**Mission Statement**

The mission of the New York Shipping Association, Inc. (NYSA) 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 strong advocacy of the members’ interests in the public, government and business communities;

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 close collaboration with other maritime and maritime-related organizations with shared interests;

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

Through frequent communications with its own members to insure that their interests are well served.
Table of Contents

President’s Message .......................................................... 2
Training and Safety ............................................................ 4
Vital Statistics ................................................................... 8
Information Technology .................................................... 14
Port of Discovery .............................................................. 18
Dredging Project Status .................................................. 20
NYSA Insurance Indemnity Program ................................ 24
NYSA PAC ........................................................................ 25
Port Security and Safety ................................................... 26
Notes from Washington, D.C. .......................................... 28
Governmental Affairs ........................................................ 30
Legislative and Regulatory Activity .................................... 36
External Affairs and Items of Special Interest ................. 40
Report of Counsel ............................................................ 46
2012 NYSA Membership and Organizational Chart ........ 52
Board of Directors ............................................................ 53
NYSA Staff........................................................................ 54
President's Message

“Progress is impossible without change, and those who cannot change their minds cannot change anything.” George Bernard Shaw.

Preparing my thoughts for a President’s Message is proving to be difficult this year because as of this writing, I cannot be certain of the outcome of the on-going negotiations between the United States Maritime Alliance and the International Longshoremen’s Association, or those between NYSA and the ILA as these events are currently unfolding. What I can be certain about however, is that when the bargaining is eventually completed, we will be living with a new normalcy in management-labor relations. The need for change is so apparent that one way or the other change will occur.

I have always ascribed to a couple of different theories. The first is that change doesn’t necessarily have to take place at the expense of a single party but rather, if handled correctly, change can benefit multiple parties. The trick is to have the parties mutually agree to an outcome without forcing one of those parties into something that is blatantly objectionable. The second is that there are usually two ways to make a change: the hard way and the easy way. The hard way may establish a precedent which will make future changes and relationships more difficult. The easy way, paved by mutual cooperation, can make the road ahead a whole lot smoother.

In the immediate case relating to the Port of New York and New Jersey, there are several legacy work practices in place which do not occur in other ports, creating inefficiencies and costs higher than the acceptable norm. Many of these work practices are decades old, so effecting an immediate change or reversal is extremely difficult. But if there is an acknowledgment that these practices do indeed need to be eliminated or changed, then we have already begun the process of change. These are but a few of the challenges we will face in the early part of the New Year.

As we begin 2013, I can point to several very positive changes that are occurring within New York Shipping Association.

We are currently testing for implementation of a new system to replace the antiquated Telephonic Ordering System which has been servicing our needs more than twenty years. The new system will streamline many elements of the ordering and hiring process and provide a solid base for future enhancements and changes. This system will be operational in the first quarter of the year.

We have made a number of personnel changes with the aim of succession planning within the NYSA that strengthen the management team by bringing some new thinking and experience into the organization. Mr. John Nardi, a seasoned industry veteran in both terminal and ocean carrier operations has joined NYSA as our new Executive Vice President. John will begin the year handling the day to day business of our organization and assisting the President with labor bargaining and high level external affairs.
Also new to NYSA is Mr. Charles Darrell who will replace our Senior Vice President of Operations Mr. Tony Petrizzo who is retiring. Chuck begins a new chapter in his career and is another industry veteran who brings a wealth of experience in terminal operations, ocean carrier operations and industrial relations to our team.

Lastly, Mrs. Susan Winfree has been promoted to Vice President of Training and Workforce Development. As part of her new duties she has also been appointed to the position of Corporate Diversity Officer. Susan began her career in marine terminal operations, and after a stint in the private sector as an educator, has returned to her roots in a crucial position at a crucial time. In 2013 our organization, along with the New York New Jersey port industry, will be challenged to replace longshore workers lost to attrition, pension, and to hire a sufficient number of new workers to implement a modified shift system for vessel operations.

As I reflect on the aforementioned personnel changes I would be remiss not to acknowledge the retirement of Tony Petrizzo. Tony, a recognized expert in ocean carrier, terminal, and labor relations, has over forty years of industry experience and most recently spent the last six years of his career as our Senior Vice President of Operations. Under his watch we have made advances in the processing of labor grievances and complaints, settled many outstanding matters related to the controversial USMx-ILA Port of Discovery Program, and overseeing the modernization of the labor hiring system.

We all wish Tony well in his retirement and future endeavors.

So the message I want to leave you with is one of optimism. Even in light of the uncertainty on hand and the significant changes still needed, 2012 has proven to be a year filled with notable happenings and ongoing accomplishments. As President John F. Kennedy said, “Change is the law of life. And those who look only to the past or present are certain to miss the future.”

As you read through this year’s Annual Report and see the details of the many issues and events of the past year, I hope you will look to 2013 with hope and optimism for a better and brighter future.

All the best.
Training and Safety: Mutually Inclusive

Training

Safety, Productivity and Professionalism remain the focus of the NYSA-ILA-PPGU Training Center. The state-of-the-art Training Center is the cornerstone in connecting these elements and achieving the mission of providing training to meet the requirements of employers and federal agencies such as OSHA and USCG. The Training Center plays an integral role in strengthening the bond between Training and Safety by providing various types of safety training to ILA and PPGU workers, enabling direct employers the opportunity to hire competent, safety conscious labor.

Hazardous Materials information courses and Power Industrial Truck equipment training represent the majority of the training provided to meet set standards. Training on Powered Industrial Truck (PIT) equipment (required by OSHA) is conducted using the Master Contract Training Program Powered Industrial Truck Operator Training Series sponsored by United States Maritime Alliance (USMX) and the International Longshoremen Association (ILA). The main purpose of the training program is to train longshore workers in the safe and efficient operation of the various PITs used in the marine terminal workplace.

Other training to meet specific terminal requirements is also addressed through the Training Center. In 2012, the Training Center was staffed with 3 trainers who, in conjunction with an additional 26 trainers throughout the port, worked to train and retrain the workforce to meet the changing needs of the industry. In addition, trainers conducted training using the crane and straddle carrier simulators as requested by employers. An updated comprehensive Gang Training program was developed in 2012 with the assistance of employers in the port. Implementation of Gang Training began at the end of the year, with plans to roll out an aggressive training schedule in 2013.

In 2012, individuals completed training and/or were assessed in nearly 3,900 instances as shown below:

### Training Summary 2012

<table>
<thead>
<tr>
<th>Classroom Training: Contract Year 2012</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>HazMat Initial &amp; Refresher</td>
<td>245</td>
</tr>
<tr>
<td>Security Awareness</td>
<td>15</td>
</tr>
<tr>
<td>Gang Training</td>
<td>23</td>
</tr>
<tr>
<td>New Employee Orientation/Safety</td>
<td>15</td>
</tr>
<tr>
<td>PPGU MARSEC Awareness</td>
<td>18</td>
</tr>
<tr>
<td>PPGU TWIC/MARSEC</td>
<td>5</td>
</tr>
<tr>
<td>PPGU WC Annual Refresher</td>
<td>259</td>
</tr>
</tbody>
</table>

### Certifications & Skills: Contract Year 2012

<table>
<thead>
<tr>
<th></th>
<th>New Certifications/New Skills</th>
<th>Re-Certifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forklift</td>
<td>83</td>
<td>883</td>
</tr>
<tr>
<td>Stick Shift</td>
<td>67</td>
<td>N/A</td>
</tr>
<tr>
<td>Stacker</td>
<td>42</td>
<td>169</td>
</tr>
<tr>
<td>Empty Handler</td>
<td>42</td>
<td>168</td>
</tr>
<tr>
<td>Car Driver</td>
<td>32</td>
<td>N/A</td>
</tr>
<tr>
<td>Noell Carrier</td>
<td>28</td>
<td>169</td>
</tr>
<tr>
<td>Yard Carrier</td>
<td>28</td>
<td>0</td>
</tr>
<tr>
<td>Crane</td>
<td>25</td>
<td>97</td>
</tr>
<tr>
<td>Material Handler</td>
<td>24</td>
<td>40</td>
</tr>
<tr>
<td>Reach Stacker</td>
<td>18</td>
<td>113</td>
</tr>
<tr>
<td>Hustler</td>
<td>14</td>
<td>879</td>
</tr>
<tr>
<td>Straddle Carrier</td>
<td>11</td>
<td>20</td>
</tr>
<tr>
<td>Toploader</td>
<td>9</td>
<td>208</td>
</tr>
<tr>
<td>Baggage Handler</td>
<td>5</td>
<td>N/A</td>
</tr>
<tr>
<td>Rubber Tired Gantry</td>
<td>4</td>
<td>38</td>
</tr>
<tr>
<td>Chassis Stacker</td>
<td>0</td>
<td>10</td>
</tr>
<tr>
<td>Kone Crane</td>
<td>0</td>
<td>28</td>
</tr>
<tr>
<td>Transtainer</td>
<td>0</td>
<td>64</td>
</tr>
</tbody>
</table>

The Training Center facilities continue to be used by a wide variety of groups in the port community, industry organizations and government agencies to enable training, meetings and discussions. Providing a state of the art facility conducive to learning and a central meeting place for port partners throughout the region.
Turning the corner to progress
Safety

In 2012, NYSA’s commitment to safety was evident through several key programs. Focusing on the importance of safety and each individual’s responsibility to ensure a safe workplace is an ongoing effort.

This year, NYSA continued to play a role in advising policymakers on initiatives to enhance safety for workers on the waterfront. As part of NMSA (National Maritime Safety Association), with representatives on both the Board of Directors and the Technical Committee, NYSA collaborated with OSHA (US Department of Labor’s Occupational Safety and Health Administration) to enhance safety for workers in the maritime industry. Industry standards and practices were created to prevent accidents and increase safety awareness on the waterfront. Videos were developed to be used as educational tools and to increase safety awareness.

The NYSA Safety Committee, comprised of safety personnel from direct employers in the port, focuses on promoting safety in the waterfront work environment. Meeting routinely, ideas for best practices are exchanged and measured. Accidents that occur within our port, as well as those that occur throughout the country and the world are reviewed and discussed. Based on these accidents, the Committee may review current work practices and recommend changes to increase the safety of our workforce. The Safety Committee meetings also serve as a forum for the sharing of information from the quarterly NMSA meetings.

Analysis of accident statistics by the safety committee, such as accident frequency by month, type of injuries and those job classifications, will provide a platform for areas of focus for training and improved awareness in 2013.

The Joint NYSA-ILA Safety Committee, which is comprised of representatives from management and labor, continues to collaborate with a renewed focus on growing the commitment to safety in the port. Active sub-committees have increased the ability of the group to make progress through their efforts directed at challenges in areas such as Accident Review and Safety Violations. In 2012, this Committee revised the port’s Safety Violations Program, submitted the new policy to the Contract Board, and implemented the policy in June, after Board approval.

A Safety Luncheon for 2012 will be held during the first quarter of 2013, providing an opportunity for the port community to renew their commitment to safety.
Accidents by Occupation

Straddle/Noell Carrier: 69
Hustler: 60
Shoreside Gantry Crane: 40
Mechanic: 25
Container Handler: 21
Short Labor: 18
Terminal Labor: 12
Forklift: 11
Checker: 9
Transtainer/RTG: 8

2012 Accidents Reported By Month

<table>
<thead>
<tr>
<th>Month</th>
<th>Accidents</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>24</td>
</tr>
<tr>
<td>February</td>
<td>17</td>
</tr>
<tr>
<td>March</td>
<td>17</td>
</tr>
<tr>
<td>April</td>
<td>25</td>
</tr>
<tr>
<td>May</td>
<td>25</td>
</tr>
<tr>
<td>June</td>
<td>24</td>
</tr>
<tr>
<td>July</td>
<td>29</td>
</tr>
<tr>
<td>August</td>
<td>29</td>
</tr>
<tr>
<td>September</td>
<td>29</td>
</tr>
<tr>
<td>October</td>
<td>14</td>
</tr>
<tr>
<td>November</td>
<td>12</td>
</tr>
<tr>
<td>December</td>
<td>18</td>
</tr>
</tbody>
</table>

2012 Injuries

- Back/Neck: 27
- Knee/Leg: 22
- Ankle/Foot: 12
- Shoulder/Arm/Wrist: 20
- Other: 7
- Hand/Fingers: 9
- Head/Face/Eye: 9
- Torso: 11

Turning the corner to progress
VITAL STATISTICS

The following is a summary of how the New York/New Jersey waterfront fared during the contract year, which ended on September 30, 2012.

**Cargo Volume:** The Port attracted nearly 3.3 million containers in 2012, a 2.7% increase from previous fiscal year’s total of 3.2 million containers.

**Benefit Cost:** The total cost of fringe benefits for the ILA members—which includes pension, healthcare, vacation and holiday, increased by $1.8 million, due primarily to wage increases that went into effect during the year.

**Work Force:** There were approximately 3,200 active NYSA registered longshore, checker and maintenance workers employed in the Port during the contract year 2012.

**Hours Worked:** The total hours worked in the port were nearly 10 million, decreasing slightly by approximately 1% from previous year, while wages increased by $26 million.

**Auto Volume:** The number of autos handled in the port last year increased by nearly 13% to 519,000 units.
### ASSESSMENT RATE TABLE

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>House Containers within 260 miles</td>
<td>$100.00</td>
</tr>
<tr>
<td>House Containers within 260 miles-Bermuda Trade</td>
<td>25.00</td>
</tr>
<tr>
<td>House Containers over 260 miles</td>
<td>21.00</td>
</tr>
<tr>
<td>House Containers cargo laden - Railed</td>
<td>10.00</td>
</tr>
<tr>
<td>Mafis with 43 tons or less cargo weight</td>
<td>150.00</td>
</tr>
<tr>
<td>Transshipped</td>
<td>25.00</td>
</tr>
<tr>
<td>Inland Transfers</td>
<td>55.00</td>
</tr>
<tr>
<td>Empty Containers</td>
<td>40.00</td>
</tr>
<tr>
<td>Empty Mafis</td>
<td>40.00</td>
</tr>
<tr>
<td>Empty Containers-Bermuda Trade</td>
<td>25.00</td>
</tr>
<tr>
<td>Uncontainerized or unboxed Autos-Trucks-Buses</td>
<td>8.15</td>
</tr>
<tr>
<td>Breakbulk</td>
<td>6.00</td>
</tr>
<tr>
<td>Mafis with greater than 43 tons cargo weight</td>
<td>6.00</td>
</tr>
<tr>
<td>Bananas</td>
<td>0.09</td>
</tr>
<tr>
<td>Excepted Cargo</td>
<td>14.00</td>
</tr>
<tr>
<td>Passenger Assessment</td>
<td>14.00</td>
</tr>
</tbody>
</table>
## Equipment Operator Work Hours  Contract Year 2012

<table>
<thead>
<tr>
<th>Skill</th>
<th>Base Rate</th>
<th>Work Hours</th>
<th>Percentage of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Crane / Transtainer / RTG Operator:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26.50</td>
<td>4,154.0</td>
<td>1%</td>
<td></td>
</tr>
<tr>
<td>29.25</td>
<td>37,730.0</td>
<td>6%</td>
<td></td>
</tr>
<tr>
<td>29.75</td>
<td>18,369.0</td>
<td>3%</td>
<td></td>
</tr>
<tr>
<td>32.00</td>
<td>535,508.0</td>
<td>90%</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>595,761.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Straddle / Noell Carrier Operator</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26.50</td>
<td>45,386.5</td>
<td>4%</td>
<td></td>
</tr>
<tr>
<td>29.25</td>
<td>264,318.5</td>
<td>23%</td>
<td></td>
</tr>
<tr>
<td>29.75</td>
<td>59,645.5</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>32.00</td>
<td>802,426.0</td>
<td>68%</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1,171,776.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Hustler Operator:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26.50</td>
<td>100,293.0</td>
<td>8%</td>
<td></td>
</tr>
<tr>
<td>29.25</td>
<td>280,428.0</td>
<td>24%</td>
<td></td>
</tr>
<tr>
<td>29.75</td>
<td>79,434.5</td>
<td>7%</td>
<td></td>
</tr>
<tr>
<td>32.00</td>
<td>726,953.8</td>
<td>61%</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1,187,109.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other Container Handling Equipment:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26.50</td>
<td>16,925.5</td>
<td>4%</td>
<td></td>
</tr>
<tr>
<td>29.25</td>
<td>52,124.5</td>
<td>11%</td>
<td></td>
</tr>
<tr>
<td>29.75</td>
<td>22,468.5</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>32.00</td>
<td>364,720.1</td>
<td>80%</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>456,238.8</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
WORK HOURS & RATES  CONTRACT YEAR ENDING 2012

<table>
<thead>
<tr>
<th>CRAFTS</th>
<th>Rate</th>
<th>ST Hours</th>
<th>OT Hours</th>
<th>Total Hours</th>
<th>Age</th>
<th># Ind.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Longshore</td>
<td>20.00-26.50</td>
<td>142,100.5</td>
<td>171,076.5</td>
<td>313,177.0</td>
<td>41.6</td>
<td>173</td>
</tr>
<tr>
<td></td>
<td>27.50-30.00</td>
<td>478,025.5</td>
<td>665,767.5</td>
<td>1,143,793.0</td>
<td>42.3</td>
<td>471</td>
</tr>
<tr>
<td></td>
<td>32.00</td>
<td>1,682,103.5</td>
<td>2,481,701.4</td>
<td>4,163,804.9</td>
<td>48.9</td>
<td>1,348</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>2,302,229.5</td>
<td>3,318,545.4</td>
<td>5,620,774.9</td>
<td>46.7</td>
<td>1,992</td>
</tr>
<tr>
<td>Checkers</td>
<td>23.75-28.00</td>
<td>81,315.5</td>
<td>98,668.5</td>
<td>179,984.0</td>
<td>41.5</td>
<td>59</td>
</tr>
<tr>
<td></td>
<td>29.25-30.00</td>
<td>198,954.0</td>
<td>220,251.5</td>
<td>419,205.5</td>
<td>40.2</td>
<td>127</td>
</tr>
<tr>
<td></td>
<td>32.00</td>
<td>782,487.5</td>
<td>1,119,403.5</td>
<td>1,901,891.0</td>
<td>51.8</td>
<td>507</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>1,062,757.0</td>
<td>1,438,323.5</td>
<td>2,501,080.5</td>
<td>48.8</td>
<td>693</td>
</tr>
<tr>
<td>Maintenance</td>
<td>20.00-26.50</td>
<td>195,975.0</td>
<td>217,652.0</td>
<td>413,627.0</td>
<td>39.3</td>
<td>149</td>
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<tr>
<td></td>
<td>27.00-31.00</td>
<td>115,587.0</td>
<td>176,317.0</td>
<td>291,904.0</td>
<td>44.3</td>
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<td></td>
<td>32.00</td>
<td>369,406.0</td>
<td>542,302.9</td>
<td>911,708.9</td>
<td>54.3</td>
<td>269</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>680,968.0</td>
<td>936,271.9</td>
<td>1,617,239.9</td>
<td>48.2</td>
<td>503</td>
</tr>
</tbody>
</table>

Turning the corner to progress
Information Technology

In the year 2012, NYSA’s Information Technology focus was to develop and deploy a new Prior Day Labor Ordering and Dispatch System.

Our goal was to replace the previous Labor Hiring System with current technology without requiring major changes to the current Labor Hiring Practices as well as position NYSA for facilitating future changes. This new system is a configurable, powerful rule-based labor hiring and dispatch system that will efficiently enable NYSA to meet the requirements of future Collective Bargaining Agreements. This new system will allow NYSA to realize future opportunities for automation as well as leverage new technology for years to come. This system will be deployed January of 2013.
Port of Discovery

In 2012, the Port of Discovery Program saw a second consecutive year with a substantial increase in total Major Damaged containers compared to the two previous years. Total Major Damaged Containers reported amounted to 22,290 units.

Repairs reported by the Carriers accounted for over 20,400 containers, or approximately 92% of the total reported.

Port of Discovery Statistics for the period 1/01/2012 through 12/31/2012

<table>
<thead>
<tr>
<th>RESOLVED</th>
<th>UNRESOLVED</th>
<th>Containers Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Res. 1 Repaired</td>
<td>Res. 2 Not Major Damage</td>
<td></td>
</tr>
<tr>
<td>Res. 3 &amp; 4 Sold/Termin</td>
<td>Res. 5&amp;6 Moved by Vsl/Road</td>
<td></td>
</tr>
<tr>
<td>Res. 8 ILA-Approved</td>
<td>Res. 7 Other</td>
<td></td>
</tr>
<tr>
<td>Res. 13 Paid Violation</td>
<td>Res. 9 Mty Sailed Foreign</td>
<td></td>
</tr>
<tr>
<td>Res. 10 Dmg Load</td>
<td>Res. 12 Pending Action</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>TOTALS</td>
</tr>
<tr>
<td>20,463</td>
<td>0</td>
<td>22,290</td>
</tr>
<tr>
<td>448</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>78</td>
<td></td>
</tr>
<tr>
<td>1,142</td>
<td>72</td>
<td></td>
</tr>
</tbody>
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Percentage of total by category:

<p>| | | | |</p>
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<tr>
<td>91.80%</td>
<td>2.00%</td>
<td>0.22%</td>
<td>0.08%</td>
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<tr>
<td>5.12%</td>
<td>0.00%</td>
<td>0.02%</td>
<td>0.05%</td>
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<tr>
<td>0.34%</td>
<td>0.32%</td>
<td>100%</td>
<td></td>
</tr>
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Turning the corner to progress
Dredging Project Status

MAINTENANCE PROJECTS:


Hudson River Channel – No maintenance performed in 2012 and no maintenance scheduled in 2013.

East River – Last maintenance completed in 2011 and no maintenance scheduled in 2013.

Buttermilk Channel – Last maintenance completed in 2011 and no maintenance scheduled in 2013.


Red Hook Flats – Maintenance dredging is scheduled in 2013.
**ONGOING CONSTRUCTION PROJECTS:**

The status of the NY/NJ Harbor 50’ Deepening project encompasses 18 dredging contracts and 2 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.

**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.

**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 October 2012.

**Arthur Kill (50 ft)**
- First Contract (S-AK-1) awarded in September 2010 (included as part of S-NB-2 contract above), and completed in October 2012.
- Second contract (S-AK-2) award in September 2011, scheduled for completion by May 2013.
- Third contract (S-AK-3) awarded in January 2013 and scheduled for completion in March 2014.

**Bay Ridge Channel (50 ft)**
- Deferred from construction as per Port Authority Letter dated December 21, 2011.

**Mitigation**

**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 marsh island habitat created.
- 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 performed winter into spring of 2012 for 42 acre marsh restoration.
# New York and New Jersey Harbor (50 Foot) Construction Schedule

<table>
<thead>
<tr>
<th>Channel/Contract</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Amboy</strong></td>
<td></td>
</tr>
<tr>
<td>Contract 1 (SA-AM-1)</td>
<td>Completed Jun 2006</td>
</tr>
<tr>
<td>Contract 2a (SA-AM-2a)</td>
<td>Completed May 2010</td>
</tr>
<tr>
<td>Contract 3a (SA-AM-3a)</td>
<td>Completed Oct 2012</td>
</tr>
<tr>
<td>Contract 3b (SA-AM-3b)</td>
<td>Completed Jan 2013</td>
</tr>
<tr>
<td><strong>Amsterdam</strong></td>
<td></td>
</tr>
<tr>
<td>Contract 1 (SA-AM-1a)</td>
<td>Completed Oct 2006</td>
</tr>
<tr>
<td>Contract 1b (SA-AM-1b &amp; SA-AM-2b)</td>
<td>Completed Jan 2011</td>
</tr>
<tr>
<td>Contract 2 (SA-AM-2)</td>
<td>Completed Mar 2011</td>
</tr>
<tr>
<td><strong>Port Jersey</strong></td>
<td></td>
</tr>
<tr>
<td>Contract 3 (PJ-3)</td>
<td>Completed Jul 2010</td>
</tr>
<tr>
<td><strong>Kill Van Kull</strong></td>
<td></td>
</tr>
<tr>
<td>Contract 1 (KV-K-5)</td>
<td>Completed Dec 2004</td>
</tr>
<tr>
<td>Contract 3 (KV-K-1)</td>
<td>Completed Sep 2011</td>
</tr>
<tr>
<td><strong>Newark Bay</strong></td>
<td></td>
</tr>
<tr>
<td>Contract 1 (SB-NB-1)</td>
<td>Completed Jan 2012</td>
</tr>
<tr>
<td>Contract 2 (SB-E-1)</td>
<td>Completed Apr 2010</td>
</tr>
<tr>
<td>Contract 3 (SB-NB-2/SB-EX-1)</td>
<td>Completed Sep 2012</td>
</tr>
<tr>
<td><strong>Arthur Kill</strong></td>
<td></td>
</tr>
<tr>
<td>Contract 1 (AK-2)</td>
<td>Awarded Sept 2011</td>
</tr>
<tr>
<td>Contract 2 (AK-3, incl. water suction area)</td>
<td>Awarded Jan 13</td>
</tr>
</tbody>
</table>

- **Ship Removal & Utility Corridor**
  - FY 12 Award

- **Water Stump Replacement**
  - PA/NYC Contract
  - Awarded Aug 2010

- **Mitigation**
  - Woodridge Creek, NJ
    - Completed

- **Beneficial Use of Disposed Material**
  - Biders West, Jamaica Bay, NY
    - Completed Aug 2010
  - Yeusey Bar, Jamaica Bay, NY
    - Completed Jul 2012
  - Shaw (Wall and Rulers Bar, Jamaica Bay
    - Completed Nov 2012

*As of January 29, 2013*
2012 NYSA Insurance and Indemnity Program

New York Shipping Assurance Association, Inc. (NYSAA)

In 2006, NYSA created a comprehensive insurance program to protect NYSA, its directors, officers, employees, and representatives as well as NYSA members. The coverage for NYSA members is provided through a Vermont captive insurance company, New York Shipping Assurance Association, Inc., a wholly-owned subsidiary of NYSA based in Burlington, Vermont, and includes legal representation and defense costs to enjoin strikes or work stoppages, to defend arbitrations, court actions, adjudicatory proceedings, and third-party claims, and to prosecute court actions and arbitrations in connection with the implementation of the NYSA-ILA and NYSA-PPGU Collective Bargaining Agreements. These coverages are referred to collectively as “Financial Injury Coverage.”

In early 2011, NYSA filed a claim with NYSAA on behalf of its direct-employer members that had suffered financial injury as a result of the September 28-29, 2010 illegal work stoppage by ILA members in the PONY/NJ. The foundation for this claim is the civil action that NYSA subsequently filed in the federal district court in New Jersey seeking damages for the stevedores. That proceeding was held in abeyance throughout 2012 because of the ongoing master and local contract negotiations.

All legal defense costs related to this claim that are incurred by NYSA’s direct-employer members are being paid by NYSAA. The legal defense costs of NYSA’s carrier members that are plaintiffs in the civil damage action are being paid by Shipping Industry Mutual Assurance Association Limited, a Bermuda captive insurance company owned by the carrier members of United States Maritime Alliance Limited.

During the 2011-2012 Contract Year NYSA filed three insurance claims with NYSAA on behalf of its members. One involved a potential declaratory judgment action to seek relief prohibiting the Waterfront Commission of New York Harbor from interfering with the provisions of the NYSA-ILA Collective Bargaining Agreement. Another claim involved an arbitration challenging the ILA’s assertion that a direct employer is understaffing its marine terminal by not employing enough longshore workers to assist in the receipt and delivery of loaded import containers to trucks. The underlying proceedings in both claims were held in abeyance throughout 2012 because of the ongoing master and local contract negotiations.

The third claim filed in 2012 involved a challenge by the Waterfront Commission to the procedure then in place by which new longshore workers were selected for employment in the industry. NYSA and the ILA were able to agree on a new plan that will provide the following selection guidelines for new applicants for employment: 51% will be veterans, 25% will be union legacies, and 24% will be individuals recruited by NYSA.

All legal defense costs incurred in connection with the three insurance claims were paid by NYSAA.

New York Shipping Association Self-Insurance Trust

Liability insurance coverage for NYSA, its directors, officers, employees, and representatives is provided through commercial insurance policies with excess coverage provided by the NYSA Self-Insurance Trust. The Trust also provides Financial Injury Coverage to NYSA. NYSA filed a claim with the Trust during the 2010-2011 Contract Year for reimbursement of the legal costs incurred in one of the personal injury actions alleging that the operator of the powered industrial equipment that caused injury to the plaintiff was not properly trained by NYSA.

That action was settled in March 2012 for $2.75 million. NYSA paid $250,000 of the settlement, which was an amount equal to NYSA’s policy deductible. The balance was paid by NYSA’s commercial liability insurance carriers. The NYSA Self-Insurance Trust reimbursed NYSA for its share of the settlement payment.
NYSA PAC

New York Shipping Association, Inc. established a political action committee in 2011 (NYSAPAC). Since its creation, NYSAPAC has held two events in order to raise funds to support pro-port candidates who are running for election to federal office. In keeping with Federal guidance, contributions to NYSAPAC are not deductible as a charitable or business expense, and personal contributions are limited to a maximum of $5,000.00 per person. Contributors must be United States citizens and corporate checks are not permissible.

During the recent Election Year, the following “Friends of the Port” were supported by the NYSA PAC:

- LoBiondo For Congress
- Joe Kyrillos for US Senate
- Frelinghuysen for Congress
- Menendez For Senate
- Sires For Congress
- Nadler For Congress
- Scott Garrett For Congress
- Lance For Congress
- Donald Payne, Jr. For Congress
- Pascrell For Congress
- Rob Andrews For Congress
- Rush Holt For Congress
- Mica For Congress
Port Security and Safety

Area Maritime Security Committee
Maritime Security and Harbor Safety are vital issues that continue to be very high priorities for the Port of New York and New Jersey. New York Shipping Association continues to participate in a leadership role on both committees.

AMSC is structured under a Board of Directors, led by Sector New York Commander Captain Gordon Loebl, who took command of Sector New York in July, 2012. In addition, Bethann Rooney, Manager of Port Security for the Port Authority of New York and New Jersey, leads the Committee as Chair along with Vice-chair Richard Schoenlank, of the Sandy Hook Pilots.

Maritime security countermeasures throughout the past decade have significantly changed the maritime environment and the focus of the committee has shifted to address continued improvement of plans and procedures.

Through an enhanced training and exercise program, concerted efforts have been made to conduct exercises that address preparation, response and recovery for a variety of circumstances and scenarios. As a result, the exercises have provided coordinated experiences, effective and efficient use of resources, and facilitation of partnerships and strong working relationships throughout the harbor.

Department of Homeland Security certified training courses aimed at Facility Security Officers (FSO) and Vessel Security Officers (VSO) have been offered. These training programs have provided extensive knowledge to better prepare FSO and VSO personnel on the procedures, protocols and regulatory regime they are governed by. In addition, training of maritime sector front line employees and managers has been enhanced to include counter-terrorism and criminal behavior training.

This focus has resulted in enhancement of security plans and procedures throughout the Port of New York and New Jersey.

Harbor Safety, Operations and Navigation Committee
Just as the AMSC serves a unique role in the port community – the Harbor Safety, Operations and Navigation Committee, known as “Harbor Ops” also serves a distinctive and important role. Harbor Ops Steering Committee is led by Andrew McGovern, President of the New Jersey Sandy Hook Pilots, who serves as Chair, and he is supported by Vice Chairs Genevieve Clifton of the NJ Office of Maritime Resources, Lucy Ambrosino, Manager, Outreach and New York, New England Sales for the Port Authority of New York and New Jersey, and Peter Keyes, Vice President, New York and Offshore Operations for Moran Towing Corporation.

Harbor Ops is an all-volunteer group that works very closely with the US Coast Guard. Along with the Captain of the Port, Commander Linda Sturgis, Chief of Prevention, and Chief of Waterways Management LCDR Anne Morrissey provide the group with vital and valuable exchange of information as well as important interaction among the port community. This strongly committed Harbor Ops group continues to enhance the navigational safety in the port through coordination, public education and communications. As recently described by John F. Tavolaro, Chief, Operations Division of the US Army Corps of Engineers, who participates on the
steering committee along with New York Shipping Association, Inc. and other key port partners, "...the Port of NY and NJ has a very active and vibrant Harbor Ops Committee. The steering committee vets subjects of interest and creates the agenda for the Harbor Operations Full Committee, which is made up of the broader public, such as terminal operators, tug companies and others. The Full Committee is briefed on harbor issues related to safety and operations and provides feedback."

Through a variety of working sub-committees Harbor Ops members can ensure an unbiased review of such challenging issues as competing waterway uses and the diverse interests of business, recreational and man-powered vessels in the harbor, alternative/wind energy proposals and continued safety concerns such as marina placement, near-shore lighting and wake impact on shorelines.

In addition, roundtable-working groups for Oil and Marine Terminal Operators, Pilots and Agents allows for continued safety improvements through candid discussions of best practices and safety issues.

**Port Police and Guards Union**

**FRINGE BENEFIT COSTS** Dollars (millions)

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<th>Year</th>
<th>Cost (millions)</th>
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<tr>
<td>08</td>
<td>2</td>
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<tr>
<td>09</td>
<td>4</td>
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<td>10</td>
<td>6</td>
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<td>11</td>
<td>8</td>
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<td>12</td>
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(Contract years ending September 30)

**HOURS WORKED** (thousands)

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<thead>
<tr>
<th>Year</th>
<th>Hours Worked</th>
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<tbody>
<tr>
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<tr>
<td>09</td>
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<td>500</td>
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<td>11</td>
<td>600</td>
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<tr>
<td>12</td>
<td>700</td>
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(Contract years ending September 30)

**ACTIVE EMPLOYEES**

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<th>Year</th>
<th>Employees</th>
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<tbody>
<tr>
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<td>400</td>
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<td>500</td>
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(Contract years ending September 30)

**Port Users Group**

NYSA continues to participate in and host the Port Users Group (PUG) at the NYSA/ILA/PPGU Training Center. The PUG which is facilitated by Sharon McStine, Manager of Industry and Government Relations for the Port Authority of New York and New Jersey meets monthly and enables information sharing and communication between every facet of the port community. Attended by high-level representatives from key port organizations such as US Customs and Border Protection and the USDA to the Freight Forwarders and terminal operators, everyone in attendance reports out on issues specific to their respective area of expertise/business. This is a very valuable and informative exchange which serves to enhance working relationships and understanding of all facets of port commerce.

**TWIC**

As we look forward to 2013 and the renewal of TWIC – five years after the initial enrollments to ensure continued compliance of the federal regulations, we expect to see the notice of proposed rulemaking for the TWIC reader implementation. See additional information on TWIC in the Federal and State Legislative and Regulatory Activity section of this report.
Notes From Washington D.C. – Paul Bea

2012 Legislative Issues and Action in Washington

As the New York Shipping Association has an active presence in the halls of government in New Jersey and New York, the NYSA was at work in the Nation's Capital where legislation and regulation can affect the operations and physical infrastructure of Port of New York and New Jersey.

**Dredging**

The Harbor Deepening Project, one of the Nation's largest ever navigation projects, is nearing completion. The estimated $1.6 billion project that will serve the New Jersey and Staten Island container terminals with 50-foot channels has advanced under budget and on time. The work will be officially concluded in 2014. In order to keep the project on its ambitious schedule the NYSA has been persistent in asking Congress for full funding each year. The project has had strong support from among the New Jersey and New York congressional delegations as well as in the White House where the project has been treated as a priority. President Obama's budget for FY 2013 included $68 million, which when added to the prior ten years amounts to $863 million in the Federal investment in the improvement of our system of channels. The Port Authority of New York & New Jersey, as the local project sponsor, has been responsible for a comparable share of the project’s cost. NYSA periodically travels to Washington to meet with Members of Congress and staff to make sure the deepening of the port remains high on the list of must-do work. Those meetings are sometimes conducted in conjunction with the Port Authority and with representatives of the International Longshoremen’s Association. It has been essential from the very beginning that the Harbor Deepening Project is seen as important for not only the Port but for the larger economy that does its best when there is a modern and efficient supply chain and supporting infrastructure.

**Ballast**

In 2012 the NYSA continued its efforts at the state and national levels on the subject of ballast water regulation. The very problematic regulations promulgated in New York State drew the attention of Congress and the Administration. In testimony on Capitol Hill, U.S. EPA reported that its expert panel found those standards presently unachievable and the House of Representatives approved comprehensive ballast water legislation that embraced the international standard as an initial step and approved the pre-emption of regulations at the non-Federal level. After the success in the House, the NYSA joined others in the national maritime community in pressing the U.S. Senate to take up the issue. The July 25th letter to key senators stated that legislation to “establish a consistent, practical, and science-based national standard for the management of vessel discharges is urgently needed.” By the close of the 112th Congress no conclusion was reached on the subject and the effort will continue in 2013 in the new 113th Congress.

**Freight Policy**

A noteworthy achievement by the larger freight and logistics industry was the signing into law of the first National Freight Policy. The NYSA has been one of the many organizations that has importuned Congress for many years to attend to the nation’s freight infrastructure needs in both investment and policy terms. In 2012, Congress sent to the White House the MAP-21 (“Moving Ahead for Progress in the 21st Century”) surface transportation legislation, which the president signed on June 29th, Public Law 112-140. The law contains many provisions advocated by the industry including a clear statement of national policy to “improve the
condition and performance of the national freight network.” U.S. DOT has been tasked with working with states and industry to identify that network and encourage state level freight planning. A National Freight Strategic Plan is to be prepared and Congress renewed the Projects of National and Regional Significance program.

**HMTF**

The Harbor Maintenance Trust Fund, created in 1986 to manage the receipts of the Harbor Maintenance Tax and support Federal channel maintenance, is in need of repair. The New York Shipping Association has been among the many American port stakeholders calling on Congress to ensure that the HMTF resources are fully used for maintaining channels as intended. (An estimated $160 million is collected on imported cargo, domestic cargo and passenger ship tickets in the Port of New York and New Jersey.) The problem is that only around 50 to 60 percent of the total annual HMT revenues are being allocated by the Administration and Congress to the channel maintenance program. The remainder accumulates in an account that is approaching $7 billion dollars and thus is made available to balance against deficit spending elsewhere in the Federal budget. The Army Corps of Engineers estimates that the annual O&M requirements in the coastal port system is $1.5 billion but only $700 to $800 million has been appropriated in recent years. NYSA has joined with ports and the dredging industry in lobbying for remedial legislation to ensure that the user fees paid on cargo moving through the ports is spent to maintain channels at their authorized depths.

**“We Can’t Wait”**

The Port of New York and New Jersey was given priority treatment in two respects when President Obama’s White House made the first of a series of “We Can’t Wait” announcements to highlight priority projects and measures being taken to expedite them. The White House put the Harbor Deepening Project and the Bayonne Bridge projects on its “dashboard” to monitor the streamlining of Federal procedures for priority projects. In the instance of the 50-foot channel project the White House gave the U.S. Army Corps of Engineers instructions to speed the delivery of the last major dredging contract. Also put on the “dashboard” was the pending Environmental Assessment (EA) for the Port Authority’s project to elevate the Bayonne Bridge roadway to 215 feet to provide clearance over the long term for container vessels. By the end of 2012 the draft EA document was being readied for release and public comment. The NYSA takes satisfaction in seeing White House attention being given these two infrastructure projects that hold great meaning for the vitality of the Port of New York and New Jersey in this still young century.
Government Affairs

The 2012 Governmental Affairs picture in review reflected a growing perception and understanding on the part of government leaders in both New York and New Jersey that we are at a critical juncture in the future of the Port of New York & New Jersey (PONYNJ). Their participation with the industry in making the right decisions for the future of the port is crucial in ensuring the sustainability and viability of the port as an economic engine for future generations.

Bayonne Bridge Navigation Clearance Program

In light of unforeseen events in Panama which resulted in a delay of the scheduled 2014 opening of the new Panama Canal post-Panamax locks to early in 2015, NYSA governmental affairs efforts in New York, New Jersey, and Washington, D.C., continued to stress the importance of, and encourage our government leaders to do all that is within their power to move the process of raising the roadbed forward as quickly as possible. In May of 2012 Patrick Foye, Executive Director, Port Authority of New York & New Jersey, with the unanimous support of the combined New York and New Jersey U.S. Senate delegations, requested inclusion of the Bayonne Bridge Project in President Barack Obama’s “We Can’t Wait” initiative, which grants expedited permit review under the National Environmental Policy Act to high priority infrastructure projects. On July 19, 2012, the White House announced that federal permitting for the Bayonne Bridge Project would be expedited as part of the new initiative as a result of Mr. Foye’s request. NYSA is optimistic the expedited review will move forward smoothly to the important public comment portion of the process which must be completed before final approval can be granted. Upon approval of the project, a groundbreaking ceremony and commencement of actual construction of this critical Port sustaining project could begin in May-June of 2013.

We continue to express our appreciation to Governors Christie and Cuomo and their diligent staff, for the energy and resources their administrations have and are dedicating to make the Bayonne Bridge Navigational Clearance Project a reality. Completion of this essential undertaking will ensure the future environmental and economic strength of the two states and the northeast region for generations to come.

Waterfront Commission of New York Harbor – New York Legislation

The ongoing attempt to amend “section 5-p.” of the Waterfront Commission Act in the New York Legislature to permit marine terminal operations and other port employers to hire additional labor if necessary to satisfy the cargo handling velocity expectations of their customers, stalled again in the New York State Legislature. The impact of a number of stories in the local and regional press proved to be detrimental to the effort, which described workplace conditions in the industry as drug infested, and the scathing findings of a special report released by the Waterfront Commission of New York Harbor in March of 2012.

The Waterfront Commission report, which was the result of an investigation and hearings convened by the Commission between October and December of 2010, depicted conditions in the Port’s maritime industry that evolved over decades as the result of “custom and practice” as an environment that fostered unfair employment practices. The report portrayed the collective bargaining agreement between the New York Shipping Association and the International Longshoremen’s Association (ILA) as an agreement which “breeds waste and favoritism and detracts from the competitiveness of the Port of New York & New Jersey,” through excess manning and relief practices, and also provides prime positions described as low-show and no-show jobs to members of our workforce who have a questionable or an actual history of association with organized crime figures (which is of course not permitted under the law).

After meetings which included the opportunities to speak with The Honorable Dean G. Skelos, President Pro Tempore and Majority Leader, New York State Senate, and The Honorable Sheldon Silver, Speaker, New York State
Assembly and key members of their senior staffs, it became evident that there are a number of housekeeping issues that need to be addressed by the industry before serious consideration could be given to the amending section 5-p. The proper forum for the industry to rethink certain aspects of how business is conducted in the PONYNJ (which have tarnished its credibility in the eyes of our political leaders) will be within the framework of current collective bargaining discussions on a new labor contract. In the end, the message from the political leadership to industry representatives of both labor and management was clear. We must design and build a new framework for how we will conduct the business of international maritime commerce in the future. This new framework must ensure fairness for all of our workers; reduce the cost of doing business in the PONYNJ by eliminating wasteful practices; and dispel the perception that industry apathy aids and abets the attempts of an organized crime element to operate in the Port. If we prove to be unsuccessful with these tasks, greater scrutiny of our perceived and actual shortcomings will result, and the ability to define our future will of necessity be controlled by them.

New York State Ballast Water Regulations

In 2012, NYSA and our friends from the Port of Oswego, Port of Albany, St. Lawrence Seaway Development Corporation, and the Government of Canada, continued efforts to receive an extension of the August 1, 2013 compliance date for New York State’s Clean Water Act Section 401 Certification for 2013 Commercial and Large Recreational Vessel General Permit (VGP) and Small Vessel General Permit regulations continued. In May of 2012, the extension was granted in a letter from the New York State Department of Environmental Conservation (NYSDEC) to the United States Environmental Protection Agency (USEPA) which stated New York’s 2013 Vessel General Permit Conditions would remain in effect until December 19, 2013. In the absence of suitable United States Coast Guard approved treatment technology for installation on ocean going vessels engaged in international maritime commerce at this time, the extension was indeed welcomed.

The letter stated that all vessels with voyages originating beyond New York’s exclusive economic zone (EEZ) and entering New York waters must conduct ballast water exchange or flushing beyond the EEZ—at least 200 nautical miles from any shore, and in water at least 2000 meters in depth—resulting in a salinity level of at least 30 parts per trillion. This condition does not apply if the master of the vessel determines that compliance with this condition would threaten the safety and stability of the vessel, its crew, or its passengers because of adverse weather, equipment failure, or any other relevant condition. These requirements are needed to prevent impairment of waters by invasive species. In the event a vessel is unable to conduct ballast water exchange or flushing due to safety concerns, the operator shall take reasonable measures to avoid discharge of organisms in ballast water and shall inform the NYDEC in writing of measures taken.

It is anticipated that this extension will provide enough time for the USEPA to promulgate and adopt a uniform set of national VGP regulations in the spring or summer of 2013. It is believed the USEPA regulations will bring the United States into conformity with standards adopted by the International Maritime Organization in the battle to prevent the spread of invasive species worldwide.
New Jersey Waterfront Access Regulations

Within the release of the New Jersey Department of Environmental Protection’s new Coastal Land Use Regulations was a section of particular interest to NYSA that dealt specifically with public access to waterways. After much dialogue with the department’s Land Use Regulation Program in cooperation with the Maritime Association of New York Harbor and several industry sectors whose businesses are dependent on waterfront access and waterborne transportation, and the New Jersey Business and Industry Association, we were able to secure the adoption of regulations that will not present any additional security concerns with regard to public access around or adjacent to marine terminal operations.

Under the new regulations, existing port facilities are not required to provide public access if there is currently no existing public access onsite. However, any existing public access shall be maintained or equivalent onsite public access shall be provided. If it can be demonstrated that continued onsite public access is not practicable based on the risk of injury from proposed hazardous operations, substantial permanent obstructions, or upon documentation of a threat to public safety due to the unique circumstances concerning the subject property, and no measures can be taken to avert these risks, equivalent public access shall be provided offsite along the same waterway and within the same municipality as the development.

The Department shall consider factors such as the type of public access available (for example, if (swimming) linear or visual access is available onsite, then (swimming) linear or visual access should be available at the offsite location), and (cost) square footage of access area and environmental impact/benefit when determining whether the proposed offsite public access is equivalent to that which would have been required onsite.

Priority Bills / Legislation

New Jersey (2012-2013 Session)

A-1563/S-1450: Establishes “Truck Operator Contractor Act.” This legislation would require all port drayage drivers to meet more rigorous criteria in order to maintain their independent contractor status. If they were unable to pass the test of the new criteria they would be required to forgo their constitutional right to the pursuit of happiness to be an employee driver of a trucking company. NYSA and Maersk governmental affairs testified in opposition to this legislation in the Assembly Labor Committee. Although the legislation was voted out of committee, the assembly leadership has delayed further action because of concerns about supply chain disruption and impacts on the cost of doing business in the PONYNJ.

A-3036: Establishes “Port Support Zone” surrounding certain ports and marine terminals. This legislation, if enacted, will establish a zone within a five-mile radius of a marine terminal as a “Port Support Zone,” entitling developers who develop or redevelop facilities creating jobs in port support functions like warehousing and distribution within the zone to special incentive reimbursements through the New Jersey Redevelopment Authority. NYSA testified in favor of the legislation in a “hearing only discussion” meeting of the Assembly Commerce and Economic Growth Committee.

A-2424: Establishes gubernatorial veto power over the Waterfront Commission of New York Harbor’s meeting minutes; expands gubernatorial oversight powers over the Commission.

S-2325: “Port Authority of New York & New Jersey Cargo Facility Charge Act” requires the Port Authority of New York & New Jersey to contract with an independent collection agency to collect cargo facility charges from all users, but prohibits the imposition of such a charge on ocean common carriers and marine terminal operators. It defines users as any person, company, or any other entity that is named as a shipper or consignee on the ocean common carrier; any other person, company, or entity that is a bona fide holder of the bill of lading or who is entitled to receive delivery of export or import cargo; or any other bailor of export or import cargo. A cargo facility charge is a fee currently charged and is applicable to all cargo and cargo containers discharged from, and loaded onto, vessels at any marine facility owned by the PANYNJ.
New York (2011-2012 Session)

A-7155-D/S-4668-C: An act to amend the Waterfront Commission Act, in relation to empowering the Waterfront Commission to accept applications for the longshoremen’s register; and to amend section 5-p. of such act relating thereto. This legislation would permit the industry to determine Port manpower levels while maintaining the Waterfront Commission’s background review, licensing, and law enforcement power and oversight of the longshore workforce. This legislation did not move in either house of the New York State Legislature.

A-8997/S6267: Enacts the “New York State Commercial Goods Transportation Industry Fair Play Act.” Amends the workers’ compensation law, in relation to the definition of employee in order to prevent misclassification of commercial goods transportation services employees. This legislation did not move in either house of the New York State Legislature.
Turning the corner to progress
2012 Federal and State Legislative and Regulatory Activity

Transportation Worker Identification Credential (TWIC) Program

TWIC Renewals
On June 19, 2012, the Transportation Security Administration (TSA) and the United States Coast Guard (Coast Guard) published an exemption in the Federal Register that would allow eligible holders of five-year TWICs that are set to expire on or before December 31, 2014, to obtain a replacement card that extends the expiration date by three years. The exemption took effect in August. This replacement card is referred to as an “extended expiration date” (EED) TWIC.

The TWIC holders seeking this option would not have to go through the standard renewal process that includes providing new biometric and biographic information at an enrollment center. Such renewals can be accomplished by calling the TWIC help desk, paying a $60 replacement fee, and making one trip to an enrollment center to pick up and activate the new extended TWIC. TWIC holders not exercising the EED option will still have the option of applying for a standard five-year TWIC for $129.75.

TWIC Notice of Proposed Rulemaking
The Notice of Proposed Rulemaking (NPRM) pertaining to the use of TWIC readers was developed in 2012 and is currently going through high-level approval and review. The NPRM will be published in the Federal Register. There will be a sixty-day comment period with plans for two public meetings. According to the Coast Guard the sixty-day comment period may be extended. At the end of the three-year extension period TSA expects card-reader requirements to be in place and readers to be deployed at facilities with the highest risk.

National Labor Relations Board (NLRB)

Notice of Employee Rights
On August 30, 2011, the NLRB published a final rule in the Federal Register requiring employers to post notices in conspicuous areas informing employees of their rights under the National Labor Relations Act (NLRA). The rule was to become effective in November 2011, but its effective date has been postponed pending the resolution of several court cases.

On April 17, 2012, a three-judge panel of the Court of Appeals for the District of Columbia Circuit issued an injunction delaying the effective date indefinitely due to conflicting opinions issued by federal district courts in the District of Columbia and the District of South Carolina. The District of Columbia upheld the rule, whereas the District of South Carolina held that the NLRB had exceeded its authority in promulgating the rule. The District of Columbia Circuit Court set an expedited briefing schedule and heard oral argument on September 11, 2012.

The South Carolina decision has been appealed to the Court of Appeals for the Fourth Circuit in Richmond. Should the circuit courts issue conflicting decisions, the Supreme Court of the United States in all likelihood will entertain a petition for certiorari to resolve the issue. The NLRB has indicated that it will not enforce the rule while these cases are pending.

Employee Communications
The NLRB has become proactive with regard to employer-promulgated social media policies and confidentiality policies published in employee handbooks. In Hispanics United of Buffalo, Inc. and Carlos Ortiz (03-CA-027872), the employer fired five employees for Facebook postings responding to a co-worker’s criticism of their job performance. The NLRB found that the postings were concerted activity for the “purpose of mutual aid or protection” and thus protected conduct under Section 7 of the NLRA. The employer was ordered to reinstate the employees with back pay and interest.

In Costco Wholesale Corp. and United Food and Commercial Workers Union, Local 371 (34-CA-012421), the NLRB found that the provisions of an employee handbook that prohibited employees from discussing the private matters of other employees, sharing payroll information, and electronically posting statements that damage the company or any person’s reputation violated Section 8(a)(1) of the NLRA. The NLRB found that the prohibitions in the employee handbook would tend to chill employees in the exercise of their Section 7 rights.
**Occupational Safety and Health Administration (OSHA)**

OSHA has announced that it will be reopening the Vertical Tandem Lift (VTL) record to address the technical feasibility of its regulation concerning ship-to-shore VTLs and its ban on VTLs with flat-rack containers. It is anticipated that a new rule may be published in May of 2013. OSHA will also be holding two stakeholder meetings in early 2013 on the subject of preventing injuries and deaths from vehicles backing up.

**Criminal Background Checks**

**U. S. Equal Employment Opportunity Commission (EEOC)**

On April 25, 2012, the EEOC issued enforcement guidance on the consideration of arrest and conviction records in employment decisions under Title VII of the Civil Rights Act of 1964. The guidance consolidates and supersedes the EEOC’s 1987 and 1990 policy statements on this issue. It is designed to be a resource for employers, employment agencies, and unions covered by Title VII, as well as applicants and employees and EEOC enforcement staff.

**Newark Ordinance: Restriction on Employers’ Use of Criminal Background Checks**

In November, the City of Newark, New Jersey enacted Ordinance 12-1630, which precludes employers with five or more employees that operate in Newark from asking job candidates about their criminal history before or during the job application process. The employer may make an inquiry only after the employer has made a “good faith” determination that the information is relevant due to the sensitivity of the job and the candidate has been found otherwise qualified, has received a conditional offer of employment, has received a written notice regarding the inquiry, and has given written consent. Penalties for each violation can reach $1,000.

There is no private right of action under the ordinance but enforcement will be delegated to an agency to be designated by the mayor of the City of Newark. The ordinance is very broad and exempts only those inquiries or disqualifications mandated by state or federal law or required by an employer participating in a program that encourages the employment of those with criminal histories.

**Multi-Employer Pension Plan Funding**

The House Education & the Workforce Committee held hearings in late 2012 to seek information about the shortcomings of the Pension Benefit Guaranty Corporation’s multi-employer pension plan program. Several key provisions of the Pension Protection Act of 2006 (PPA) are expiring in 2014, and it is likely that this issue will be the subject of legislation. Congress may simply extend current PPA funding requirements or seek significant modifications. The latter could include: permitting the suspension under certain circumstances of accrued benefits, encouraging plan mergers, harmonizing the normal retirement age with Social Security, and allowing financially-distressed “red zone” plans to suspend cost-of-living (COLA) increases.
Ballast-Water Certifications

United States Coast Guard (USCG) Regulations

On March 23, 2012, the USCG published in the Federal Register its Final Rule establishing national voluntary Ballast-Water-Management (BWM) guidelines, Standards for Living Organisms in Ships’ Ballast Water Discharged in U. S. Waters. The Final Rule, which took effect in June, also establishes an approval process for BWM systems. The Rule requires all vessels bound for the United States to maintain a variety of written records regarding the discharge of ballast water. The applicability of the Rule to a particular ship depends upon the size of the ship and the date of its construction with the earliest date being 2014. New vessels constructed after December 1, 2013, must have a U.S.- approved BWM system installed upon delivery.

New York State

On February 22, 2012, NYSDEC Commissioner Joseph Martens announced that New York State will pursue a uniform, national ballast-water standard that will leave in place the EPA’s current ballast-water standards in New York through December 31, 2013. While NYSDEC retreated from its plans to enforce more stringent standards, NYSDEC has proposed adopting a national standard that contains the following elements:

• 100 times IMO standard by June 1, 2016;
• Voluntary standard of 10 times IMO standard by June 1, 2016;
• Grandfathering until 2014 vessels utilizing the 10 times IMO standard by June 1, 2014;
• Continuing the requirement for ballast-water exchange and flushing; and
• Requiring the use of reasonable and effective management practices to limit aquatic invasive introductions prior to 2016.

New Jersey Department of Labor

Notice and Posting Requirements

New Jersey employers are now required to distribute to all employees and to post a new notice (MW-400 (11/11)) regarding recordkeeping requirements. New hires must receive the notice at the time of hiring. Failure to post or to provide the notice can result in a fine of $1,000 or criminal penalties. If an employer traditionally communicates with its employees via e-mail or the internet, it may satisfy the distribution requirement by distributing the notice electronically.

New Jersey Gender Equity Law

In September, New Jersey Governor Christie signed into law a bill that requires every employer in New Jersey with fifty or more employees to post conspicuously a notice detailing the right of employees to be free of gender inequity or bias in pay, compensation, benefits, or other terms and conditions of employment under relevant state and federal laws.

The new law also requires employers to provide to each employee a written copy of the notification (1) not later than thirty days after the form of notification is issued by the Commissioner, (2) at the time of the worker’s hiring, if the worker is hired after the issuance of the form of notification, (3) annually, on or before December 31 of each year, and (4) at any time, upon the first request of the worker.

Compliance with the posting and distribution requirements will not be required until the New Jersey Commissioner of Labor and Workforce Development issues the required form of notification. The regulatory process will take several months because it involves (1) the publication of a notice of proposal in the New Jersey Register, (2) a sixty-day comment period, and (3) the publication of a notice of adoption in the New Jersey Register.
External Affairs and Items of Special Interest

Education, Outreach and Communications
Through continued participation and support of a number of community organizations, NYSA educates the general public, elected officials and corporate decision makers about the integral role of the Port in our daily lives. An essential function of our organization, we support the efforts of Portside New York, Monmouth University’s Urban Coast Institute, PlanSmart NJ, Seamen’s Church Institute, Metropolitan Waterfront Alliance, and the Working Harbor Committee, Alliance for Action and the Containerization and Intermodal Institute.

In addition, participation and active involvement with groups such as the Area Maritime Security Committee, Harbor Operations Steering Committee, the Marine Terminal Operator/Agent/Harbor Pilot Roundtable, the Port Users Group and the US Army Corps of Engineers New York and New Jersey Dredged Material Strategic Planning Group, provides vital communication and information exchange platforms with port partners and the port community as a whole.

New York and New Jersey Dredged Material Strategic Planning Group
The work of the Dredged Material Strategic Planning Group (DMSPG) continued under the auspices of the US Army Corps of Engineers. Comprised of representatives from federal, state, NY City agencies, the Port Authority of New York and New Jersey and environmental, business and community groups who all share a common interest in the future of the port. Formed to address the need for dredged material management post harbor deepening, the focus of the group has been to:

- Develop a sustainable model to serve the environmental and economic challenges facing the port after the deepening project ends and maintenance will be required to maintain the new depth.
- Identify funding sources for capital improvements to implement the model; and
- Identify the appropriate leaders to implement the model.

The DMSPG met for over a year and the work of the group has been developed into a draft report which is intended to provide management of maintenance dredged material in the Port for the next 15 years. Although the report represents the viewpoints and consensus of the various group members, there are still components of the report that require additional group discussion and work.

For a more extensive update on the Harbor Deepening Project and general dredging, see the section dedicated to dredging in this report.

Containerization Intermodal Institute
NYSA is represented on the Board of Directors of the Containerization Intermodal Institute (CII). Working to attract future industry leaders the CII facilitates and awards scholarships through partnerships with schools and universities to increase awareness of the container industry and its contributions to our daily lives. NYSA has for the second year sponsored a scholarship for a student at Seton Hall University. This year’s recipient, Alyson Nardi, is a graduate student who is majoring in Finance and Supply Chain Management.
Of Special Interest

Two significant organizations chose to honor NYSA’s President Joseph Curto this year. The New York New Jersey Foreign Freight Forwarders and Brokers Association, Inc. at their 95th Annual Dinner honored Joe as their Person of the Year. The Freight Forwarders are one of the oldest transportation related organization in the US today.

In recognition of Joe’s many years of dedication and leadership in the maritime safety and health of the US and his service to the National Maritime Safety Association (NMSA) Joe was presented with NMSA’s 34th Annual Man of the Year Award. NMSA represents the marine cargo handling industry in the US in safety and health matters arising under various statutes, including the Occupational Safety and Health Act.

Panamanian Presidential Visit

As a guest of the New York Shipping Association and Mr. Marko Marinakis, His Excellency Ricardo Martinelli, President of the Republic of Panama and The Honorable Pablo Antonio Thalassinos, Ambassador of the Republic of Panama to the United Nations, joined members of the maritime industry at a dinner in New York City. President Martinelli and members of his delegation shared updates with industry stakeholders on the status of the Panama Canal expansion project. Sharing information that there is an adjusted completion date – pushing back to early 2015. This is the second visit President Martinelli has made with New York Shipping Association leadership and members, indicating the importance of the sustainable cargo handling services we provide and our readiness to handle the larger container vessels that will transit the expanded Canal.

A New Member of the Harbor Community

A unique, once in a lifetime event took place in the port this year when the space shuttle Enterprise made the final leg of her journey from the Smithsonian in Washington DC to the Intrepid Sea Air and Space Museum in New York Harbor.

The Enterprise was flown to JFK Airport and then placed on a barge and towed to Weeks Marine Terminal adjacent to Global Terminal. She was then towed past the Statue of Liberty and the World Trade Center and then traveled up the Hudson River. She was placed by crane on the flight deck of the Intrepid Museum in a position that overlooks the Hudson River, thereby joining the harbor community.
Raising the Bayonne Bridge

Over the past several years much has been discussed and written about the historical civic engineering landmark, the Bayonne Bridge. Known in this region not only for its iconic arch, it has symbolized an impediment to larger more efficient ships calling on our port.

The Port Authority’s “Raise the Roadway” solution to the air draft restriction beneath the Bridge has been met with significant support not only locally but also in Washington, DC. According to the Port Authority, “This less disruptive and creative engineering concept will provide wider lanes, shoulders, and median divider while also allowing for future transit options. A bikeway and walkway the entire length of the bridge expands access for all modes of transport. In addition, these new piers, roadway deck and approach road renovations will ensure that the bridge will serve future generations.”

Significant boosts to the project came this year:

• Port Authority estimates that the project would help support nearly 2,800 jobs and $240 million in wages throughout the construction industry; and

• President Obama expedited the federal permit process for the project; and

• Originally to be completed in 2016, the Bayonne Bridge project is now anticipated for April, 2015 completion.

New York Shipping Association continues to be a major supporter of the Port Authority’s efforts to complete the project in the most environmentally sound, safe, cost-effective and timely manner. This significant investment in the region provides sustainability and viability to the port as a regional economic engine.
Super Storm Sandy
Everyone in the NYSA community was either directly effected or knows someone who was effected by the wrath of Super Storm Sandy. This was also true for the businesses that make up the Port of New York and New Jersey. The catastrophic flooding, high winds and the resultant impact to the power grid and fuel supply left the entire port immobilized. Containers were strewn about the port streets. Several had blown into the water impeding the channels. Stack after stack of containers had toppled. Flooding from salt water had immersed the container handling equipment and several thousand automobiles were destroyed.

What also came out of the devastation was another example of teamwork and collaboration for the port community professionals to tackle the daunting task of securing and opening the port for business. Led by the US Coast Guard and Port Authority, NYSA actively participated in up to five daily conference calls coordinating the steps to bring the port back on line.

In addition to communicating with our membership, the key role for NYSA was to ensure that labor was available for the clean up and to work vessels once the channels were cleared for transit. Not a small task considering there was no power, no phones, no systems available, there were gas shortages to commute to work and labor themselves were dealing with personal tragedies. Word came from the top of the ILA, President Daggett instructed his work force to “do whatever it takes to get the job done.” Without the systems, traditional hiring practices could no longer be adhered to. Improvisation was the key. Employers reached out for their regular list employees who could operate diesel machinery which didn’t require electric power to begin the arduous task of cleaning up the container stacks. Dispatchers, hiring agents and the Waterfront Commission convened at 1210 Corbin Street to manually comb through print reports to identify potentially available labor and call them on the one phone which was operational. Amongst the many lessons learned through this process, one was particularly relevant; while electric blinds are nice they don’t work in a blackout…hiring was performed by flashlight! This routine went on for several days until the normal systems came back on line.

Although the after effects of the storm lasted for many weeks, from an NYSA perspective it was business as usual after 7 days. Looking back, during those 7 days it was also in many respects “business as usual” i.e. the port community coming together during difficult circumstances making extraordinary efforts to keep the Port of New York and New Jersey open for business.

Reflecting on the storm and its impact on so many in the port community and in our communities at home, the leadership of NYSA and the United States Maritime Alliance (USMX), a coalition of East and Gulf Coast port associations, presented two regional charities with a $200,000 donation to support hurricane recovery efforts after Superstorm Sandy ravaged the area in late October. Identifying two very worthy charities, the Hurricane Sandy New Jersey Relief Fund Inc., Chaired by Mary Pat Christie, New Jersey’s First Lady and the Stephen Siller Tunnel to Towers Foundation’s Hurricane Sandy Relief Fund in Staten Island, New York were the recipients of the donations.

Jim Cobb, NYSA’s Director of Governmental Affairs visited the Tunnel to Towers Foundation, an organization that promotes charity and good work in honor of Stephen Siller, a firefighter with the Fire Department of New York who sacrificed his life in the line of duty on September 11, 2001. He presented the $100,000 gift to Stephen’s brother, Frank Siller, Chairman of the Tunnel to Towers Foundation.
A $100,000 donation to the Hurricane Sandy New Jersey Relief Fund was also presented to First Lady Mary Pat Christie by Jim Cobb at an event held at Drumthwacket, the Governor of New Jersey’s official residence.

In the letter accompanying the checks, NYSA President Joe Curto wrote, “The Port of New York and New Jersey is a vital economic engine for our region and many of our longshore workers live in areas of New York and New Jersey that were impacted by the storm. Hurricane Sandy severely affected all of us, but we showed our strength and resilience, and we’re bouncing back. The NYSA and our partner, the United States Maritime Alliance, are committed to aid the rebuilding efforts on Staten Island and in the New York and New Jersey area.”
2012 Report of Counsel

Master and local contract bargaining dominated events in the Port of New York and New Jersey (PONY/NJ) during 2012. Labor and management met at various locations throughout the year, but they were unable to reach an agreement by September 30. Under the auspices of the Federal Mediation and Conciliation Service the NYSA-ILA Collective Bargaining Agreement was extended first to December 29, 2012, and again to February 6, 2013. As of the date this report was published…

December 3, 2010 Civil Damage Action - District of New Jersey
NYSA commenced this action in federal court against the International Longshoremen’s Association, AFL-CIO (ILA) and its affiliated locals in the PONY/NJ and the Port of Philadelphia on behalf of its members that suffered financial injury as a result of the September 28-29, 2010 work stoppage by ILA members in the PONY/NJ. The purpose of the job action was to force entities that do business with stevedoring companies owned and operated by the Holt family in the Port of Philadelphia to cease or alter their business relationships with those Holt companies. The work stoppage constituted an illegal, secondary boycott.

The economic experts retained by NYSA estimated that the carriers and terminal operators that had been affected by the boycott suffered at least $7.3 million in damages from the inability of the carriers to access for two days containers held up at terminals in the PONY/NJ during the work stoppage.

On March 13, 2012, Judge Dickinson Debevoise referred the matter to arbitration under the following conditions that are favorable to plaintiffs: (1) all the parties to the action, including the Philadelphia ILA locals, must participate in the arbitration, (2) plaintiffs are entitled to federal-court-style discovery, and (3) the confidentiality agreement between the parties remains in effect. The arbitration was held in abeyance throughout 2012 because of the ongoing master and local contract negotiations.

Other Proceeding

Waterfront Commission of New York Harbor (Waterfront Commission)

In 2010, the Waterfront Commission announced that it was developing a list of qualified Independent Private Sector Inspectors General (IPSIG) whom stevedoring companies could retain at their own cost to monitor their operations in lieu of having the Commission deny or revoke their licenses to engage in business in the PONY/NJ.

In late 2010, NYSA commenced a civil action in the United States District Court for the District of New Jersey on behalf of its stevedore members, seeking a declaratory judgment that the proposed program was unconstitutional, in violation of the Commission’s enabling statute, and in excess of the Commission’s statutorily-mandated authority.

In March 2011, the district court dismissed NYSA’s lawsuit without prejudice because NYSA’s members had not yet been faced with the prospect of retaining an IPSIG and thus lacked standing to bring the action. On February 7, 2012, the Court of Appeals for the Third Circuit affirmed the decision of the lower court. The court of appeals determined that the Commission’s IPSIG program was without sufficient detail to consider it a program subject to judicial review.

National Labor Relations Board (NLRB)

In August 2012, a checker filed an unfair labor practice charge against NYSA alleging that NYSA had retaliated against him for filing several grievances. The NLRB dismissed the charge because it found that NYSA is not an employer nor does it control work assignments. The checker has appealed the dismissal.

U. S. Equal Employment Opportunity Commission (EEOC)

In June 2012, the EEOC found no statutory violation and dismissed a claim of religious discrimination that had been filed against NYSA by a longshore worker who had been required to work on Sundays. No appeal was filed.
New York State Division of Human Rights (NYSDHR)
In August 2012, the NYSDHR 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. Attached to NYSA’s position statement that was filed in response to the complaint was the port-wide hiring plan now in effect in the PONY/NJ pursuant to the NYSA-ILA Collective Bargaining Agreement. This hiring plan provides a preference to veterans in accordance with the policy advocated by the White House. The matter is currently under investigation by the NYSDHR.

New York City Commission on Human Rights (NYCCHR)
In September 2012, a longshore worker filed a complaint against NYSA, one of its direct-employer members, and several of the member’s employees alleging that they had violated federal law and the New York City Administrative Code by denying him work opportunities because of his race and national origin by passing over him and assigning work to non-Hispanic longshoremen with less seniority. NYSA has filed its position statement in response to the complaint. The matter is currently under investigation by the NYCCHR.

Grievances, Work Stoppages, and Arbitrations
On behalf of its members NYSA participated throughout 2012 in resolving grievances and work stoppages involving safety issues at the various marine terminals, such as crane operations, truck speeds, and pavement stripes. In May 2012, a Contract Arbitrator reinstated two terminated longshore workers without back pay and subject to the sign-in and work procedures agreed to by the parties.

In arbitration an ILA Local has alleged the direct employer is understaffing at its terminal by not employing enough longshore workers to assist in the receipt and delivery of loaded import containers to trucks at the terminal. There is nothing in the NYSA-ILA Collective Bargaining Agreement that requires this extra staffing. The arbitration was held in abeyance throughout 2012 because of the ongoing master and local contract negotiations.
Personal Injury Actions
In July 2009, NYSA was named in a civil action by an individual who was injured by a forklift while employed at a marine terminal in New Jersey. The allegations against NYSA involved whether or not the forklift operator received proper training. The action was settled in March 2012 for $2.75 million. NYSA paid $250,000 of the settlement, which was an amount equal to NYSA’s policy deductible. The balance was paid by NYSA’s commercial liability insurance carriers.

In late December 2010, NYSA was named in a second civil action by a United States Customs Officer who was injured by a straddle carrier while he was working at a marine terminal in New Jersey. The allegations against NYSA again involve whether or not the straddle carrier operator received proper training. Discovery continued throughout 2012.

In August 2012, NYSA was named in another civil action by a lasher who was injured while he was at work unloading a car ship. The allegations against NYSA again involve whether or not an operator of powered equipment received proper training. Discovery commenced in late 2012. These personal injury cases are being handled by defense counsel appointed by NYSA’s insurance carriers.

NYSA-ILA Employment Law Programs
PONY/NJ Anti-Discrimination and Anti-Harassment Program
As of 2012, the PONY/NJ’s anti-discrimination and anti-harassment policy, RESPECT and DIGNITY in the MARITIME WORKPLACE, has been in effect for seven years. The number of complaints and concerns continues to be low relative to the size of the longshore workforce, and those complaints that are made are addressed by the NYSA-ILA Equal Employment Opportunity (EEO) Officer.

As a follow-up to the successful anti-discrimination and anti-harassment program, NYSA has crafted a new hiring-and-recruitment plan to ensure that the hiring of new employees pursuant to a controlled opening of the Longshore Register by the Waterfront Commission will be conducted in accordance with federal, state, and local employment laws. This new plan will provide the following selection guidelines for new applicants for employment: 51% will be veterans, 25% will be union legacies, and 24% will be individuals recruited by NYSA.

This plan contains a candidate-scoring matrix for vetting potential candidates, which is designed to identify qualifications conducive to longshore work functions. Relevant vocational school or other educational experience will be included in the matrix together with relevant work experience, such as experience with heavy or hydraulic equipment, working at heights, or working outside in adverse weather conditions.

The terms and conditions of the new hiring plan will be presented to the ILA for its approval. The staff of the Waterfront Commission has indicated its acceptance in principle, provided a fair and reasonable selection process is established for union legacies.

NYSA-ILA Family and Medical Leave Procedures
Employees continue to submit requests for family and medical leave. These requests are processed in accordance with procedures that are consistent with the federal family-and-medical-leave regulations that took effect in January 2009.

NYSA employers are urged to make sure that employees receive appropriate information regarding all federal and state family-leave entitlements and to ensure that all family-and-medical-leave inquiries are submitted to the NYSA-ILA Family and Medical Leave Review Committee at the office of the NYSA-ILA Contract Board.

All employers are reminded that they are required to post and to keep posted on their premises in conspicuous places a notice explaining relevant family-and-medical-leave laws and providing information concerning the procedure for filing complaints alleging violations of those laws.
NYSA-ILA Accommodations Team
In March 2011, the Equal Employment Opportunity Commission (EEOC) issued final regulations under the 2008 ADA Amendments Act (ADAAA). The regulations took effect in May 2011, and are designed to simplify the determination of who has a “disability” and to make it easier for individuals to establish that they are protected by the ADA. Members of the NYSA-ILA Accommodations Team (A-Team) have been trained in the new requirements of the ADAAA.

The A-Team continued to meet throughout the year to entertain requests from longshore workers seeking reasonable accommodations 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 services to those members of the industry requiring help by placing them in treatment programs that provide both in and outpatient services. Members can also be referred for counseling services provided by the Management-ILA Managed Health Care Trust Fund (MILA).

NYSA continues to seek random drug-and-alcohol testing for both labor and management engaged in safety-sensitive functions.

NYSA-ILA Absenteeism Program
The NYSA-ILA Absenteeism Program continues to monitor those individuals with excessive absences. The program provides that the NYSA-ILA Absenteeism Committee may permanently bar from further employment in the industry any individual who incurs ten or more unexcused absences.
Turning the corner to progress
NYSA MEMBERSHIP LIST

The American Sugar Refining Company
APL Limited
APM Terminals/Universal Maritime Service Corp.
Asset Protection Group
Atlantic Container Line
Bermuda Agencies Limited
Agents for Container Line
Cargotec Services
Ceres Atlantic Terminals, Inc.
China Shipping (North America) Agency Co., Inc.
CMA-CGM (America), L.L.C.
Columbia Coastal Transport, L.L.C.
COSCO Container Lines Americas, Inc.
CSAV Group North America
Ecuadorian Line, Inc.
Essex Cement Company
Evergreen Shipping Agency (America) Corporation
FJC Security Services, Inc.
Global Container Terminals USA
Hamburg Sud North America, Inc.
Hanjin Shipping Company, Ltd.
Hapag-Lloyd (America) Inc.
As Agents for Hapag-Lloyd Container Line
Hoegh Autoliners AS
Horizon Lines
K Line America, Inc.
MJ Rudolph Kinder Morgan
M.P. Howlett, Inc.
Maersk Inc.
Maher Terminals, L.L.C.
McRoberts Protective Agency, Inc.
Mediterranean Shipping Company
MOL (America), Inc.
MISA Security
New York Container Terminal, Inc.
NYK Line (North America) Inc.
OOCL (USA), Inc.
Port Newark Container Terminal L.L.C.
Ports America, Inc.
Red Hook Container Terminal, LLC
Salmarine, Inc.
SIMS Metal Management
Turkon America, Inc.
United Arab Shipping Company
Wallenius Wilhelmsen Logistics
Yang Ming Marine Transport Corporation
(Yang Ming Line)
Zim Integrated Shipping Services Ltd.

ASSOCIATE MEMBERSHIP LIST

American Maritime Service of New York, Inc.
Bay Container Repairs of New Jersey
Container Services of New Jersey, Inc.
FAPS, Inc.
Portwide Cargo Securing Company
Securitas Security Services USA, Inc.
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