

SELF ASSESSMENT TEST

1. Where the Division cites an employer for failure to train and evaluate forklift operators at least once every three years, in violation of §3668(d), the employer may be required to produce documentation, in addition to testimony, in order to demonstrate compliance with the safety order.

True False

2. To establish a reporting violation of §342(a), the Division must show that an employee suffered a serious injury and the employer failed to report the accident within a reasonable time.

True False

3. Under the Construction Safety Orders' provisions for Erection and Construction, Falsework and Vertical Shoring Design Loads (§1717(a)(1)), "intended load" is not defined in the Construction Safety Orders, but means a load that is foreseeable or imposed on purpose.

True False

4. When evaluating whether a violation is serious, it may be an abuse of discretion for an Appeals Board administrative law judge to assume a "worst-case scenario."

True False

5. To establish that a violation is properly classified as willful, the Division must show that an employer intentionally violated a safety law.

True False

6. The allowable modification of the gravity-based penalty for violation of §342(a), failing to timely report a serious injury to the Division, is for size, history, good faith and likelihood.

True False

7. In interpreting whether federal law preempts the Division's jurisdiction to issue a citation for violation of §342(a), failure to immediately report to the Division a serious injury, courts must apply a presumption against preemption of state policy as to matters of health and safety.

True False

8. California's safety orders must be at least as effective as federal safety orders.

True False

9. The Division may have jurisdiction to cite employers headquartered outside of the state of California.

True False

10. An employer cited by the Division for workplace safety and health violations must initiate its appeal within 15 working days of receipt of the citation, but the 15-working day time-period can be extended by the Division for good cause.

True False

11. To determine whether a violation of the Construction Safety Orders, Access and Egress, Elevators for Hoisting Workers, exists, §1630(a), the performance safety order, must be read in conjunction with §1630(d), which states landings shall be provided for the passenger elevator on or in buildings at the uppermost floor and at intervals not to exceed 3 floors or 36 feet.

True False

12. In an appeal proceeding, the Appeals Board may only address an entity's status as an employer at certain times specified by statute.

True False

13. To establish financial hardship sufficient for penalty reduction, an employer must show that granting financial hardship relief would not significantly diminish worker safety or diminish the deterrent effect of civil penalties on other employers.

True False

14. A collision with an on-foot worker that occurs after a forklift enters a path of travel creates a presumption that its operator did not look in the direction of travel make sure the path was clear prior to moving the forklift.

True False

15. The independent employee action defense may not be invoked by an employer where the cited safety order requires positive guarding.

True False

CERTIFICATION

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