I2P2 is Coming!

The Road Ahead

What is I2P2 and why should we care? No, it's not R2D2's brother. It is not a new Star War's character. I2P2 is the new acronym coined by Federal OSHA's director, Dr. David Michaels, to designate OSHA's push to create a nationwide Illness, Injury Prevention Program. Federal OSHA now seeks to have the specificity of a written IIPP requirement in order to be more aggressive in writing citations and enforcing safety regulations.

Secretary of Labor, Hilda Solis has indicated that there is a new sheriff in town. She intends to do more inspections and issue larger fines. According to Jordan Borab, Deputy Assistant Secretary of Labor, completion of the I2P2 standard will be the most important project for the agency under the Obama administration. This is in spite of the fact that injuries, illnesses and deaths are down nationwide. News grabbing incidents like the Gulf oil spill, the mine disasters in West Virginia and Utah as well as refinery explosions in Texas makes worker safety a high priority for this new administration.

California has had an Illness, Injury Prevention Program requirement since the passing of SB198 in 1991. Only 12 OSHA state plans have IIPP program mandates. Federal OSHA administered programs lack a written IIPP requirement and rely on citations under the General Duty Clause also called “5 (a)(1) citations.” California's IIPP is spelled out in General Industry Section 3203 and Construction Section 1509. Citations under §3203 are the most frequent Cal-OSHA citations. Citations under §1509 are the third most cited standard behind heat illness prevention (§3395).

§3203 is being used increasingly as a General Duty Clause where an employer can be cited for an infraction, say for machine guarding (§3577), then also cited under §3203 (a) for failure to maintain a written IIPP and §3203(a)(7)(B): failure to train new hire. Such double citations can also create the basis for future repeat, serious or willful citations.

The Occupational Safety and Health Administration (OSHA) is undertaking a rule making effort directed toward requiring employers to establish injury and illness prevention programs. The goal is to monitor and more effectively implement practices to mitigate workplace hazards thereby reducing the incidence of employee injuries and illnesses. OSHA believes that widespread implementation of such programs will substantially improve overall workplace safety and health conditions.

The goal for I2P2 is to have a written standard in place by 2011. Since June, there have been five stakeholder meetings in different parts of the country to gauge support for the proposed standard. The meeting in Sacramento on August 3rd gave California stakeholders an opportunity to speak out on California's IIPP. Approximately 100 representatives from management, labor, trade associations, safety professionals including the public attended the session. They expressed overwhelming support for California's program. Comments like the following were common: “The IIPP program works.” “Do not reinvent the wheel.” “Build on California's experience.” “Keep the program simple.”

With such a fast paced agenda, expect Federal OSHA to move ahead with surveys, interviews and job site analysis. Once a draft program is penned, there will be hearings and requests for public comment. California companies, associations, unions and other stakeholders will have an excellent opportunity to influence the final form of this proposed standard.
What Should You Do Now?

For companies located solely in California, strengthening your injury, illness protection program will make your company less vulnerable to injuries and illnesses. It will protect you from citations and it will give your company a defense to a citation based on the independent employee action defense (IEAD).

For companies that have work sites and offices in states outside of California, adopting California's guidelines will prepare your company for the federal changes ahead with I2P2. A final I2P2 regulation will not differ radically from California's gold standard.

Document all elements of your program. Keep your program up to date. Keep current copies of your program at all work sites. Don't let your program gather dust on a shelf. This is a living document.

I2P2 Program Elements:

OSHA is considering all input in drafting the proposed rule but has stated that an I2P2 rule would include the following elements:

- **Management duties:** Establish a company policy setting goals; planning and allocating resources; assigning and communicating roles and responsibilities.
- **Employee participation:** Involving employees in establishing, maintaining and evaluating the program, employee access to safety and health information, and employee roles in incident investigations.
- **Hazard identification and assessment:** Hazards must be identified; workplace inspections, incident investigations, hazards associated with changes in the workplace and emergency hazards.
- **Hazard prevention and control:** Hazards must be controlled; hazard control priorities established and the effectiveness of the controls evaluated.
- **Education and training:** This includes items such as content of training, relationship to other OSHA training requirements, and periodic training and retraining.
- **Program evaluation and improvement:** This includes items such as monitoring performance, correcting program deficiencies, and improving program performance.

I2P2: The Opportunity And Challenge

The emphasis on the new Federal I2P2 should be seen as an opportunity to upgrade your safety program and create a safer workplace. The challenge is to see this as an opportunity, not a burden. California's IIPP has proven to work to reduce injuries and illnesses. The cost benefits are in lower litigation costs, worker's comp premiums and other costs attributed to having to replace ill or injured workers with new workers. Whether your company is only in California or in multiple states, adopting California's IIPP will give you a head start with the new I2P2.

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