

**NYSA-ILA JOINT SAFETY COMMITTEE
FOR THE PORT OF NEW YORK-NEW JERSEY**

Two World Trade Center, 20th Floor
New York, NY 10048

December 17, 1996

TO: All Industry Employers and Employees and
ILA Officials in the Port of New York and New Jersey

FROM: NYSA-ILA Joint Safety Committee

RE: NYSA-ILA Joint Safety Violations Program

Introduction

Both the NYSA and ILA recognize the paramount importance of workplace safety in an industry where accidents and human error can have serious personal and economic consequences: for workers who are breadwinners; for employers who are accountable to customers for their cargo; and for the human suffering and added costs of doing business when safety is thrown to the wind. In order to emphasize that they share this concern, they have raised it to an important level on their agendas and have put their intentions into action. Accordingly, the NYSA and ILA have made the Safety Violations Program an integral part of their new 5-year agreement and have delegated the Joint Safety Committee the task of revitalizing and administering this program, firmly and fairly.

The purpose of this notice is to inform you of the rules and procedures to be followed, so that you are aware of what is required of each of you in living up to the safety regulations that are binding upon persons in this industry. We are obliged to assure that both the *letter* and the *spirit* of this program are carried forward and that its provisions are uniformly enforced.

Citations for Safety Violations

Formal citations for violations of safety rules, regulations and practices will be issued by employer representatives for violations by their employees – *including supervisors* – of Federal

OSHA rules, as well as of state and local regulations and for violations of the NYSA-ILA's own Joint Maritime Safety Code. A copy of the form is attached. Some examples of safety violations for which citations will be issued are: failure to wear personal protective gear where and when required (e.g. hardhats, safety shoes, etc.); speeding; ignoring stop signs; erratic driving; hitching rides on mobile equipment, and similar as well as other kinds of unsafe conduct that experience has shown can cause serious personal injury and/or extensive damage to cargoes.

The penalties under this Program will be progressive, as follows:

The first offense will result in a written warning to the offender;

The second offense will make the offender ineligible to be employed in the industry for one work day (i.e. one day off without pay); and

A third offense will result in the offender's being ineligible to be employed in the industry for an entire workweek without pay (i.e. one week off without pay); and

A fourth and each subsequent offense will result in the offender's ineligibility to be employed in the industry for two successive workweeks (i.e. two weeks off without pay).

The forgoing penalties will continue to accumulate in this manner to the end of the calendar year in which they occur. The individual offender will start off the new year with a clean record *provided* that no citation for a violation was received by him/her during the final three months of the preceding calendar year. If that should happen, the offender's record will not clear until March 1 of the following year.

In situations of imminent danger, such as working on top of containers without wearing a proper protective harness, time-off penalties currently in effect shall continue to be enforced.

Procedures for Issuance and Appeal

Supervisors are authorized to issue safety citations to persons observed violating safety regulations. The cited employee will be required to sign a copy of the citation where indicated,

so as to acknowledge his/her receipt of the written citation. The on-site Shop Steward or the designated Union safety representative on the job will also be required to sign the form, but *only* in order to acknowledge that he is aware of the alleged violation and that a citation was issued to the employee and not as any indication that he personally witnessed the offense or that he agrees that the citation was properly issued. Copies of the citation will be immediately furnished to the employee and to the Shop Steward/Safety Representative, as well as to the Co-chairmen of the NYSA and ILA Joint Safety Committee for review.

An employee may directly appeal the citation in the manner indicated on the bottom of the form; *provided, however*, that an employee who refuses to acknowledge receipt by signing the citation will be deemed to have waived the right to grieve it and a copy will be mailed to the employee by certified mail, return receipt requested. It is anticipated that an appeal will be investigated/considered by the NYSA-ILA Labor Adjusters within seven days after this Committee's receipt of the grievant's appeal. A written decision will be issued as soon as thereafter as possible. It will be furnished to the employee, to the employer and to the employee's Local.

The Committee reserves the right to rescind a citation if, in its judgement, it determines that it should not have been issued by the employer. In such event, the remaining copies of the citation will be removed and no permanent record of its issuance will be retained.

The Committee urges the cooperation and participation in the venture by all who are concerned with safety and cost-effectiveness, so that this major industry program can succeed to everyone's benefit.

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THE NYSA-ILA JOINT SAFETY COMMITTEE FOR THE PORT OF NEW YORK NEW JERSEY
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CITATION FOR SAFETY VIOLATION

Name of Employee _____ WF # _____ Date of Citation (M/D/Year) _____

Name of Employer _____ Date of Violation _____

Specific location where the violation occurred: _____

Work (or activity) that the employee was engaged in when the violation occurred: _____

Description of the violation (include, if known, the particular safety provisions that were violated): _____

For the Employee:

I have received a copy of the above Citation and have read the Notice below. Refusal to sign means that this violation cannot be appealed.

Signature

Employee's Signature

Print Name Title

Date WF #

A copy of the above citation was furnished to me as
Shop Steward/Union Safety Representative:

Signature

Print Name

Date Local No.

