

## **The Port of Virginia Terminal Safety Infraction Policy**

The purpose of this Terminal Safety Infraction Policy (“TSIP”) is to encourage safety excellence and compliance with health and safety rules on all terminals owned or leased by the Virginia Port Authority (“VPA”) (the “Terminals”). The guiding principle for this TSIP will be to educate offenders. Penalties for health and safety rule infractions will be issued with the primary purpose of modifying behavior. The TSIP is described below.

### **1. Terminal Audit**

A terminal health and safety audit (“Audit”) will be conducted by Virginia International Terminals (VIT’s) Health and Safety Department at Virginia International Gateway (VIG) and Norfolk International Terminals (NIT) on a quarterly basis. Other terminals will be included at the direction of VIT’s COO. This Audit will measure terminal conditions, compliance with federal regulations, and compliance with operational procedures.

### **2. Health and Safety Excellence Panel**

A joint VPA and VIT Health and Safety Excellence Panel (“Panel”) will convene on at least a quarterly basis to review Audit results, determine enforcement priorities, determine the tempo of enforcement, and adopt and revise health and safety rules and procedures, as necessary. The Panel will be chaired by the VIT Director of Health and Safety, VPA Chief Information Officer, VIT Vice President of Multi-use Terminal Operations, Vice President of Container Terminal Operations, VPA Chief of Police, VPA Vice President of Sustainability and Process Excellence, VPA Vice President of Communications, VPA Director of Maritime Incident Response Team, VPA Director of Risk Management, VIT Vice President of Maintenance, and VIT Director of Terminal Services, or their director level representatives. The Panel will make its decisions by majority vote, with a quorum being five members, and with ties decided by the VIT COO.

### **3. Publishing of Health and Safety Rules**

The enforcement of health and safety rules requires that proper notice of the rules be given to users of the Terminals.

- a. When any health and safety rule citation is issued, a copy of the rules will be provided to the offender
- b. Each motor carrier will receive a copy of the health and safety rules from VPA security when registering for new or updated credentials to access the Terminals and will be required to agree to abide by the rules via the VPA Police Department registration form, as well as to publish the rules to each of its employees who may access the Terminals.
- c. Stevedores, vendors, contractors, and licensees will be required to attend a health, safety, security, and environment orientation conducted by the VIT Health and Safety Department prior to receiving new or updated credentials to access the Terminals. During this orientation, a copy of the health and safety rules will be distributed and reviewed. Each stevedore, vendor,

contractor, and licensee will be required to publish the rules to each of its employees and contractors who may access the Terminals and acknowledge agreement to abide by the rules via the VPA Police Department registration form.

- d. All VPA and VIT employees are required to attend a health, safety, security, and environment orientation prior to receiving new or updated credentials to access the Terminals. During this orientation, a copy of the health and safety rules will be distributed and reviewed. Each employee will be required to agree to abide by the rules and acknowledge this via the VPA Police Department registration form.
- e. The health and safety rules will be posted on the Port of Virginia web site.
- f. VIT and VPA purchase orders will refer to “Terms and Conditions” that state the requirement to comply with the health and safety rules.
- g. A copy of the health and safety rules will be provided by VIT to each International Longshoremen’s Association (“ILA”) Hampton Roads Local for publication to all individuals represented by the Local.
- h. A copy of the health and safety rules will be provided by VPA to each VPA employee and by VIT to each VIT employee who is not represented by the ILA.

#### 4. Observation of a Health and Safety Rule Violation

Health and safety rule citations may be issued only by Enforcement Officers, who will consist of qualified members of the VPA Police, VPA Terminal Safety Unit (“TSU”), and the VIT Health and Safety (H&S) staff or their designated representatives. All users of the Terminals are subject to the rules and are subject to citation and enforcement action. When an individual is found in non-compliance with a health and safety rule, the individual will be directed to correct his or her deficiency, given a copy of the rules, and issued a citation. In lieu of a citation, an Enforcement Officer may issue a verbal corrective warning, taking into account the totality of the circumstances, including, but not limited to, the person’s offense history, severity of the offense, and the person’s cooperation and contrition. Anyone may notify an Enforcement Officer of a health and safety rule infraction and request enforcement. An Enforcement Officer will accomplish the enforcement response unless actively engaged in a higher priority matter.

#### 5. Health and Safety Citation Training

In order to be a qualified Enforcement Officer, an individual must attend and successfully complete the H&S Manager/Supervisor Training and Health and Safety Infraction Interaction Training. H&S Manager/Supervisor Training will last one day and provide individuals with training in terminal hazards, operational standards, health and safety rules, control measures, the audit process, and response procedures. Health and Safety Infraction Interaction Training will focus on the specific content of each health and safety rule, interaction with all terminal populations, and ensuring that a standard health and safety message is delivered. The training will include the procedure to re-brief offenders regarding the rules, how to complete the citation form, how to address questions regarding potential penalties, and procedures for disengaging from an offender and notifying the VPA Police if the offender either refuses to correct his behavior or attempts to verbally

or physically intimidate a member of the H&S staff or a TSU member. The content of this training will be developed in a joint effort between the VIT Director of Health and Safety and the VPA Police.

The VPA Chief of Police will develop standards to incorporate into the VPA Police Department Policies and Procedures Manual that address patrol procedures for safety violations.

#### 6. Health and Safety Citation Routing

The health and safety rule citation will consist of two copies. The original will be retained by the Enforcement Officer and the copy will be issued to the individual. The original will be routed for entry into the health and safety infraction tracking database. Once the infraction has been entered, the offender's employer, if any, will be notified by e-mail to ensure the employer is informed and will assist with correcting future discrepancies by its employees. This administrative function will initially be accomplished by the VIT Health and Safety Staff and will be retained or transferred to the VPA Police Department at the direction of the VIT COO.

#### 7. Penalties

The standard penalties for failure to comply with the health and safety rules are listed below. All infractions within the 24 month period preceding the current infraction will be considered when imposing the appropriate penalty. In all cases, the offender's employer, if any, will be notified by the representative identified in paragraph 6 above of the infraction via e-mail pending the implementation of a penalty or the requirement to attend remedial training for a 2<sup>nd</sup> infraction or face suspension, and the option to attend a mitigation meeting within for 3<sup>rd</sup> or subsequent infractions.

1<sup>st</sup> Infraction in 24 months - Written Warning

2<sup>nd</sup> Infraction in 24 months - Remedial Training or 14 Day Suspension from the Terminals

3<sup>rd</sup> Infraction in 24 months - 30 Day Suspension from the Terminals

4<sup>th</sup> Infraction in 24 months - 90 Day Suspension from the Terminals

5<sup>th</sup> Infraction in 24 months - 180 Day Suspension from the Terminals

In the case of a negligent, reckless, or an intentionally unsafe act that endangers a person or property, an individual's access to the Terminals may be suspended or revoked entirely by the VPA Chief of Police without proceeding according to the graduated penalties outlined above.

NOTE: The penalties in this Section 7 and mitigation in Section 8 will not apply to VIT employees represented by the ILA. A health and safety infraction committed by a VIT employee represented by the ILA will be considered to be "insubordination" within the meaning of the "Prohibited Activities and Discipline" section of the employee's collective bargaining agreement. The penalty imposed by VIT for the infraction, the procedure associated with imposing the penalty, and any mitigation of the penalty will be as set forth in the collective bargaining agreement, including the "Prohibited Activities and Discipline" section of the

collective bargaining agreement. This also applies to companies that employ ILA members, while present on VIT operated terminals, pursuant to current license agreements.

NOTE: In order to comply with the Employee Policies and Procedures Manual to which VPA, VIT and HRCPII employees are subject, the penalties in Section 7 and mitigation in Section 8 of this TSIP policy are modified pursuant to paragraph 11 as listed below.

1<sup>st</sup> Infraction in 24 months - TSIP Written Warning

2<sup>nd</sup> Infraction in 24 months - Remedial Training not later than one month after manager receives the letter of notification that employee received a citation.

3<sup>rd</sup> Infraction in 24 months - Progressive discipline at the "Warning" level according to respective VPA/VIT/HRCPII policy guidance.

4<sup>th</sup> Infraction in 24 months - Progressive discipline at the "Reprimand" level according to respective VPA/VIT/HRCPII policy guidance.

5<sup>th</sup> Infraction in 24 months - Termination.

#### 8. Penalty Mitigation

The suspension for a 2nd infraction within 24 months will be automatically reduced to zero days if the offender attends and successfully completes a Port of Virginia health and safety hazards and control measures training session conducted by the VIT Health and Safety Department, within two weeks of receiving a citation, at his or her own cost. This training is intended to be not more than 90 minutes and will require the individual to pass a written test with an 85% score. Following this training, a subsequent citation within the 24 month window would be considered a third citation.

If an offender seeks mitigation of a third or subsequent infraction penalty, they may request a meeting with a VPA Police chaired panel ("Mitigation Panel") that consists of at least three of the following offices on a rotating basis: VIT Director of Health and Safety, VPA Chief Information Officer, VIT Vice President of Multi-use Terminal Operations, Vice President of Container Terminal Operations, VPA Chief of Police, VPA Vice President of Sustainability and Process Excellence, VPA Vice President of Communications, VPA Director of Maritime Incident Response Team, VPA Director of Risk Management, VIT Vice President of Maintenance, and VIT Director of Terminal Services, or their director level representatives. The Mitigation Panel may, in its discretion, reduce or modify the penalty for good cause shown.

#### 9. Implementation of Port Access Suspension

Upon suspension, the VPA Police will suspend access to all VPA properties. The offender's employer will be prohibited from assigning any task to the offender at any of the Terminals during the suspension period. Individuals who attempt to violate the suspension notice will be referred to the VPA Chief of Police for enforcement of a breach of security for using an invalid credential to enter a VPA facility.

#### 10. Release of Port Access Suspension

Once the suspension period is concluded, the representative identified in paragraph 6 above will notify the VPA Police so that the Stop Order may be lifted and the TWIC will be reactivated.

#### 11. Authority to Make Changes

The authority to make administrative changes to this Process is delegated to VIT's COO.

### **REVISION HISTORY**

- 1.1 Date: August 19, 2015
  
- 1.2 Coordination: Shawn Tibbetts, COO (VIT)  
James Bibbs, CHRO (VPA)  
Travis Hill, Vice President of Container Terminals (VIT)  
Peter Trocchiano, Vice President of Multi-Use Terminals (VIT)  
Eric Casey, Vice President, Maintenance (VIT)  
Chris Harrell, Vice President, Contracts and Risk Management (VPA)  
James Noel, General Counsel (VPA)  
Michael Brewer, Colonel, Chief of Police (VPA)  
Vance Griffin, Director, Terminal Services (VIT)  
Bill Burkett, Director, Maritime Incident Response Team (VPA)  
Ronald Babski, Director, Health & Safety (VIT)  
James Ford, CP&O  
William Parker, CERES
  
- 1.3 Approval: John Reinhart, Executive Director (VPA)