federal Maritime Commission started the year with two days of hearings in response to complaints about terminal and carrier fee practices. A coalition of cargo, trucking and other interests filed a petition (Docket P4-16) in December 2016, asking the FMC to adopt a policy with respect to the assessment of demurrage, detention and per diem charges in the ports. They asked the FMC to create guidance as to what is reasonable and not. After a year passed and the prodding of a key senator, the FMC convened public hearings at which stakeholders, including the terminal and carrier community, offered their perspectives. On March 5, the FMC issued an order for Fact Finding Investigation No. 28 (FF#28). Terminals and carriers were required by the agency to answer a substantial list of questions. In December 2018, a report on the completed investigation was issued. It concluded that more transparency and "standardized language" is needed for demurrage and detention practices industry-wide, and that demurrage and detention billing practices and dispute resolution processes should be simplified, along with other process improvements. Harkening back to the FMC's earlier report on supply chain "innovation," this report states that "consistent notices" of cargo availability are needed. It also suggests the formation of an "innovation team" to address how industry can improve its detention and demurrage fee practices. Throughout the FF#28 process, NYSA members were able to file responses to the coalition petition and to meet with commissioners to provide an industry view.

Ballast Water

After years of coordinated effort, the port and maritime industries were able to enjoy seeing Congress enact legislation to reform the regulation of ballast water. In December, the *Vessel Incidental Discharge Act (VIDA)*, a title in the *Frank LoBiondo Coast Guard Authorization Act of 2018* (named after the retiring New Jersey congressman), was signed into law by President Donald Trump. The NYSA participated in a large industry coalition that worked to bring about a single, national standard for the management and discharge of ballast water. The new law (PL 115-282) represents a compromise between the concerns of both industry and environmental interests. While ensuring the involvement of states, the law largely eliminates individual state standards and requirements for vessels. It also maintains a major role for the Environmental Protection Agency in setting the national standard while leaving enforcement of the law to the Coast Guard. The law makes no requirements with respect to land-based management of ballast water. Most importantly, it brings welcome consistency to American law. Full implementation of VIDA will take a few years, including finalizing new regulation.



Trade Tariffs

Among the policy directions that have most characterized the Trump Administration are his initiatives to reset US trade relations, mostly by recasting or eliminating multilateral agreements including those with our security and economic allies. Even more contentious than his cancellation of the Trans Pacific Partnership (TPP) agreement with Asian nations and the renegotiation of the North American Trade Agreement (NAFTA) is the strategy of conducting "trade wars" with major trading partners, especially China. The incrementally higher tariffs scheduled to be placed on Chinese exports were to be broadly comprehensive by 2019, applying 10 and 25 percent tariffs on most all imported Chinese goods – nearly \$500 billion worth in trade. The influx of cargo, intended to arrive ahead of tariff implementation, presented particular challenges for terminal operations in US gateways. However, the marine terminal industry faced another challenge when it became known that the Trump Administration planned new tariffs on ship-to-shore cranes. The White House Office of the Trade Representative conducted hearings in August to allow affected parties to state for the record what injury would result from 10 percent and higher tariffs on the Chinese-made machinery. Representatives of the marine terminal industry and port authorities filed their objections to the proposed tariff and the result was favorable to the industry. In September, the cranes were removed from the tariff list.



TWIC Assessment

The TWIC biometric reader rule that Coast Guard regulators were slow to put in final form was then delayed by act of Congress. As written, the reader rule would mandate readers to be installed in high volume cruise terminals and CDC terminals but leave optional their use at container terminals. Shortly before the August implementation date, Congress acted to prohibit the rule from going into effect until the Department of Homeland Security provides Congress with a report that assesses the effectiveness of the TWIC program. Congress was both impatient for the assessment that was required by law and was responding to complaints from some in the port/maritime sector about the Coast Guard's work on the reader rule. Now the reader rule is in abeyance until DHS delivers its report and Congress decides what to do about it.

Channel Funding

The Corps of Engineers completed the Port's 50-foot deepening project in 2016, but the work does not stop there. Our estuary port requires annual maintenance dredging, of course, but the design and dimensions of the underwater infrastructure must keep up with the change in vessels. Today, the larger ships enter the improved channels and under a raised Bayonne Bridge, but harbor anchorages that were built decades earlier are insufficient to meet the demands of lightering, security and other activities of a modern port. That is why the Corps of Engineers is conducting a General Reevaluation Study to assess shipping activity requirements and how the anchorages should be modified. For FY 2019, Congress approved \$2.8 million in support of the study. Congress also approved nearly \$80 million for O&M activity on deep and shallow draft portions of the Port's system of channels. The NYSA also considers important the adequacy of funding for the overall Corps of Engineers' civil works program. The good news is that for the last two years, Congress has appropriated record amounts for channel maintenance in the US and, for the first time, approved \$50 million, the full amount allowed, for allocation among donor and energy transfer ports, including the PONYNJ.

Harbor Maintenance Trust Fund

The Harbor Maintenance Trust Fund continues to grow as a topic in Congress, with key legislators calling for an end to underspending on channel infrastructure. The HMTF has a balance of \$9 billion that sits unspent. This year, the American Association of Port Authorities proposed a two-part "solution" to address the multiple concerns of ports of all sizes. The solution first calls for Congress to finally approve the "full-use" of Harbor Maintenance Tax revenue every year by establishing automatic funding based on prior year HMT collections. The second part of the proposal is a priority of those West Coast ports where much more HMT revenue is collected than is needed to be spent in their harbors. These are so-called donor ports that want access to HMTF resources for "expanded use" beyond Federal channel maintenance and in support of commercial navigation. The donor ports, and so-called energy transfer ports – PONYNJ qualifies as both – also would like a larger share, ultimately 20 percent, of annual spending from the HMTF. (Currently, expanded uses include the dredging of berths and contaminated areas near Federal channels.) Progress was made in 2018 to gain support for these ideas and the proposal will be given more attention when Congress meets in 2019.

Multiemployer Pension Plans

One of the pressing economic challenges facing Federal policy makers is deciding how best to protect American workers whose multiemployer pension plans are at severe risk of failure. Related to that is the need to keep solvent the Pension Benefit Guaranty Corporation (PBGC), which was established by Congress in 1974 to ensure pension benefits for workers whose plans failed. In February 2018, Congress created the Joint Select Committee on the Solvency of Multiemployer Pension Plans, a bicameral and bipartisan panel with the sole mission to report later in the year its recommendations for addressing those two challenges. Congress also set a December deadline for itself to enact remedial legislation. Both deadlines were not met, thus putting the issue on the agenda of the 116th Congress, which convenes in January 2019. Port worker pension plans are among the many multiemployer plans that have a stake in the policy debate to occur. Thanks to the agreement that the NYSA negotiated with the ILA in 2004, to amortize over 19 years the unfunded actuarial accrued liability, our plan is in good shape. The NYSA in 2018 worked to represent the integrity and interest of our plan as legislators discussed the larger Federal policy and will continue to work to protect the earned retirement benefits of our workers.





2018 REPORT OF COUNSEL

NYSA-ILA COLLECTIVE BARGAINING AGREEMENT

Recruitment and Hiring of Longshore and Checker Crafts

Although the PONYNJ continued to experience serious shortages of longshore workers and checkers during 2018, the Waterfront Commission of New York Harbor (Commission) maintained its efforts to thwart implementation of the amended recruitment and hiring procedures set forth in the 2018-2024 NYSA-ILA Collective Bargaining Agreement. The Commission objected to those terms, which provided that one-half of new hires in the PONYNJ will be taken from NYSA's hiring pool and one-half from that of the ILA.

NYSA and the ILA were assisted by State of New Jersey legal counsel in their ongoing negotiations with the Commission to address its objections as to the composition of the parties' hiring pools. Components of the pools include members of U.S. military service organizations and referrals from state employment offices and community-based organizations.

At year-end NYSA, the ILA, and the Commission were close to agreement on an amended hiring plan that would specify NYSA's obligation to ensure that 20% of total hires will be members of U.S. military service organizations, 20% of total hires will be referrals from state employment offices, and 10% of total hires will be from NYSA's other referral sources, including managerial employees of NYSA and its members. NYSA and the ILA each would retain their right to select one-half of the new hires. Agreement on the amended plan would allow almost 600 sorely-needed new hires in the PONYNJ.

Court Actions

In July, a checker filed a notice of appeal with the Court of Appeals for the Second Circuit (NY, CT, VT) challenging the December 2017 dismissal of his lawsuit against an NYSA direct-employer member that had alleged breach of contract in connection with seventeen grievances that he had filed concerning overtime opportunities. The federal district court in New York had upheld the denial of all the grievances by the NYSA-ILA Labor Relations Committee in August 2017. The matter was fully-briefed and awaiting a decision by the court of appeals at year-end.

A longshoreman whose license had been revoked by the Commission in 2008 because his presence on the waterfront constituted a danger to the public peace and safety continues to attempt to return to work after years of denials by industry arbitral panels and state and federal courts. In January 2016, the only viable claims remaining were state-law claims that were remanded to the New Jersey Superior Court. Since the longshoreman took no action to reinstate the state-court action, the claims were administratively dismissed without prejudice in June 2016.

In late 2018, a motion to reinstate the state-law claims was filed with the court, two and one-half years after the claims had been dismissed for failure to prosecute. NYSA's motion in opposition to the reinstatement is due in early 2019.

WATERFRONT COMMISSION OF NEW YORK HARBOR (COMMISSION)

In January 2018, the Commission commenced an action in federal district court in New Jersey to prevent the State of New Jersey from implementing legislation that would allow New Jersey to withdraw from the bi-state Waterfront Commission Compact (Compact) between itself and the State of New York. NYSA had supported the legislation that would allow New Jersey to withdraw from and to dissolve the Compact.

In June, the district court granted the Commission's request for a preliminary injunction, temporarily preventing New Jersey's withdrawal from the Compact. Thereafter, the Commission moved for summary judgment, seeking to enjoin the State of New Jersey from unilaterally withdrawing from the Compact. The State of New Jersey opposed this motion and cross-moved for discovery on the issue of the Commission's authority to sue the State of New Jersey. The matter was fully-briefed and awaiting a decision by the federal district court at year-end.

NATIONAL LABOR RELATIONS BOARD (NLRB)

In April, a longshoreman filed an unfair labor practice (ULP) charge against an NYSA direct-employer member alleging that the employer had violated the *National Labor Relations Act* by issuing a written warning to him in connection with his December 2017 job assignments and retaliating against him because of a grievance he had filed arising from the same occurrence. The NLRB deferred action on the charge pursuant to the doctrine of *Collyer* deferral.

The grievance was denied by both the NYSA-ILA Labor Adjusters and the NYSA-ILA Labor Relations Committee (LRC). No retaliation was found. The NLRB accepted the decisions of the Labor Adjusters and the LRC and approved the withdrawal of the ULP charge. The withdrawal of the charge foreclosed any right of appeal.

NEW YORK STATE DIVISION OF HUMAN RIGHTS (DHR)

In August 2012, the DHR filed a complaint against NYSA and several of its direct-employer members alleging that they had engaged in discriminatory hiring practices on the New York side of the harbor. In August 2014, the DHR issued a Determination after Investigation finding probable cause that the respondents had engaged in unlawful employment discrimination in connection with an NYSA-ILA hiring plan that is no longer in effect. Repeated efforts to conciliate the matter were unsuccessful. NYSA retained an expert to assist in its defense at hearings that covered seventeen days during 2017, spanning eight months. Proposed findings of fact and conclusions of law were filed by all parties in March 2018. The matter was still awaiting a decision by the administrative law judge at year-end.

NYSA-ILA EMPLOYMENT LAW PROGRAMS

Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)

NYSA Counsel continues to monitor the training program that was created for NYSA and NYSA-ILA fund employees to teach them about the requirements of USERRA and how these requirements affect longshore workers when they return from military leave. Additional training sessions are planned.

The NYSA-ILA USERRA Coordinator reviews requests for military leave, notifies the employees of their obligations when seeking reemployment, and acts as a liaison with the different NYSA-ILA fund departments to ensure appropriate benefits are credited. Forms and checklists have been prepared to assist the Coordinator in these efforts.

Anti-Discrimination and Anti-Harassment Policy; Family-and-Medical-Love Procedures

The NYSA-ILA Equal Employment Opportunity Officer continues to investigate complaints brought under the portwide Respect & Dignity Anti-Discrimination and Anti-Harassment Policy.

The NYSA-ILA Family Leave Program administrators continue to implement the provisions of the New York State Paid Family Leave Law that took effect on January 1, 2018 and assist longshore workers with claims covered by the law. Request forms and other administrative documents were updated to accommodate these new requirements. In addition, the NYSA-ILA Family and Medical Review Committee continues to develop procedures to ensure that employees comply with their notice obligations under relevant law.







NYSA-ILA Accommodations Team (A Team)

The A Team continued to meet throughout the year to entertain requests from longshore workers seeking reasonable accommodations under relevant federal and state laws that would permit them to continue to work in the industry, despite certain disabilities.

The A Team continues to monitor past accommodations that have been provided and has found that most employees are performing well in their jobs. The A Team also considers referrals from the NYSA-ILA Absenteeism Committee concerning employees with unexcused absences that raise medical issues.

NYSA-ILA Drug and Alcohol Abuse Program

The NYSA-ILA Drug and Alcohol Abuse Program provides drug and alcohol abuse services to those members of the industry requiring help by placing them in in- and out-patient treatment programs and referring them for the counseling services provided by the Management-ILA Managed Health Care Trust Fund (MILA).

During 2018, NYSA continued its comprehensive review of the Program for the purpose of clarifying procedures and testing circumstances and addressing issues raised by new “designer” drugs. In addition, procedures were introduced to facilitate an employee’s return to work after non-occupational disability in circumstances where that employee may have workplace restrictions.



2018 FEDERAL JUDICIAL, LEGISLATIVE, AND REGULATORY ACTIVITY

FEDERAL LEGISLATION

The *Frank LoBiondo Coast Guard Authorization Act of 2018* (Act) became Public Law No. 115-282 in late 2018. The Act authorizes appropriations for the United States Coast Guard and the Federal Maritime Commission through Fiscal Year 2019 and modifies the regulation of vessel-incident discharge and ballast water. The Act also amends the *Shipping Act of 1984* by addressing antitrust issues related to recent consolidations in the maritime industry and to the ongoing formation of ocean-carrier alliances. These amendments are designed to protect marine-terminal-operators and other U.S. marine-equipment-and-service providers and to safeguard investment in U.S. shore-side maritime infrastructure.



NATIONAL LABOR RELATIONS BOARD (NLRB)

Definition of “Joint Employer” Is Expanded

In August 2015, the NLRB significantly expanded the definition of a “joint employer” to include employers who have minimal or only indirect control through an intermediary over the working conditions of employees or who merely reserve the right to exercise such control. *Browning-Ferris Industries of California, Inc.*, 362 N.L.R.B. No. 186 (2015). Under this revised standard two or more entities could be found to be joint employers of a single work force, if they share or co-determine those matters governing the essential terms and conditions of the employees’ employment, such as hiring, firing, discipline, supervision, direction of work or hours, and wages.

In late 2018 the Court of Appeals for the District of Columbia Circuit upheld the expanded definition of a “joint employer” but remanded the case to the NLRB for clarification as to what constitutes indirect control by an employer. The decision by the Court of Appeals is at odds with the NLRB’s September 2018 Notice of Proposed Rulemaking (NPRM) requesting comments on a rule that would reverse the NLRB’s August 2015 decision and define a joint employer only where the two employers share or co-determine an employee’s essential terms and conditions of employment, such as hiring, firing, discipline, supervision, and direction. 83 Fed. Reg. 46681 (2018). Comments on the NPRM were due to be filed with the NLRB by January 2019.



PORT SECURITY/TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL (TWIC)

Enrollment

At year-end there were 5.051 million TWIC enrollments since inception in 2007 with 2.253 million active TWIC cards in use. New enrollments totaled 36,210 in September. The OneVisit Enrollment Program, which was implemented in June 2014 to streamline the TWIC-enrollment process and to eliminate the need for a second visit to an enrollment center to pick up an issued TWIC, has been a success. At year-end there were 1.534 million OneVisit enrollments, which constituted 83% of all enrollments.

TWIC-Reader Rule

The Final TWIC Reader Rule that was published on August 23, 2016, requires higher-risk vessels and facilities regulated by the Maritime Transportation Security Act of 2002 (Risk Group A) to conduct electronic TWIC inspections for access to secure areas or to board vessels. Risk Group A includes vessels or facilities that carry or handle "Certain Dangerous Cargo (CDC)" in bulk or facilities that receive vessels carrying more than 1,000 passengers. Approximately 525 facilities have been designated as being in Risk Group A. Container terminals are in Group B, which is exempt from the Rule.

The TWIC Reader Rule was to have taken effect on August 23, 2018 but legislation signed on August 2, 2018, prohibits the Coast Guard from implementing the Rule until the Department of Homeland Security has submitted an assessment of the TWIC program to Congress.

2018 STATE AND LOCAL JUDICIAL, LEGISLATIVE, AND REGULATORY ACTIVITY

NEW JERSEY

Annual Notice Requirements

Gender Equity. New Jersey employers are required to distribute to all employees working in the state a written copy of the state *Gender Equity Notice* on or before December 31 of each year. Employers must obtain a signed acknowledgement from each employee in writing or by means of electronic verification.

Conscientious Employee Protection Act (CEPA) (The “Whistleblower” Act). New Jersey employers with ten or more employees must distribute annually to their New Jersey employees the required notice under CEPA either in hard copy or in electronic format. Although employers are not required to obtain a signed acknowledgment, it is a better practice to do so to rebut any future claim that an employee did not receive the notice.

New Jersey Paid Sick Leave Act

The New Jersey Paid Sick Leave Act (Act) (effective October 29, 2018) requires paid sick leave for almost all private-sector employees who work in the state. The Act preempts the sick-leave laws previously enacted by thirteen New Jersey municipalities. Employees accrue one hour of sick leave for every thirty hours worked, up to a maximum of forty hours per twelve-month period. Forty hours may be carried over. Employees may use sick leave for their own mental or physical illness or medical treatment and those of family members. Seven days’ notice is required, if the need is foreseeable.

The Act applies to employees covered by an existing collective bargaining agreement upon the expiration of that agreement. However, the issue of paid sick leave is addressed in the 2018-2024 NYSA-ILA CBA. Since employees working under the NYSA-ILA CBA receive paid time off that is comparable to or better than the paid time off provided under relevant local laws, NYSA and the ILA agreed to waive the requirements of these statutes, as permitted by law.



NEW YORK STATE

Anti-Sexual Harassment Law

In April, New York State enacted significant statutory sexual-harassment protections requiring employers to adopt a sexual-harassment-prevention policy and to implement a sexual-harassment-prevention training program that meet standards issued by the State's Department of Labor and the Division of Human Rights. Employers are required to provide sexual-harassment-prevention training to their employees on an annual basis and may be held liable for sexual harassment by non-employees in the workplace. The NYSA-ILA Anti-Harassment and Anti-Discrimination Policy will be amended to be consistent with the new law. NYSA is also exploring ways to provide required training through online resources.

Paid Family Leave Effective January 1, 2018

Paid-family-leave benefits commenced on January 1, 2018. As of that date individuals were entitled to take eight weeks of paid leave and receive 50% of their weekly pay with a benefit cap of 50% of the New York State average weekly wage or approximately \$653.

Once the amendments are fully implemented by 2021, covered employees will be eligible for up to twelve weeks of paid family leave annually to care for a family member or an infant with a serious health condition, or to assist with family obligations when a family member is called up for active military service. Paid family leave is NOT available for a covered employee's own serious health condition under this law. Paid leave for an employee's own illness will continue to be covered under the state disability insurance law.

Generally, covered employees will be paid family leave under an employer's disability insurance policy. Self-insured employers may purchase a separate paid-family-leave policy or apply to self-insure. The coverage will be financed by deductions taken from an employee's weekly wage at a maximum rate of .126% (.126% of \$1,000.00=\$1.26). Health insurance must be maintained for those employees who use paid family leave. Employees on paid family leave are entitled to return to the position they held when the leave commenced or to a comparable position with comparable employment benefits, pay, and other terms and conditions of employment. Benefits paid to employees will be taxable non-wage income that must be included in federal gross income.

Paid family leave forms are available at www.wcb.ny.gov and are being processed under the NYSA-ILA Family Leave Program. NYSA direct employers in New York State are responsible for obtaining their own New York State Paid Family Leave insurance policies covering their management as well as union-represented labor. The failure to obtain the necessary insurance will result in penalties being imposed upon the employer. New York State direct employers of casual workers should obtain waivers from those employees who will not work the requisite number of hours to qualify for paid-family-leave benefits.

CITY OF NEW YORK

New Legislation

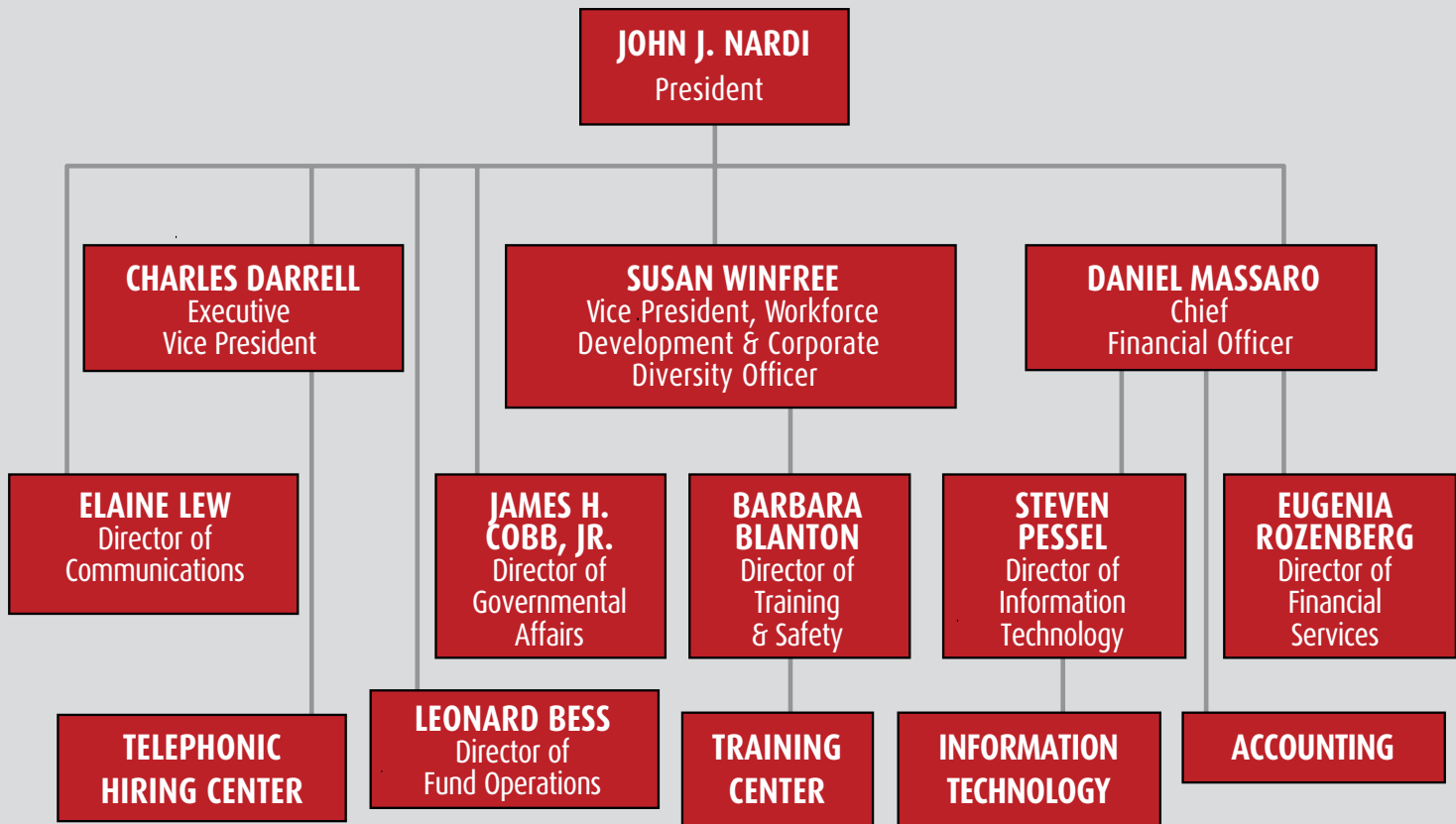
During 2018, the New York City Council amended the *New York City Human Rights Law* to require covered employers to engage in cooperative dialogue in connection with an employee's request for a reasonable accommodation in circumstances involving religious needs, disability, pregnancy, childbirth or related medical conditions, or domestic violence.

The Council also enacted eleven bills aimed at addressing and preventing sexual harassment in the workplace. The statute of limitations for filing gender-based harassment claims was extended from one to three years. All employers must post and distribute anti-sexual harassment rights and responsibilities. Employers with fifteen or more employees must conduct annual anti-sexual harassment training.





NYSA ORGANIZATIONAL CHART | December 2018



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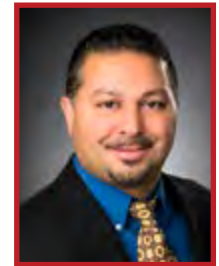
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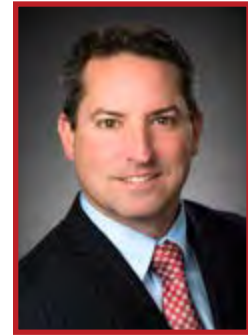
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