

## **The Port of Virginia Terminal Safety Excellence Program**

The purpose of this Terminal Safety Excellence Program (“TSEP”) is to encourage operational 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 program will be to educate offenders. Penalties will be issued with the primary purpose of modifying behavior.

### **1. Terminal Audit**

A terminal health and safety audit (“Audit”) will be conducted by Virginia International Terminals (VIT’s) Health and Safety Department at all terminals on a quarterly basis. This Audit will measure terminal conditions, compliance with federal regulations, and compliance with operational procedures.

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

A joint VPA/VIT/HRCF II Health and Safety Excellence Panel (“Panel”) will convene as needed 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 VP of Health and Safety and may include the Chief Information Officer, VP of Contracts and Risk Management, VP of Container Terminal Operations, VP of Government Affairs and Transportation Policy, VP of Accounting, Chief of Police, VP of Asset Management, VP of Business Transformation, Director of MIRT/Emergency Operations, VP of Project Implementation, VP of Maintenance, VP of Terminal Services, or their representatives. The Panel will make decisions by majority vote, with a quorum being five members.

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

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

- a. When a TSEP citation is issued, a copy of the rules will be provided to the individual. TSEP citations include both recognition of excellence citations as well as citations of non-compliance.
- b. Each motor carrier will receive a copy of the 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 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 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. The Standard Terms and Conditions included in VIT and VPA purchase orders, contracts, and service agreements require vendors to comply with the health and safety rules.
- g. A copy of the 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 rules will be provided by the VPA to each VPA employee and by VIT to each VIT employee who is not represented by the ILA.

#### 4. Observation of a TSEP Violation

Citations may be issued only by individuals certified in the TSEP process, who will consist of qualified members of the VPA Police and the VIT Health and Safety 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, 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, a verbal correction may be issued, 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.

#### 5. Health and Safety Citation Training

In order to be a qualified enforcement officer, an individual must attend and successfully complete the Health and Safety Manager/Supervisor Training as well as TSEP Certification Training. Health and Safety Manager/Supervisor Training will last approximately one-half day and provide individuals with training in terminal hazards, operational standards, control measures, the audit process, and response procedures. TSEP Certification Training will focus on the specific content of each TSEP rule as well as how to interact with all terminal populations to ensure that a standard health and safety message is delivered. The training will include the procedure to issue recognition of excellence citations and citations of non-compliance, 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 the enforcement officer. The content of this training will be developed in a joint effort between the VIT Vice President 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 that address the TSEP program.

#### 6. TSEP Citation Routing

- a. The TSEP citation will consist of two copies. The original will be routed for entry into the Health and Safety TSEP tracking database and the copy will be issued to the individual.

- b. A TSEP citation that is written as a result of reviewing video surveillance may be transmitted virtually as an electronic citation with a copy of the rules.
- c. If an individual seeks to dispute a given citation, they must do so by contacting [healthandsafety@vit.org](mailto:healthandsafety@vit.org) within two business days. Terminal patrons covered by the collective bargaining agreement must route disputes through their business agent.

## 7. Penalties

- a. Terminal Patrons and Visitors. The standard penalties for failure to comply with the health and safety rules are listed below and apply to anyone present on VPA property who are not addressed by paragraph 7.b. and 7.c. All infractions within the 24 month period preceding the current infraction will be considered when imposing the appropriate penalty. The offender's employer will be notified of the requirement to attend additional training for a 2<sup>nd</sup> infraction or face suspension, and the option to attend a mitigation meeting for 3<sup>rd</sup> or subsequent infractions within 24 months.
  - i. 1<sup>st</sup> Infraction in 24 months – TSEP citation that functions as a written warning
  - ii. 2<sup>nd</sup> Infraction in 24 months - Additional Training or 7 Day Suspension from the Terminals. Additional Training may only be attended once in lieu of a suspension.
  - iii. 3<sup>rd</sup> Infraction in 24 months - 30 Day Suspension from the Terminals
  - iv. 4<sup>th</sup> Infraction in 24 months - 90 Day Suspension from the Terminals
  - v. 5<sup>th</sup> Infraction in 24 months - 180 Day Suspension from the Terminals
  
- b. VIT/VPA/HRCP II Employees (Non-ILA Represented). In order to comply with the Employee Policies and Procedures Manual to which VPA, VIT and HRCP employees are subject, the penalties in this section and mitigation in Section 8 are defined below.
  - i. 1<sup>st</sup> Infraction in 24 months - TSEP Written Warning
  - ii. 2<sup>nd</sup> Infraction in 24 months - Additional Training not later than one month after manager receives the letter of notification that employee received a citation.
  - iii. 3<sup>rd</sup> Infraction in 24 months - Progressive discipline at the “Warning” level according to respective VPA/VIT/HRCPII policy guidance.
  - iv. 4<sup>th</sup> Infraction in 24 months - Progressive discipline at the “Reprimand” level according to respective VPA/VIT/HRCPII policy guidance.
  - v. 5<sup>th</sup> Infraction in 24 months - Termination.
  
- c. VIT/VPA/HRCP II Employees (ILA Represented). A TSEP infraction committed by a VIT employee represented by the ILA will be considered to be “failure to follow...company policy” within the meaning of the employee's collective bargaining agreement, Hampton Roads Portwide Agreement section 7.2.c. This includes any TSEP violation on Virginia Port Authority property, regardless of employment status. When observing a TSEP violation, certified TSEP management representatives are required to use the TSEP process. The penalty

imposed 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 terminal license agreements.

- i. 1<sup>st</sup> Infraction – The TSEP citation is a warning and is not referred to the employer for application of the CBA.
  - ii. 2<sup>nd</sup> Infraction - Additional training is offered and if attended within 30 days, the TSEP citation is not referred to the employer for application of the CBA. Additional training will only be offered once, in lieu of referring the citation to the employer.
  - iii. 3<sup>rd</sup> and subsequent infractions are referred to the employer for application of the CBA. Per the CBA, TSEP infractions will be removed after three years from the date of occurrence.
- d. In the case of a negligent, reckless, or an intentionally unsafe act that endangers a person or property, an individual’s access to VPA property may be suspended or revoked by the VPA Chief of Police without proceeding according to the graduated penalties outlined above.

#### 8. Penalty Mitigation

- a. The suspension for a 2nd infraction under paragraph 7, above, will be automatically reduced to zero days if the offender attends and successfully completes a Port of Virginia TSEP additional training class conducted by the VIT Health and Safety Department, within 30 days 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 would be considered a 3rd citation.
- b. If an offender seeks mitigation of a third or subsequent infraction penalty, the offender may request a meeting with a “Mitigation Panel” that consists of at least three members of the Health and Safety Excellence Panel listed in paragraph 2, or their representatives. The Mitigation Panel may, in its discretion, reduce or modify the penalty for good cause shown.
- c. If the Mitigation Panel imposes a suspension from the Terminals of greater than 30 days, the offender may request a review of the penalty by the VP, Contracts and Risk Management, who may, in his/her discretion, reduce or vacate the penalty. Any such requests for review must be made within 24 hours of a decision by the Mitigation Panel.

#### 9. Implementation of Port Access Suspension

Upon notification of a suspension, the VPA Police will deactivate electronic access to all VPA properties. Individuals who attempt to violate the suspension 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 VPA Police will rescind the Stop Order and reactivate the TWIC credential.

#### 11. Authority to Make Changes

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

### **REVISION HISTORY**

- 1.1 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)  
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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
- 1.2 Approval: John Reinhart, Executive Director (VPA)
- 1.3 Original: August 19, 2015
- 1.4 Revised: April 19, 2016
- 1.5 Revised: June 7, 2018
- 1.6 Revised: March 7, 2019
- 1.7 Revised: July 3, 2019
- 1.8 Revised: February 14, 2020
- 1.9 Revised: September 2, 2020