

ACCIDENT PREVENTION BUREAU POLICY

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ACCIDENT PREVENTION BUREAU POLICY

1. EMPLOYER RESPONSIBILITY

Various laws require that the employer shall provide a safe place of employment for his employees. The current contract with the I.L.W.U. specifically provides that "The Employers will maintain, direct and administer an adequate accident prevention program". (This is an Employer -- not a joint function). The prevention of accidents is the direct responsibility of management and can only be achieved through the chain of management command.

2. SCOPE OF ACTIVITIES OF ACCIDENT PREVENTION BUREAU

The Accident Prevention Bureau is the administrative body authorized by the Pacific Maritime Association to give a complete and organized accident prevention service to the Members of the Association. Any service that is rendered to any Member must be approved by the Association's Board of Directors. No policy can be adopted without the approval of the Board.

Each representative of the Bureau is an employee of the Pacific Maritime Association; as such, he is not authorized or permitted to dictate the policy or operating procedures of any Member of the Association. He is to act in an advisory capacity only, when rendering service to a Member of the Association. By the same token, he cannot be held responsible for any act committed, or lack of action, by any executive or employee of a company that is a Member of the Association.

As a representative of the Association, he must fully comply with the dictates of the Association so far as his relations with labor unions and labor relations committees are concerned. In other words, he is employed by and is responsible to, and only to, the employers, and his field is limited to accident prevention. He will not attempt to settle grievances between employers and employees over an alleged accident prevention matter.

3. AREA ACCIDENT PREVENTION COMMITTEE

Within each Area there shall be established an Area Accident Prevention Committee. Each Committee should be composed of representatives of at least seven Member Companies. They should be representatives of steamship companies, contracting stevedores, and terminal companies (where a portion of the work is done by terminal companies). The Bureau Manager shall be a member ex-officio, without power of proxy, of each Area Committee.

Each Committee shall select its own officers annually, at the January meeting, who shall consist of a Chairman, 1st Vice Chairman, and 2nd Vice Chairman. The chairmanship should be rotated between steamship representatives, contracting stevedore representatives and terminal representatives.

The Bureau Area Supervisor shall serve as secretary of the Committee without voting privileges.

The Area Accident Prevention Committee shall meet at regular intervals, preferably monthly. Its duties and functions shall be as follows:

To formulate policy recommendations regarding the accident prevention program for submission to Board of Directors, PMA.

To direct the operation of the program within their Area in accordance with the policies established by the Board of Directors.

To receive recommendations from the Job Level Committee and take the necessary action thereon; -- if the Committee agrees and the necessary action is within the policy laid down by the Board of Directors, then such action should be taken forthwith. If not within their powers, it should be referred to Board of Directors through the Manager of A.P.B.

Keep Job Level Committee advised of the action taken on their recommendations.

In conjunction with the Job Level Committee, to sponsor first aid training, safety meetings, etc.

The Chairman, 1st and 2nd Vice Chairman and the immediate past Chairman of the Area Accident Prevention Committee shall constitute an Advisory Committee to the Area Supervisor.

4.

JOB LEVEL COMMITTEE

The Employer-Employee Committee (Job Level Committee) is created by the longshore contract and its purposes outlined in the following words:

Excerpt, SECTION entitled, "SAFETY"

*** "(b) To make effective the above statements and promote on-the-job accident prevention, employer-employee committees will be established in each port. These committees will consist of equal number of employer and employee representatives at the job level. Each category of employees such as deck men, hold men, dock men and lift and jitney drivers should be represented. Employers' representatives should be from the supervisory level. The purpose of the committees will be to obtain the interest of the men in accident prevention by making them realize that they have a part in the program, to direct their attention to the real causes of accidents and provide a means for making practical use of the intimate knowledge of working conditions and practices of the men on the job. It is further intended that this program will produce mutually practical and effective recommendations regarding corrections of accident producing circumstances and conditions."

In amplification of the foregoing, the following policy statement, relative to Job Level Committees, was adopted by the Board of Directors of the Pacific Maritime Association on 14 January 1949:

"Policy Statement

"Purposes:

"To interest men in accident prevention by letting them feel they are a part of the program;

"Through this interest, to direct attention to practices and acts which are the main source of accidents;

"To develop a sense of accident prevention responsibility in committee men;

"To provide a means of making practical use of the intimate knowledge of working conditions and practices of the working man.

"Primary Function of the Committee:

"To discuss and make practical and effective recommendations to management regarding corrections of outstanding accident-producing circumstances and conditions.

"Duties of the Committee:

"To receive and discuss accident prevention suggestions made to it and to formulate practical recommendations based on these suggestions for transmission to the Area Accident Prevention Committee;

"To review accidents which have occurred in order to recommend practical preventives;

"To make such analyses and study of work methods in certain operations as may be needed in order to develop accident-reducing methods of work.

"To develop means of transmitting to the men information on accident prevention;

"To sponsor first aid training for longshoremen;

"To sponsor safety meetings -- gang boss, hatch tender, etc.;

"To make recommendations to management re revision of PCMSC."

The composition of the Committee was established as follows:

"Composition

"a. Employee members. Four, to be selected by the union. One each, deck man, hold man, dock man, jitney/lift truck operator.

"b. Employer members. Equal in number to employee members. Area Accident Prevention Supervisor, with advice and consent of the Area Accident Prevention Committee and the company concerned, will select the representatives from supervisory level (stevedoring superintendents, assistant superintendents, walking bosses, general foremen). Contracting stevedores, steamship companies doing their own stevedoring, and terminal companies should be represented on the Committee in rough proportion to each group, in the port. Consideration should also be given to any cargo requiring special handling such as steel, lumber, etc. so that there is one representative on the Committee familiar with the problems involved.

"c. Accident Prevention Bureau Supervisor, Secretary to the Committee.

"The above is applicable to the major ports. In the smaller ports it may be necessary to vary this setup to meet local conditions. This variation should be worked out by the Area Accident Prevention Committees."

The function of the Area Accident Prevention Supervisor is as follows:

"Function of Accident Prevention Supervisor re Committee

"To act as secretary, inspirational leader, technical advisor, liaison between Committee and Area Accident Prevention Committee, and as follow-up man for details of work being done by Committee."

The following policy was adopted by the Board of Directors re on-the-job safety disputes:

"On-the-Job Safety Disputes

"The Job Level Safety Committee is not a grievance committee. It is intended to be a collective planning committee for accident prevention. On-the-job safety disputes should be handled through normal grievance procedures as outlined in the longshore contract. When on-the-job safety grievances occur the local representative of the Accident Prevention Bureau should be called in by the company involved for technical advice and recommendations on the problem which should be given to the company representative, but the settling of the grievance should be done by the company through the steps outlined in the contract for grievance procedure, not by the Accident Prevention Bureau representative.

"After having been called out on a safety dispute, the Accident Prevention Bureau representative should then make a written report on the incident to the Port Manager for transmission to the Port Labor Relations Committee."

5. RELATIONS WITH LABOR RELATIONS COMMITTEES

Size of loads, number of personnel, penalty cargoes, contract violations are all labor relations matters and should be handled by labor relations staff, not the Accident Prevention Bureau.

Bureau personnel may properly be called upon by the Port Manager to furnish opinions on hazards involved in operations, and should confine their comments to the accident prevention phase of these matters. When Port Managers refer to Accident Prevention Bureau Staff for investigation so-called "safety beefs" which have been brought up in Labor Relations Committees' meetings, the investigation should be made as quickly as possible and a written report covering the matter submitted to the Port Manager with a copy to the Accident Prevention Bureau Head Office. Any written report should be discussed with the Port Manager and he should be cautioned against involving the Accident Prevention Bureau in disputed matters with the union. It is unwise to include the Bureau's report verbatim in Labor Relations Committee Minutes.

6. ENFORCEMENT OF PACIFIC COAST MARINE SAFETY CODE

The Accident Prevention Bureau has no police power. It is not an enforcement agency. The Bureau has no power to shut down operations, nor to threaten to. The Pacific Coast Marine Safety Code is a part of the contract, hence enforcement of its provisions lies in the realm of the grievance machinery. If Bureau personnel see violations of the rules in their tours, they should call them to the attention of the proper parties:

For ship violations:	ships' officers.
For stevedore violations:	stevedore management.
For violations by longshoremen:	walking bosses.

Stress, where possible, the accident prevention advantages of complying with the rule. However, with some rules, you may have to request compliance simply because there is a rule and it has been violated. It would be well to stress the fact that non-compliance with rules may well lead to work stoppages -- technically, at least, justifiable.

7. INVESTIGATION OF ALLEGED UNSAFE CONDITIONS

When Bureau personnel go out to investigate alleged unsafe conditions, they should govern themselves as follows:

1. If the request has come from a Member Company, investigate and report orally to the company official who made the initial request. Tell him exactly what was found and what, in the Supervisor's opinion, the hazards are. Do not tell union representatives or other longshoremen your opinions. If the investigation includes the determination of the presence of a gas it is better, again, not to tell anything to the men who are working. Report your findings to management's representative and let him tell the men.

EXCEPTION: If the concentration of gas is such as to be immediately dangerous, then the Supervisor should use his own judgment as to the steps to be taken to prevent casualties.

2. If the request comes from the union, immediately notify the stevedoring company concerned and ask if they wish to have anyone accompany you on your investigation. Make your investigation and report your findings to management alone. You are not to discuss your findings with union officials.

3. If the request comes from the Port Manager, notify the stevedore as in 2. above; make your inspection and advise: (a) Management, and (b) Port Manager.

Reports should be prepared if requested by company management or the Port Manager, but reports should be factual and be confined to accident prevention matters only. Copies of such reports should be furnished Bureau Head Office. If reports are not called for by company, or Port Manager, then simply advise Head Office by letter of the pertinent facts.

8. ACCIDENT INVESTIGATION

Fatal and other serious non-fatal accidents should be investigated by the Bureau in an effort to learn everything of value from an accident prevention standpoint. After the investigation, the findings and recommendations should be discussed orally with the stevedoring company involved. If the company expresses a desire for a written report, embodying either the findings or recommendations, or both, then such a letter should be written, one copy to the company and one copy to the Bureau Head Office. No file copy should be retained in the local Bureau Office. If the company does not desire a report, then simply write Head Office reporting findings and recommendations and do not keep a copy of this letter either.

When investigating an accident which has involved serious injury or fatalities, and in which ships' gear and equipment has played such a part that there is possibility of third party suits, no pictures should be taken of the gear or equipment in question unless the steamship company requests it, and then the pictures and negatives should be turned over to the company.

9. INSPECTIONS

When inspection of stevedore operations discloses unsafe conditions, methods, or practices, the Accident Prevention Bureau representative will follow the procedure listed below, in an effort to obtain correction.

1. Ship's Responsibility - Any unsafe working condition, practice, gear, or act which can be corrected by the ship shall be reported either to the Master or the Chief Officer or Engineer, as the condition warrants. If the condition is corrected immediately, express your appreciation. If the contacted officer is not agreeable to making the correction, or if he does not have the authority, refer the matter to the shipowner's representative or agent in your port. If the latter does not have the authority, or refuses to make the correction, then the incident should be reported to Head Office for reference to the shipowner's head office. Any conditions which are reported to the local agent should be also reported to Head Office.

2. Stevedore or Terminal Responsibility - Any unsafe condition, practice, gear, or act shall be reported to the walking boss, ship foreman, dock foreman or chief stevedore for immediate correction. If, for any reason, correction is not made, report the matter to the stevedore or terminal company principal executive and also the Bureau Head Office. If the principal executive refuses to remedy the situation, then the incident with complete details should be referred to the Bureau Head Office.

3. Pier Operator or Owner's Responsibility - Any unsafe working condition or equipment which is under the control of the pier operator or pier owner should be referred to him for correction and the Bureau Head Office advised. If correction is not forthcoming, the complete details should be reported to the Bureau Head Office without delay.

4. Unsafe Acts that can be Controlled by the Longshoreman Himself - Such occurrences should be reported to the gang foreman, hatch tender, or dock foreman, depending upon who is in immediate charge of the unsafe longshoreman. If no action is taken to correct the unsafe acts, the matter should be discussed with the Area Accident Prevention Committee, with a view to obtaining a recommendation as to whether or not the matter should be discussed at your next employer-employee safety committee meeting, and should also be reported to the Bureau Head Office.

10. LETTERS AND CIRCULARS

There are instances when it is desirable for Area Supervisors to circularize Member Companies in their Areas on accident prevention matters. In all such instances, drafts of these proposed circulars shall be submitted to the Bureau Head Office for approval before being issued. (Exceptions: Notices of meetings and minutes thereof). When the Area Supervisor feels it necessary to make recommendations regarding corrections aboard ship, which involve structural changes or are beyond the capacity of the vessel to effect with its own personnel, all such recommendations shall be submitted through the Bureau Head Office. This has been found to be necessary because of differing recommendations made by different Area Supervisors to the steamship company representatives, on the same condition.

11. CONFIDENTIAL INFORMATION

Most of the information which the Accident Prevention Bureau receives from Member Companies relative to accidents, manhours, or other statistics, is confidential information. Bureau staff must be extremely careful that they do not even inadvertently disclose information relative to one company to a competitor. Nor shall information regarding a stevedore be given to his steamship principal or vice versa. It is proper to discuss accidents in committee meetings but the name of the injured, the company, the vessel, etc. are not material to the discussion from an accident prevention standpoint and shall be omitted.

12.

ATTENDANCE AT UNION MEETINGS

From time to time, union locals have requested Bureau staff to attend and speak on "safety" at union membership and Stewards' Council meetings. Appearances have been made, as requested, and under favorable circumstances good has and can be accomplished.

Appearances are authorized, under the following conditions:

1. The Bureau Staff Member attends alone -- that is, unaccompanied by any other representative of the Employers;
2. Confines his remarks to accident prevention matters.
3. Refuses to discuss controversial subjects such as load limits, number of personnel, penalty cargoes, etc.;
4. Has the approval of his Area Accident Prevention Committee;
5. Has the approval of the Port Manager of his Area;
6. The Supervisor himself feels that the time and conditions are such as to make the effort worthwhile.

Head Office should be advised of any such invitations and the contemplated responses thereto.

13.

MEETINGS WITH GOVERNMENT OFFICIALS
(Re Development of Safety Rules)

Accident Prevention Bureau Staff is the authorized spokesman for the Employers with State and Federal Government Agencies dealing with accident prevention matters, development of safety orders, standards, etc. However, the following must be kept in mind.

1. Our principals desire a minimum of government intervention in their affairs.
2. Every effort should be made to keep wording of proposed orders in line with and not exceeding the requirements of the Pacific Coast Marine Safety Code.
3. Review proposed orders with operators and obtain the sanction of your principals.
4. Be sure that proposed orders are directed to accident prevention.
5. See that there is a need for the orders.
6. Remember that you are not a free agent but a representative of your employers and it is your employers' viewpoint that you are presenting.

14. BUREAU EMPLOYEES APPEARING AS WITNESSES IN ACCIDENT CASES

Frequently, Bureau employees are approached by attorneys asking information on accidents and, on several occasions, subpoenas have been served on members of the Bureau Staff requiring them to either give depositions or appear in court. It is the Bureau policy to do everything legally possible to avoid the appearance of any representative in court as a witness for or against an employer or an employee. All information which the Bureau may receive is given to us in confidence as a professional advisor of an employer in the prevention of future accidents. Our investigations should not be made with the idea of placing responsibility for the accident causation.

Subpoenaing of Files - Attorneys may also attempt to subpoena Bureau files. It is true that copies of accident reports are in the local office files. There should not be copies of investigations which have been made. The material on the accident reports can be duplicated in the files of the company concerned. It should be explained to anyone attempting to subpoena the files that this information is confidential and is in the company files and should be sought from that source. The Bureau files should be as confidential as any information given to a doctor, attorney, or insurance carrier.

Advice if Subpoened - If, after this explanation to the attorney who desires to subpoena you, he insists that you appear in court, the following advice is offered:

1. Keep your head.
2. Stick to the truth.
3. Volunteer no information; just answer questions and remember that you do not have to know all the answers. If you do not know -- if it is something that is not within your purview -- you are not required to give an answer.
4. Remember that the opposing attorney, who, in most instances, will be representing the employer will be the Bureau's best friend in case you go on the witness stand.
5. If you were not a witness to the accident, all you have which is of any value to anybody is an opinion which you may have gained in any one of a dozen ways. For your opinion to amount to anything, you would have to qualify as an expert witness and any clever opposing attorney can prevent an unwilling safety engineer from qualifying as an expert witness. Remember and use the term, "so many extenuating circumstances" if ordered by the court to give an expert opinion.

Explain Position to Court, if Possible - If there is an opportunity to explain your position to the court, you should do so and ask to be excused from testifying on the premise or for the reason that you are an employee of an Association of Employers which is endeavoring to sell prevention of accidents resulting in injury to workmen. That, in order to serve the industry, you must be non-partisan and non-controversial. You must have the confidence of the men as well as the employers. That you have no police power. That you are endeavoring to serve the employees through teaching them proper practices on the job and that you, so far as any employer is concerned, are only a professional advisor.

Service of Subpoena - In California, subpoenas cannot be served outside of the county in which the court holding the trial and issuing the subpoena exists, nor can it be served if travel of more than fifty miles is necessary to reach the court designated. In the event that the person whose testimony is desired lives outside of the county in which the trial is being held or more than fifty miles from the seat of the trial, the subpoena requiring his written deposition can be served on him in the county and place in which he resides; the subpoena being issued by the court of that county. If a deposition is subpoenaed, then deposition must be made as required. Such deposition, however, is subject to the same rules as testimony given at a trial.

Witness Fee - When you are subpoenaed, be sure to demand your witness fee on the spot, as no subpoena is legal if the server refuses to pay the witness fee in advance.

No employee of the Bureau is authorized to appear as an expert witness in any case inasmuch as he is a confidential advisor to the Employer Members of the Association.

Notify Headquarters - Be sure to notify Headquarters Office promptly when any attempt is made to subpoena you so that proper legal advice may be provided.

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