Session No. 512

I2P2 – How Does the California Experience Impact the Federal Debate?

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Introduction

Although its fate is uncertain, the debate continues over the passage of a federal-level Injury Illness and Prevention Program ("I2P2") regulation. Federal OSHA continues to emphasize its commitment to I2P2. Entering the first quarter of 2012, OSHA: (a) had issued a white paper on the purported benefits of injury illness and prevention programs; and (b) indicated that the long-awaited initiation of the small business regulatory review process—where the initial draft proposal of the rule will be vetted for further regulatory analysis—should begin in 2012.

It remains to be seen when OSHA will publish the initial draft rule as the March 2012 target date has come and gone. At this present juncture, the impact of the sequester budget cuts will likely impact the timeline of the passage of I2P2. Against this backdrop, California – one of the model state programs for reviewing the I2P2 experience – made headlines when a study commissioned by the California Commission for Health, Safety and Workers Compensation (and conducted by the RAND Group) indicated that its Injury Illness and Prevention Program ("IIPP")

regulation, which has been in effect since 1991, was generally ineffective in reducing injuries and illnesses in California.

Our law firm's OSHA Practice Group reviewed the California IIPP experience from a different set of historical data. We reviewed the published case law in California regarding the IIPP general industry regulation, namely, Title 8, California Code of Regulations, Section 3203. In doing so, we read the decisions in California from both the Administrative Law Judges and the Appeals Board to summarize trends during the past fifteen years that the IIPP regulation has existed in its current Section 3203 form. We turned our findings into a comprehensive paper, "The California Experience: Legal Lessons Learned from the Injury Illness and Prevention Program Regulation." We have included below one excerpt from our paper regarding the training provisions of California's IIPP regulation.

Method

Our analysis is limited to the decisions that are published through research services available to attorneys. To become a published case, an employer must have contested a CAL-OSHA citation and some adjudication of that citation then occurred, either before an Administrative Law Judge or before the appellate body of CAL-OSHA, the Appeals Board. It should be noted that we reviewed these cases for their pronouncements by the particular adjudicator—Judge or Appeals Board—as to whether CAL-OSHA (a/k/a the "Division") or the employer was victorious on the specific issue presented and not whether the case has precedential value. CAL-OSHA has various rules regarding whether certain Administrative Law Judge decisions are binding in subsequent, unrelated proceedings.[1] We were more interested in lessons learned rather than a particular case's precedential value. Nonetheless, CAL-OSHA's citations in the cases referenced below were contested and the allegations denied by the respective employers.

Given the volume of cases, we also did not review IIPP regulations in California beyond general industry, namely, other specific IIPP regulations for the following industries: petroleum; ship building, repairing, and breaking; and tunnels.[2] We did not specifically include the construction IIPP regulation, Section 1509 of Title 8, but several construction standard cases were acquired through our search query.

Results

Our search resulted in 284 cases through June 2011. Table 1 provides a breakdown of the categories of cases and Table 2 provides a detailed analysis of the twelve sub-categories of cases

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[1] In California, only Decisions after Reconsideration and Denials of Petition for Consideration have precedential effect because in both types of decision the Appeals Board has reviewed and ruled on a decision or order by an ALJ. *See, e.g.*, *Prison Industry Authority*, 2011 CA OSHA App. Bd. LEXIS 159 (Oct 26, 2011).

[2] The California specific industry IIPP standards are located at Title 8, California Code of Regulations: petroleum (Sections 6507, 6508, 6509, 6760, 6761 and 6762); ship building, repairing, and breaking (Section 8350); and tunnels (Section 8406). *See* Title 8, California Code of Regulations (retrieved March 25, 2012) (*http://www.dir.ca.gov/title8/index/T8index.asp*).

where substantive IIPP arguments and defenses were adjudicated by the Judges and/or Appeals Board.

As demonstrated in Table 3, most employers in California must, among other things, implement seven elements to advance an effective IIPP, which can be summarized as follows: (1) designate a person with responsibility and authority over the program; (2) ensure employees comply with safe and healthy work practices; (3) implement a system for communicating the IIPP requirements; (4) conduct an appropriate hazard assessment; (5) include a procedure to investigate injuries and illnesses; (6) include methods and/or procedures for correcting unsafe and unhealthy conditions; and (7) train employees on the hazards identified in the IIPP. Additional recordkeeping obligations also exist but were not subject to our case law review.

When employers contested a CAL-OSHA citation based on one or several of these seven above IIPP sub-parts, they generally did not fare well. Of the 284 cases we reviewed, 94 of them addressed one of these Section 3203 subpart (1)-(7) prongs. The Division prevailed in 71% of these 94 cases. For purposes of this paper, we have focused on the case law regarding prong (7) of the Section 3203 regulation regarding the necessary IIPP training. In this one training sub-part, unlike the other subpart prongs (1)-(6), the employer had its greatest chance of advancing successful arguments against the citations.

Litigating Training Issues in CAL-OSHA IIPP Cases

No matter how much energy is invested in implementing a Section 3203 IIPP, when accidents occur, we found that CAL-OSHA will critically review whether the injured employee was adequately trained to have avoided the hazardous outcome. No issue was litigated more often than subpart (7) of Section 3203. In the 56 training cases we reviewed, CAL-OSHA was victorious in 35 of them as compared to 21 for the employers. These cases illustrate the following reoccurring themes: the importance of training regarding new hazards or new job assignments; the challenges in determining the appropriate level of specificity in training; the necessity of training based on "reasonably foreseeable" hazards; the ongoing obligation to create the required training documents; and miscellaneous matters (which we did not include in these excerpted materials).

Importance of Training Regarding New Hazards or New Job Assignments

Employers experienced difficulty in the cases where CAL-OSHA discovered that a new hazard or job assignment had been introduced but the employer failed to include it in its IIPP training.

For example, in an October 26, 2010 decision, an agricultural service company suffered an adverse ruling from a CAL-OSHA Judge. An employee was injured in the process of unloading sulfuric acid from a railroad car to a stationary tank. He was wearing PPE (red coveralls) when the accident occurred. The integrity of the red suit was compromised, and the employee was injured.

In upholding the citation against this crop production services company, the Judge concluded that the red suits bought by the service company represented a new hazard, in that, if the suits were damaged unbeknownst to the employee, they would provide inadequate protection against contact with acid. Since the red suit in question was over five years old, and it had been

washed at a commercial laundromat, the Judge reasoned that failure to have provided training about the garment's care and life expectancy caused its failure. Thus, even though this employer provided training about use and selection of appropriate PPE, by introducing the PPE into the workplace, the employer also introduced hazards associated with failing to care for the PPE. By failing to include the care of the suit in the IIPP given the hazards associated with improper maintenance, the Judge upheld the citation against the employer.

CAL-OSHA similarly prevailed when an employer's training failed to account for a manufacturer's specifications. A popular retail juice maker provided a worker with a new assignment to operate an electric wheatgrass juicer and, after approximately six months of operation, she suffered an alleged amputation when using her hand to push "a lot of wheatgrass" into the juicer.

According to CAL-OSHA, the manufacturer's instructions suggested that a plastic pusher should have been used when feeding wheatgrass through the device. The injured employee had not used this "recommended" pusher. This was problematic to the Judge, who ruled that the manufacturer's instructions made it "reasonably foreseeable" that circumstances could arise when it would be difficult to feed the grass into the funnel of the juicer. As the decision explained, training on a pusher would have reduced the possibility of contact with the auger inside the juicer under these "reasonably foreseeable" circumstances. CAL-OSHA then prevailed on its failure to train IIPP citation. As this case reveals, it takes more than just training on what an employer intends to happen with a piece of machinery if the manufacturer suggests alternative methods to safely operate a machine.

A construction contractor suffered a similar outcome in a 2001 case. While constructing portions of rail stations for the Los Angeles Metro Redline Rail, an employee of the construction company fell from an elevated platform. The contractor's crew allegedly used inferior quality lumber for construction of the platform, which was a new assignment for at least two of the contractor's experienced carpenters. The Judge concluded that the construction company failed to provide any training regarding the proper selection of lumber for such an elevated structure. The employer's carpenters testified that even though they had experience working with lumber, they lacked the knowledge necessary to select appropriate grades of lumber. The Judge weighed this testimony and found it credible enough to affirm the IIPP citation.

These above examples are just a few of similar themes we encountered in other cases. In attempting to avoid the outcome suffered by the employers in these above cases, one business argued that an individual was not given a new job assignment requiring training. In this 2007 case, a worker was portrayed by his employer as an experienced union ironworker who knew how to use the equipment "air tuggers," and had used them several times before. The Appeals Board disagreed, noting that the employer was responsible for ensuring that its ironworker knew how to safely set up and operate *this* particular type of winch; it did not matter that the employee had knowledge of how to use similar winches. Significantly, this case suggests that one issue for employers in the hiring process is not to rest on previous training if there is some material deviation regarding the type of equipment being used such that previous general training would be insufficient.

Against the odds, one entity prevailed against CAL-OSHA in the area of training regarding new hazards or job assignments. CAL-OSHA asserted that an oil well service company's IIPP

failed to include provisions for training and instructing personnel when new substances were introduced into the workplace. At trial, an Associate CAL-OSHA Engineer testified that the company's IIPP was confusing and, in many respects, incomprehensible.

In response, the employer offered a supervisor's testimony that he trained employees on new tasks, procedures, and previously unrecognized hazards, while also conducting weekly safety meetings. The Judge observed that whether or not the IIPP was inadequate could not be determined based on the evidentiary record because the "Division failed to prove what the specific deficiencies were, electing instead to generalize in a brief, equivocal, and unconvincing manner." This resulted in one employer victory in the otherwise difficult landscape of new hazard/assignment training cases.

Examining the Appropriate Specificity in Training

Concerning the level of detail required as to IIPP training, employers achieved greater success when contending that training need not be compartmentalized as to each unique machine, equipment, vehicle, process or procedure.

This point is well illustrated in a 2010 decision where CAL-OSHA cited an agricultural hauling company for failing to include a provision in its IIPP for training its pneumatic truck drivers. A driver, who fell off the top of a transport trailer, testified that he was "generally" trained by his employer on how to load and unload trailers. The company's IIPP described comprehensive employee training provisions for drivers on trucks generally with arguably scant mention of "pneumatic trucks" or specific training on them.

Contrary to the Division's position, the Judge determined that Section 3203(a)(7)—the training prong of the CAL-OSHA IIPP regulation—does not require an employer to reduce specific details of training to writing. This analysis is good news for employers and makes sense given that it would be a considerable and onerous burden on employers to have to document training for each model or type of machine where verbal training covers any significant deviations among different machines or models. Additionally, the Judge embraced the employer's "single, isolated act defense," noting that this was not a case revealing the entire absence of training provisions. Rather, instructions appeared in the IIPP for truck drivers, including pneumatic truck drivers, although limited in scope. The Judge then tossed the citations in favor of the employer.

Turning to a case seven years earlier that further proves this above point, as long as employer training specifies the general task at hand, it need not reference details as long as the employer's actual practices put employees on sufficient notice of the requisite details. For example, CAL-OSHA cited an aggregate firm for failing to implement a standard procedure for the routine practice of cleaning loader windshields during the night. At the trial, the CAL-OSHA Division presented evidence and claimed that a new employee fell off a loader and suffered a compound hip fracture. Testimony at the hearing revealed that a co-worker had shown the injured employee how to climb on and clean the windshield. Based on this testimony, the Appeals Board found for the employer, concluding that no evidence existed that the procedure for washing the loader windshield – as demonstrated by the co-worker – was not the standard procedure. In other words, while these specifics were not detailed in writing in the IIPP, the hazard was accounted for in the on-the-job training undertaken by the co-worker.

However, by not providing details in the written IIPP, a company will be dependent on employees remembering the actual or specific practice. This can be a precarious position for employers as demonstrated in a case from 1999. In response to the Division's contention that a company's IIPP lacked the required training elements, a concrete masonry producer submitted the following evidence to demonstrate that an employee had, in fact, received lockout/tagout training: General Safety Rules with an employee acknowledgement (but it did not contain lockout procedures); Mixer Lockout Procedure (but it addressed only mixers and not hopper cleaning); and the IIPP.

According to the employee at issue, he admitted to receiving some training but not on the block machine on which he was allegedly injured. Specifically, this employee testified that he frequently used "Machine Number 2" but was injured the first time he used "Machine Number 3," which had a different turn-off switch. The worker also claimed that he did not recall looking at general safety rules or seeing the IIPP. The Company countered by offering testimony from a safety trainer that the injured worker had received training on "Machine Number 3." Further, the company's counsel on cross-examination obtained a concession from the employee that he only thought "Machine Number 2" was off, not that he was unaware of how to turn it off. For these and other reasons, the employer prevailed. In order to do so, it had to rely on testimony at trial. Thus, while the employer prevailed, it had to incur the expenses associated with proving that the employee received the specific training at issue.

These above cases support a consistent theme that CAL-OSHA faces considerable hurdles in failure-to-train cases where documents may lack specificity but employers otherwise demonstrate comprehension by their employees of the nuances of particular types of equipment. However, to avoid the cost of litigating and putting on the testimony necessary to have prevailed in these above cases, specific documentation may well be necessary.

Even if an employer can avoid specific training documentation based on the above cases, merely stating a goal in the written plan is not compliant. In a 2005 decision, a CAL-OSHA inspector cited a shotcrete company because the company's IIPP did not apparently meet all the elements required by 3202(a)(7). Although the Division's compliance officer conceded at trial that training for a new job or recognized hazard could occur during normal tailgate safety meetings, the Appeals Board explained that general references dispersed throughout a written plan is ineffective even if the tailgate meetings might have put employees on notice of the details.

The company then requested reconsideration and appealed. Agreeing with the original ruling, the Appeals Board concluded that the employer's written plan failed to instruct supervisors or others to provide additional training: (1) when new job assignments were made for which the employee had not previously been trained; (2) when new substances, processes, procedures or equipment were introduced into the workplace and represented a new hazard; or (3) whenever the employer was made aware of a new or previously unrecognized hazard.

The Appeals Board explained that despite the fact that the IIPP provided for weekly safety meetings that could include "special training" for its employees, "special training" was not defined in the IIPP document. Moreover, no guidance existed in the IIPP for supervisors to identify a routine from a non-routine hazard. In sum, the employer's submitted plan did not indicate that required training was actually being done beyond the IIPP's "paper" reference to "special training." This case proves the quandary that employers face when they rely on general

training references and try to buttress the general references with after-the-fact testimony at trial. At a minimum, these cases reveal that an employer must have the ability to draw upon credible witnesses if the training remains general and unspecified.

Finally, even if a machine or process is so unique that the hazard should be open and obvious, an employer is not relieved from its duty to specify the training, even if verbally done in reliance on general documentation. In an opinion from 2000, an agricultural contractor argued that a tractor-type vehicle called a "Mayote," which loaded broccoli during harvest, was so unique and used by so few employees that it was obvious how to safely operate it. The company argued that training forms revealed that an injured employee was trained on "this piece of equipment," but the Judge determined that since the employee operated two types of self-propelled tractors, the generic reference to "this piece of equipment" was inadequate to describe the type of training.

Training Based on Reasonably Foreseeable Hazards

As with these above topics concerning training on new assignments/hazards and providing specificity in training content, another consistent theme in the case law we reviewed concerns how far IIPP training must go to anticipate employee use of equipment beyond the manufacturer's specifications. How foreseeable is it that an employee will do something counter to his or her training that the employer must nonetheless train the employee on what not to do?

In one illustrative case, CAL-OSHA prevailed when an employer that owned and operated local retail stores had trained its employees to use only one specific method for slicing meats. The machine at issue allowed for other methods for slicing deli meats beyond those sanctioned by the store's training. According to CAL-OSHA's case, an employee was injured by using one of these non-sanctioned slicing settings. The retailer lost as the Judge ruled that the store chain did not train on this "foreseeable" hazard in that the employer should have been aware that the employee might use different slicing settings, even if not the ones the employer allowed to be used. This ruling undoubtedly causes concern as one can see the slippery slope of attempting to predict what is foreseeable even if counter to an employer's specific training and instructions to its employees.

Similarly, in 2007, a restaurant was issued a citation following an injury accident investigation for its failure to train employees regarding a "hot oil" hazard. The restaurant argued that the accident involving hot oil "was such an extraordinary occurrence that it [was] unrealistic for [it] to document in its IIPP or train employees to do what is obvious to anyone – keep any liquids away from hot oil." However, the Judge upheld the citation, stating "it is the existence of a hazard or potential hazard which determines whether it deserves the attention of the [e]mployer – not the likelihood of an incident, since a major goal of the Act is prevention, which requires proactive and diligent attention by an employer."

Fortunately, one opinion does suggest that boundaries exist as to how far an employer must go to predict "foreseeable" actions counter to an employee's training. A national retailer prevailed where an employee went beyond the reasonable scope of training in engaging in a hazardous act. An Assistant Store Manager was injured in an elevator shaft when he went to look for a customer's keys that had fallen down the shaft. At trial, the evidence demonstrated that the retailer trained its store managers to enter the elevator area for only two reasons: (1) to let the elevator contractor in, and (2) to shut off power. Neither of these activities required entrance into the elevator room itself where the shaft was located. Store employees were trained that a

contractor was available at any time to address elevator problems, including the retrieval of items in the shaft. This training put all employees on notice regarding the hazards of the elevator.

Ruling in favor of this employer, the Judge disagreed with the Division's attempt to argue that the employer's training was deficient simply because an unfortunate accident occurred. According to the Judge, "[t]here is, however, in life and in safety programs an occasional confluence of variables that cannot be anticipated and are, accordingly not addressed by training programs." As the Judge's decision explained, the Assistant Store Manager had been trained to call the elevator company and to do only one other thing, which was to shut off power in that room. The Assistant Store Manager failed to comply with his training despite an otherwise effective IIPP.

Creating the Required Training Documents

Even when employers provide the requisite amount of specific training on foreseeable hazards, including ones associated with new assignments, they risk citations for failing to keep required documents. We reviewed a number of cases where the failure to properly create a paper trail resulted in citations being affirmed.

Implications for the Federal OSHA "I2P2" Debate

It remains to be seen what type of training requirement will be proposed in the draft federal I2P2 rule. What is clear from the case law experience in California is that training issues will be heavily litigated. Based on the California experience with IIPP, three questions emerged from our case law analysis that are worthy of consideration in the ongoing debate over I2P2 in the context of training-related requirements.

First, how much specificity should be provided in the draft regulation or associated guidance to employers as to when to train in relation to identified hazards? It makes sense and seems straightforward enough to provide training to new employees when hired and given a job assignment and when employees take on specific new assignments later in their careers. What is not so clear is how to interpret in California the requirement to provide training "whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard." As some of the cases reveal, it makes sense to strike a balance where employers are encouraged to train on new hazards within a zone of actual and anticipated danger to an employee instead of remote and isolated potential hazards, such as ensuring PPE is not taken to a commercial laundromat, as in the crop production services case.

Second, as demonstrated by the employer struggles in California, what guidance is necessary as to the level of specificity of the training to have a compliant program? The California IIPP regulation is silent on this issue, which resulted in several attempts by the Division to prosecute employers for failing to be precise enough in their IIPPs. For example, CAL-OSHA sought training on each type of truck concerning loading/offloading hazards, as mentioned above. The Judges in California were sympathetic to employers' arguments that as long as general training addresses the hazards presented, such specificity should not be required in the IIPP document. Nonetheless, this appears to be an area for abuse if OSHA investigators could pick apart a training program for failing to include a specific piece of equipment, process or other device if the draft federal regulation is likewise silent on this issue.

Third, and perhaps the most difficult of all, what standard will be used to identify when an employer should have known to have implemented required training but failed to do so? The CAL-OSHA cases demonstrate the difficulty with what is the common approach, namely, asking whether a hazard was "reasonably foreseeable" to in turn have trained on it. For example, in the local retailer case, the grocery store chain did expect its employees to use an alternative setting on the machine for slicing meats. What should make it foreseeable that an employee will disregard these instructions? Is it the very existence of this other available, although non-sanctioned slicing setting, or does it take knowledge that the employee may disregard his or her instructions plus the existence of this other setting on the machine? As with the opinion concerning the restaurant, what consideration should be given to the likelihood of something bad happening if an employee deviates from training to make the employee's deviations then "reasonably foreseeable" to warrant additional training? Without guidance, employers presumably could be in a perpetual loop of assessing and re-assessing hazards based on behavioral changes by employees, which could make new hazards "reasonably foreseeable" every time an employee signals a propensity to do something *potentially* unwise.

Conclusion

Realizing that it is difficult to extrapolate conclusive findings from a review of cases with distinct factual backgrounds that span over the course of several years and involve different Judges, different members of the Appeals Board and different interpretations of the law, we believe the data from our paper is helpful in the ongoing dialogue regarding injury illness and prevention programs and some of the training-related issues that have been litigated for several years in California.

Beyond the training excerpt from our more comprehensive paper on all seven of the Section 3203 subparts, in looking at the substantive cases where the elements of the IIPP or the defenses were adjudicated, it is apparent that employers frequently lost in litigating IIPP cases. When you add the cases where employers attempted defenses or penalty adjustments, we reviewed a total of 120 substantive cases, as referenced in Table 2. If you exclude the penalty adjustment cases, CAL-OSHA was victorious in seventy percent (70%) of these cases. If you include the penalty adjustment cases, CAL-OSHA was victorious in sixty-four percent (64%) of them. Thus, when it comes to litigating against IIPP citations in California, employers historically have faced a considerable hurdle. This appears to be something that at least should be considered as federal OSHA considers its introduction of a proposed "I2P2" rule.

This article is for information purposes only and is not intended to be legal advice. Legal advice of any nature should be sought by legal counsel.

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Title 8, California Code of Regulations, Section 1509. *See* Title 8, California Code of Regulations (retrieved March 25, 2012) (*http://www.dir.ca.gov/title8/index/T8index.asp*).

Case Category	No of Cases
No Substantive Discussion of IIPP (i.e., the IIPP was referenced as part of a different cited standard; accordingly, we did not consider these cases)	64
Technical Victory and Miscellaneous cases (i.e., the employer lacked an IIPP or CAL-OSHA won on procedural grounds; accordingly, we did not consider these cases)	100
Substantive Cases, which we considered and are divided into the 12 categories referenced in Table 2	120
TOTAL	**284**

Table 1. Three General Categories of the 284 Cases Reviewed

Case Category	No. Cases CAL-OSHA Prevailed	No. Cases Employer Prevailed
Designating a Person with Authority and Responsibility	3	0
Ensuring Employees Comply with Safe and Healthy Work Practices	14	2
Implementing a System for Communicating	1	0
Conducting an Appropriate Hazard Assessment	3	2
Including a Procedure to Investigate Injuries and Illnesses	5	0
Including Methods and/or Procedures for Correcting Unsafe or Unhealthy Conditions	6	2
Training on the Hazards Identified in the IIPP (this subpart (7) is the focus of this paper)	35	21
Asserting the Estoppel Defense	0	1
Arguing the Defense of Independent Employee Action	6	0
Lodging the Defense of Isolated Act	2	2
Avoiding IIPP Claims in the Multi-Employer Worksite	2	3
Adjusting the Penalty	0	10
TOTALS	**77**	**43**

Table 2. Detailed Analysis of the Twelve Sub-Categories of Cases where Substantive IIPP Arguments and Defenses were Adjudicated

IIPP Element	Requirements
Identify the person or persons with authority and responsibility for implementing the Program	
Include a system for ensuring that employees comply with safe and healthy work practices.	Substantial compliance with this provision includes recognition of employees who follow safe and healthful work practices, training and retraining programs, disciplinary actions, or any other such means that ensures employee compliance with safe and healthful work practices.
Include a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal.	Substantial compliance with this provision includes meetings, training programs, postings, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees. As indicated, an employer may achieve substantial compliance with these provisions, including safety and health committees, but this is voluntary. Employers may achieve compliance through other means and without committees.
Include procedures for identifying and evaluating workplace hazards including scheduling periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards.	These provisions must be included: A. When the Program is first established, unless those employers had in place on July 1, 1991, a written IIPP complying with previously existing Section 3203; B. Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and C. Whenever the employer is made aware of a new or previously unrecognized hazard.
Include a procedure to investigate occupational injury or occupational illness.	
Include methods and/or procedures for correction of unsafe or unhealthy conditions, work practices and work procedures, in a timely manner based on the severity of the hazard.	These methods must be included: A. When unsafe or unhealthy items are observed or discovered; and B. When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, the employer must remove all exposed personnel from the

	area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.
Provide training and instruction.	This training and instruction must be provided: A. When the program is first established, unless employers had in place on July 1, 1991, a written IIPP complying with the previously existing Accident Prevention Program in Section 3203; B. To all new employees; C. To all employees given new job assignments for which training has not previously been received; D. Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard; E. Whenever the employer is made aware of a new or previously unrecognized hazard; and F. To familiarize supervisors with the safety and health hazards to which employees under their immediate direction and control may be exposed.

Table 3. The Seven Non-Recordkeeping Elements Required Under Title 8, Section 3203 for an Injury and Illness Prevention Program.