BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

In the Matter of the Appeal of:	Inspection No. **1691867**
TRADEMARK CONSTRUCTION CO., INC. dba J.M.W. TRUSS AND COMPONENTS	**DECISION**
Employer	

Statement of the Case

Trademark Construction Co., Inc. (Employer) is a framing contractor. On August 17, 2023, the Division of Occupational Safety and Health (the Division), through Associate Safety Engineer Gregg Aniolek, commenced an accident investigation of a work site located at 21010 Erwin Street in Woodland Hills, California (the job site).

On January 22, 2024, the Division issued two citations to Employer. The citations allege violations of California Code of Regulations, title 8: (i) failure to ensure the availability of appropriately trained persons to render first aid; and (ii) failure to establish, implement, and maintain an effective injury and illness prevention program (IIPP).[1]

Employer filed timely appeals of the citations. Employer appealed both citations on the grounds that the safety orders were not violated. Employer appealed Citation 2 on the additional grounds that the classification is incorrect and the proposed penalty is unreasonable. Additionally, Employer asserted a series of affirmative defenses to each citation.[2]

This matter was heard by Mario L. Grimm, Administrative Law Judge (ALJ) for the Occupational Safety and Health Appeals Board (the Appeals Board). The hearing was conducted on August 16, 2024, and September 13, 2024, from West Covina, California, with the parties and witnesses appearing remotely via the Zoom video platform. Kevin D. Bland, attorney with Ogletree, Deakins, Nash, Smoak & Stewart, P.C., represented Employer. William Cregar, Staff Counsel, represented the Division. The matter was submitted on January 14, 2026.

[1] Unless otherwise specified, all references are to sections of California Code of Regulations, title 8.

[2] Except where discussed in this Decision, Employer did not present evidence in support of its affirmative defenses, and said defenses are therefore deemed waived. (*RNR Construction, Inc.*, Cal/OSHA App. 1092600, Denial of Petition for Reconsideration (May 26, 2017).)

Issues

1. Did Employer ensure the availability of a suitable number of appropriately trained persons to render first aid?

2. Did Employer establish, implement, and maintain an effective IIPP?

3. Did the Division establish a rebuttable presumption of a Serious violation for Citation 2?

4. Did Employer rebut the presumption of a Serious violation for Citation 2?

5. Is the proposed penalty for Citation 2 calculated in accordance with the penalty-setting regulations?

Findings of Fact

1. Employer did not have appropriately trained persons to render first aid at the job site.

2. Employer has various types of training, including new hire orientation, on-the-job training, and retraining.

3. Employer has procedures to inspect for unsafe work practices, including daily and monthly audits.

4. Employer has an incentive program to recognize and reward employees who follow safe and healthful work practices.

5. Employer has procedures for correcting unsafe work practices.

6. Employer has a discipline policy.

7. Moises Patron (Moises) trained Jose Ramon Valdez Reyes (Reyes) in the use of the powered hand saw.

8. Moises instructed Reyes to hold the stock between one hand and foot while cutting it with a powered hand saw.

9. Reyes followed his training by holding the stock between one hand and foot while cutting it with a powered hand saw.

10. Employer did not discipline any employees as a result of the accident.

11. The proposed penalties were calculated in accordance with the penalty-setting regulations.

Analysis

1. Did Employer ensure the availability of a suitable number of appropriately trained persons to render first aid?

Section 1512, subdivision (b), requires employers at construction sites to ensure the availability of trained persons to render first aid:

> Appropriately Trained Person. Each employer shall ensure the availability of a suitable number of appropriately trained persons to render first aid. Where more than one employer is involved in a single construction project on a given construction site, the employers may form a pool of appropriately trained persons. However, such pool shall be large enough to service the combined work forces of such employers.

Citation 1 alleges:

> Prior to and during the course of the inspection, including but not limited to on July 28, 2023 the employer did not have an appropriately trained person to render first aid.

The Division bears the burden of proving a violation by a preponderance of the evidence. (*Howard J. White, Inc*., Cal/OSHA App. 78-741, Decision After Reconsideration (Jun. 16, 1983).) "Preponderance of the evidence" is usually defined in terms of probability of truth, or of evidence that when weighed with that opposed to it, has more convincing force and greater probability of truth with consideration of both direct and circumstantial evidence and all reasonable inferences to be drawn from both kinds of evidence. (*Nolte Sheet Metal, Inc*., Cal/OSHA App. 14-2777, Decision After Reconsideration (Oct. 7, 2016).)

On July 28, 2023, Employer was performing framing operations on a construction site. Reyes used a powered hand saw (also known as a Skilsaw) to cut a wood block. He stood the wood block on his foot while he held it in place with his left hand. Reyes used his right hand to operate the saw. Reyes lost control of the saw while he was cutting the wood block. The saw lacerated his palm. A co-worker drove Reyes to a hospital. The parties stipulated that the injury constitutes a serious injury under section 330, subdivision (h).

The Division commenced an investigation through Associate Safety Engineer Gregg Aniolek (Aniolek). Aniolek testified that the Division requested various documents from Employer. He testified that the Division initially requested employee training records, but did not receive records of first aid training. The Division then sent a second document request that specifically referenced first aid training. Exhibit 6 is a copy of the Division's two requests for documents. The first request sought "employee training records 2022 & 2023 & any certifications." (Ex. 6, p. 1.) The second request sought "first aid training per T8 CCR 1512." (*Id.* at 2.) Additionally, the request states: "Please provide the Cal/OSHA inspector with the required copies by the 'postmark' date noted above. If the copies are not provided by that date, it will be interpreted as an admission that the documents do not exist, and possible citations and monetary penalties could result." (*Id.*) Aniolek testified that Employer did not produce responsive records to this request within the time stated in Exhibit 6. Employer does not dispute Aniolek's testimony on this point.

Exhibit K is a first aid certificate with the name "Jesus Belmares." Jesus Belmares (Belmares) was Employer's Foreman at the job site. Exhibit K shows a training completion date of "02/27/2922." Aniolek testified that Employer produced Exhibit K after the deadline in the document request and after the Division completed its investigation. Aniolek further testified that he had never heard of the training provider "HSI" and that Exhibit K could be "fraudulent or somehow doctored."

In weighing the evidence here, Exhibit K receives very little weight because it lacks indicia of trustworthiness. First, it does not show a valid training completion date. Although typographical errors can occur in documents, such an error could be addressed through witness testimony. However, this was not done here. Belmares did not testify. No other witness testified to Belmares's first aid training or to the preparation of the certificate. In contrast to Exhibit K, great weight is given to the document request (Ex. 6) and the lack of a timely response. It is significant that Employer had legal counsel and that the document request identifies the related safety order. These facts support an inference that Employer understood what was requested and what was at stake. Moreover, there is no evidence that Employer believed it had such records but needed additional time to locate and produce such records. The lack of timely production supports an inference that Employer did not have such records. In turn, the lack of records supports an inference that Employer did not ensure the availability of a suitable number of appropriately trained persons to render first aid at the job site.

Accordingly, Citation 1 is affirmed.

2. Did Employer establish, implement, and maintain an effective IIPP?

Section 1509, subdivision (a), requires employers engaged in construction work to comply with section 3203. In turn, section 3203, subdivision (a), requires employers to have an IIPP.

Citation 2 alleges:

> Prior to and during the course of the inspection, including but not limited to on July 28, 2023, the employer failed to implement and maintain an effective injury and illness prevention program in that:
>
> Instance 1: Prior to and during the course of the investigation, including but not limited to, on July 28, 2023, an employee operated a circular saw with one hand while resting a board on his foot to cut 3" x 4" support blocks. He sustained a serious hand injury as a result of the saws [sic] kickback and failure of the guard to retract fast enough to cover the blade. The employer failed to enforce the safe methods of using circular saw "Never hold piece being cut in your hands or across your leg. Secure workpiece to a stable platform. It is important to support the work properly to minimize body exposure, blade binding, or loss of control." per the circular saw manufacturer's safety instruction-cutting procedures.
>
> Instance 2: Prior to and during the course of the investigation, including but not limited to, on July 28, 2023, the employer had not developed a job specific hazard analysis to cut short blocks of 3" x 4" from longer boards.
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> Instance 3: Prior to and during the course of the investigation, including but not limited to, on July 28, 2023, the employer had not provided job specific hazard training associated with cutting 3" x 4" support blocks and specific safety instruction "Never hold piece being cut in your hands or across your leg. Secure workpiece to a stable platform. It is important to support the work properly to minimize body exposure, blade binding, or loss of control." per the circular saw manufacturer's safety instruction to its affected employees and supervisor who operated the circular saw on the jobsite.

Instance 1

Section 3203, subdivision (a)(2), requires employers to have a system for ensuring that employees comply with safe and healthy work practices:

> (a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

[. . .]

(2) 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.

Aniolek testified at hearing that the allegations of Instance 1 show a violation of section 3203, subdivision (a)(2). Aniolek testified that subdivision (a)(2) was violated because Employer did not enforce compliance:

Q. Now, instance one, can you identify the portion of 3203(a) that you contend violates or that the IIPP does not include?

. . .

A. Okay. So, yes. This was (a)(2), 3203(a)(2), compliance.

Q. Okay. And why do you say that?

A. The failure to enforce, it's the enforcement section of never holding a piece of wood in your hands or across your legs while cutting it.

The record establishes that Employer has various methods to effectuate safe and healthy work practices. Employer has new hire training and on-the-job training. (Ex. 7, p. 8.) Employer has an incentive program to recognize and reward employees who follow safe and healthful work practices. (*Id.* at 6-7.) Employer has retraining. (Exs. 9, J.) Employer has procedures for considering potential hazards while planning future jobs. (Ex. 7, pp. 11-12.) Employer has procedures to inspect for unsafe work practices and conditions. (*Id.* at 10-11.) Employer has procedures for weekly safety meetings. (*Id.* at 8-9.) Safety Manager Henry Martinez (Martinez) testified that Employer performs daily and monthly audits. Employer has a toll-free telephone line for employees to anonymously report hazards. (*Id.* at 9.) Employer has procedures for correcting unsafe work practices. (*Id.* at 10-11.) Employer has a discipline policy. (*Id.* at 7.) Thus, Employer's system for ensuring that employees comply with safe and healthy work practices is in substantial compliance with the safety order.

In its post-hearing brief, the Division also contends that Employer failed to implement three bullet points from its IIPP. However, the bullet points identified by the Division are not procedures required by section 3203. The bullet points are reminders to Employer's employees. The section begins with the following statement: "Employees are reminded that safety is an integral part of the operations of the company, their safety responsibilities are as follows . . . ." (Ex. 7, p. 6.) Thus, the bullet points are not procedures that Employer has undertaken to

implement and maintain in satisfaction of the cited safety order. The Division's argument does not show a violation of section 3203.

Accordingly, Instance 1 does not show a violation subdivision (a)(2) of section 3203.

Instance 2

Section 3203, subdivision (a)(4), requires employers to have procedures for identifying and evaluating hazards:

> (a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:
>
> [. . .]
>
> (4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards:
>
> (A) When the Program is first established; EXCEPTION: Those employers having in place on July 1, 1991, a written Injury and Illness Prevention Program 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.

Instance 2 alleges:

> Prior to and during the course of the investigation, including but not limited to, on July 28, 2023, the employer had not developed a job specific hazard analysis to cut short blocks of 3" x 4" from longer boards.

The Appeals Board has held that section 3203, subdivision (a)(4), does not require an employer to have a written procedure for each hazardous operation it undertakes. (*Brunson Enterprises, Inc.*, Cal/OSHA App. 08-3445, Decision After Reconsideration (Oct. 11, 2013).)

Aniolek testified at hearing that the allegations of Instance 2 show a violation of section 3203, subdivision (a)(4). Aniolek testified:

> Q. Okay. And what, if any, section of 3203(a) was violated by instance 2?

A. (4), identification of hazards.

The basis of the Division's argument is that Employer did not have "a job specific" hazard analysis for the cuts that Reyes was performing at the time of the accident. However, even accepting this allegation as true, it is not sufficient to show an IIPP violation because Employer is not required to have a procedure for each operation it undertakes. (*Brunson Enterprises, Inc.*, *supra*, Cal/OSHA App. 08-3445.)

Accordingly, Instance 2 does not show a violation of subdivision (a)(4) of section 3203.

Instance 3

Section 3203, subdivision (a)(7), requires employers to provide training and instruction at specified times:

> (a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:
>
> [. . .]
>
> (7) Provide training and instruction:
>
> (A) When the program is first established; Employers having in place on July 1, 1991, a written Injury and Illness Prevention Program 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) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

Instance 3 alleges:

> Prior to and during the course of the investigation, including but not limited to, on July 28, 2023, the employer had not provided job specific hazard training associated with cutting 3" x 4" support blocks and specific safety instruction "Never hold piece being cut in your hands or across your leg. Secure workpiece to

a stable platform. It is important to support the work properly to minimize body exposure, blade binding, or loss of control." per the circular saw manufacturer's safety instruction to its affected employees and supervisor who operated the circular saw on the jobsite.

The Appeals Board has found that the purpose of section 3203, subdivision (a)(7), "is to provide employees with the knowledge and ability to recognize, understand and avoid the hazards they may be exposed to by a new work assignment through 'training and instruction.'" (*Timberworks Construction, Inc.*, Cal/OSHA App. 1097751, Decision After Reconsideration (Mar. 12, 2019).)

Aniolek testified at hearing that the allegations of Instance 3 show a violation of section 3203, subdivision (a)(7). Aniolek testified:

Q. What, if anything, in 3203 was violated by instance 3?
A. (a)(7), provide training and instruction.

Reyes testified that Employer hired him as a Laborer. He estimated that he became a Carpenter within approximately three or four months of employment. He had worked as a Carpenter for approximately three months when the accident occurred.

Reyes testified that his senior co-worker Moises trained him in the use of the powered hand saw. According to Reyes, Moises trained him to hold the wood stock in one hand, hold the saw in the other hand, and then hold the wood against his foot to stabilize it. Reyes further testified that Moises demonstrated this usage of the saw. Reyes testified that he was not instructed to keep both hands on the powered saw while operating it. Reyes testified that he never saw the operating manual for the saw.

Safety Clerk Rosa Aquino (Aquino) testified that she was present for Reyes's training. Aquino testified that fellow employee Maria Lopez (Lopez) trained Reyes how to use the powered hand saw, including demonstrations of proper use. In contrast, Reyes testified that Lopez did not train him in the performance of his duties. He testified that Lopez was an office worker who handled paperwork and was not involved with performing construction tasks. Aquino testified that Lopez is currently an employee of Employer.

Employer produced to the Division an accident investigation report. (Ex. 9.) This accident investigation report is signed and dated by Lopez. The report includes a section titled: "What correction [sic] action was taken? Describe how incident/accident could have been prevented." The response states: "Employee should have been careful." At hearing, Employer offered a second accident investigation report. (Ex. J.) This second report is not signed or dated.

Neither investigation report specifies what employees will be retrained on in order to avoid the hazard involved in the present case. (Exs. 9, J.)

Among the evidence here, it is significant that neither accident investigation report states that Reyes violated a company rule or deviated from his training. (Exs. 9, J.) This is the type of information that would be expected in an investigation report if the employer found that an employee violated a company rule or deviated from training. Moreover, it is especially significant because the first investigation report was completed by Lopez, who is the person that Employer claims trained Reyes in the use of the saw. Instead, the first investigation report merely states that Reyes "should have been careful." (Ex. 9.) The vague, generalized nature of this conclusion in the context of an investigation report supports an inference that Reyes did not violate a company rule. With regard to the second investigation report, it receives less weight because it is not signed or dated. Nevertheless, it too does not state that Reyes violated a company rule or deviated from his training. (Ex. J.) These investigation reports support the conclusion that Reyes did not violate a company rule or deviate from his training.

Additionally, Reyes was a credible witness. He was calm and attentive during his testimony. His testimony was plain and direct. He was not evasive. He readily agreed with many questions on cross-examination. His testimony was consistent with the information he provided to Aniolek during the Division's investigation. (Ex. 5.) Moreover, his testimony that Moises trained him in the use of the saw is consistent with Employer's IIPP procedure that employees will receive on-the-job training. (Ex. 7, p. 8.)

By contrast, Aquino's testimony was less credible. In particular, she testified that she recognized Reyes's signature because she was present when he signed Exhibit G. However, she did not explain why Reyes's signature looks different on each of Exhibits E, F, and G. Additionally, it is significant that Employer did not call Lopez to testify despite arguing that she trained Reyes. Not offering the best evidence supports an inference that Lopez's testimony would have contradicted the argument advanced by Employer. (*BHC Fremont Hospital, Inc.*, Cal/OSHA App. 13-0204, Decision After Reconsideration (May 30, 2014); Evid. Code, §§ 412, 413.) Thus, Reyes's testimony is credited with respect to Moises training him in the use of the powered hand saw.

In sum, Employer did not provide training and instruction such that Reyes had the knowledge and ability to recognize, understand and avoid the hazard posed by holding the wood block with his hand while cutting it with the powered hand saw. Thus, Employer did not comply with section 3203, subdivision (a)(7). Accordingly, Employer violated section 1509, subdivision (a).

3. Did the Division establish a rebuttable presumption of a Serious violation for Citation 2?

Labor Code section 6432, subdivision (a), defines a Serious violation as follows:

> There shall be a rebuttable presumption that a "serious violation" exists in a place of employment if the division demonstrates that there is a realistic possibility that death or serious physical harm could result from the actual hazard created by the violation. The demonstration of a violation by the division is not sufficient by itself to establish that the violation is serious. The actual hazard may consist of, among other things:
>
> (1) A serious exposure exceeding an established permissible exposure limit.
> (2) The existence in the place of employment of one or more unsafe or unhealthful practices, means, methods, operations, or processes that have been adopted or are in use.

With respect to the term "realistic possibility," the Appeals Board has defined it to mean a prediction that is within the bounds of human reason, not pure speculation. (*A. Teichert & Son, Inc. dba Teichert Aggregates*, Cal/OSHA App. 11-1895, Decision After Reconsideration (Aug. 21, 2015), citing *Janco Corporation*, Cal/OSHA App. 99-565, Decision After Reconsideration (Sep. 27, 2001).)

"Serious physical harm" is any injury or illness occurring in the place of employment that results in:

> (1) Inpatient hospitalization for purposes other than medical observation.
> (2) The loss of any member of the body.
> (3) Any serious degree of permanent disfigurement.
> (4) Impairment sufficient to cause a part of the body or the function of an organ to become permanently and significantly reduced in efficiency on or off the job, including, but not limited to, depending on the severity, second-degree or worse burns, crushing injuries including internal injuries even though skin surface may be intact, respiratory illnesses, or broken bones.

(Lab. Code § 6432, subd. (e).)

Here, the parties did not directly address the definition of serious physical harm. However, the parties stipulated that Reyes's injury constitutes a "serious injury" under section

330, subdivision (h). Section 330 defines "serious injury" as any injury or illness occurring in a place of employment that results in:

> (1) inpatient hospitalization for other than medical observation or diagnostic testing;
> (2) an amputation;
> (3) the loss of an eye; or
> (4) any serious degree of permanent disfigurement.

The injuries identified in the definition of "serious injury" also fall under the definition of "serious physical harm." Therefore, Reyes's serious injury establishes that the hazard created by the violation can and did result in serious physical harm. Accordingly, the Division established the rebuttable presumption that the citation was properly classified as a Serious violation.

4. Did Employer rebut the presumption of a Serious violation for Citation 2?

Labor Code section 6432, subdivision (c), provides that an employer may rebut the presumption that a Serious violation exists by "demonstrating that the employer did not know and could not, with the exercise of reasonable diligence, have known of the presence of the violation." In order to satisfactorily rebut the presumption, the employer must demonstrate both:

> (1) The employer took all the steps a reasonable and responsible employer in like circumstances should be expected to take, before the violation occurred, to anticipate and prevent the violation, taking into consideration the severity of the harm that could be expected to occur and the likelihood of that harm occurring in connection with the work activity during which the violation occurred. Factors relevant to this determination include, but are not limited to, those listed in subdivision (b) [; and]
>
> (2) The employer took effective action to eliminate employee exposure to the hazard created by the violation as soon as the violation was discovered.

(Lab. Code, § 6432, subd. (c).)

Labor Code section 6432, subdivision (b), provides that the following factors may be taken into account: (i) Training for employees and supervisors relevant to preventing employee exposure to the hazard or to similar hazards; (ii) Procedures for discovering, controlling access to, and correcting the hazard or similar hazards; (iii) Supervision of employees exposed or potentially exposed to the hazard; and (iv) Procedures for communicating to employees about the employer's health and safety rules and programs.

An employer bears the burden of rebutting the presumption established by the Division as to a Serious violation. (*Kaiser Steel Corporation*, Cal/OSHA App. 75-1135, Decision After Reconsideration (Jun. 21, 1982).)

Severity of the harm

Here, the violation is the failure to provide training and instruction to Reyes such that he had the knowledge and ability to recognize, understand, and avoid the hazard posed by holding the wood stock with his hand while cutting it with the powered hand saw. As discussed above, it is found that Reyes suffered a serious injury as a result of the violation. Thus, the potential harm from the violation is severe.

Likelihood of the harm

As discussed above, it is found that Reyes suffered a serious injury. Thus, the likelihood of serious injury is realistic.

Reasonable steps to anticipate and prevent the violation

In light of the severe and realistic harm presented by performing the task improperly, an employer should be expected to take action to anticipate and prevent the violation. These steps include sufficient training and supervision, as well as immediate correction of the unsafe practice.

Employer's actions

With regard to training, Employer provided some training as discussed above. However, it is significant that Employer, through Moises, trained Reyes in the unsafe method at issue here. Reyes followed the training he received.

With regard to supervision, Employer demonstrated a practice of daily job site inspections. (Exs. A-D.) These inspections, however, do not demonstrate reasonable supervision of employees exposed to the hazard. First, the inspections were not performed by Foreman Belmares or any member of the crew performing the construction work. Rather, the inspections were performed by Lopez. With respect to Lopez's competence to supervise the work, Reyes testified that Lopez was an office worker who handled his paperwork but was not involved with performing construction work. Moreover, Lopez did not identify the unsafe practice in the first accident investigation report and concluded merely that Reyes "should have been careful." (Ex.

9.) Thus, it is found that Lopez was not qualified to supervise and correct the work practices involved here.

Additionally, the evidence does not establish that Employer immediately corrected the unsafe practice here. The accident investigation reports do not identify the unsafe practice of holding the wood stock in hand while cutting it with the saw. (Exs. 9, J.) The first report merely states that Reyes "should have been careful." The second investigation report references the stock being "too small for him to grip," as opposed to indicating that stock should not be held in hand while cutting it. (Ex. J.) With respect to corrective action, the second investigation report references retraining in general, but does not specify what would be retrained to avoid the hazard involved here.

Finally, there is no record that any employees were disciplined for violating company policy. Reyes is not the only employee relevant to the accident here. Since the time of his interview with Aniolek, Reyes has indicated that Moises trained him in the use of the saw. (Ex. 5, p. 3.) Despite this, Employer did not interview Moises regarding the incident (according to the testimony of Martinez). This bears upon Employer's investigation and discipline.

In sum, Employer did not take all of the steps a reasonable and responsible employer in like circumstances should be expected to take to prevent the violation and to eliminate employee exposure as soon as the violation was discovered. Accordingly, Employer did not rebut the presumption that Citation 2 is properly classified as a Serious violation.

5. Is the proposed penalty for Citation 2 calculated in accordance with the penalty-setting regulations?

Penalties calculated in accordance with the penalty-setting regulations set forth in sections 333 through 336 are presumptively reasonable and will not be reduced absent evidence that the amount of the proposed civil penalty was miscalculated, the regulations were improperly applied, or that the totality of the circumstances warrant a reduction. (*RNR Construction, Inc.*, *supra*, Cal/OSHA App. 1092600, citing *Stockton Tri Industries, Inc.*, Cal/OSHA App. 02-4946, Decision After Reconsideration (Mar. 27, 2006).)

The Division submitted its Proposed Penalty Worksheet showing the penalty calculations. (Ex. 19.) Aniolek testified to the calculation of the penalty. Employer did not present argument that the penalty was improperly calculated.

Accordingly, the proposed penalty for Citation 2 is reasonable.

Conclusion

The evidence supports a finding that Employer violated section 1512, subdivision (b), for failure to ensure the availability of appropriately trained persons to render first aid. The violation was properly classified as General.

The evidence supports a finding that Employer violated section 1509, subdivision (a), for failure to establish, implement, and maintain an effective injury and illness prevention program. The violation was properly classified as Serious.

Order

It is hereby ordered that Citation 1, Item 1, and the $675 penalty are affirmed.

It is hereby ordered that Citation 2, Item 1, and the $12,150 penalty are affirmed.

It is further ordered that the penalties indicated above shall be assessed as set forth in the attached Summary Table.

/s/ Mario L. Grimm
_____
Mario L. Grimm
Administrative Law Judge

Dated**:** 02/06/2026

The attached decision was issued on the date indicated therein. If you are dissatisfied with the decision, you have thirty days from the date of service of the decision in which to petition for reconsideration. Your petition for reconsideration must fully comply with the requirements of Labor Code sections 6616, 6617, 6618 and 6619, and with California Code of Regulations, title 8, section 390.1. **For further information, call: (916) 274-5751.**

If no petition is filed, the penalty amount set forth in the Summary Table is due and payable 30 days after the Order or Decision is issued. If the Appeals Board approved a payment plan, all payments are due in accordance with the dates indicated in the Summary Table. If a Petition for Reconsideration is filed, no payment should be made until the final outcome of the appeal.