

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
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TITLE 8. CALIFORNIA CODE OF REGULATIONS

Construction Safety Orders, Section 1512 and General Industry Safety Orders, Section 3400 (Published on March 4, 2022)

FIRST AID

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **April 21, 2022** in the **Auditorium** of the **Harris State Building, 1515 Clay Street, Oakland, California** as well as via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **March 4, 2022** and closes at 5:00 p.m. on **April 21, 2022**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments are to be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By fax at (916) 274-5743; or

By email sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards. The proposed regulations implement, interpret, and make specific Labor Code section 2440 which requires all employers comply with standards relating to the ready availability of medical services and first aid adopted by the Occupational Safety and Health Standards Board, pursuant to Chapter 6 (commencing with section 140) of Division 1 of the Labor Code.

INFORMATIVE DIGEST OF PROPOSED ACTION/ POLICY STATEMENT OVERVIEW

This proposed rulemaking results from an advisory committee convened at the Occupational Safety and Health Standards Board's (Board) request to consider Petition No. 519. This Petition requested that the requirement for approval of all first-aid kits by a consulting physician be removed. The Petitioner stated it would be very difficult for consulting physicians to be sufficiently familiar with the wide variety of possible worksite specific injury and illness risks to make knowledgeable decisions on appropriate and necessary first-aid kit contents. The Petitioner noted that Construction Safety Orders (CSO), section 1512(c) contains a list of minimal first-aid kit materials as an alternative to consulting physician input and called for a similar list to be provided in the General Industry Safety Orders (GISO). On March 17, 2011, the Board granted the Petition and referred the Petitioner's proposal to a representative advisory committee for consideration. The Board instructed the advisory committee to examine the issues raised by Petition No. 519 and review and revise the required first-aid supplies listed in section 1512(c).

The advisory committee met on June 29, 2011. The advisory committee was broadly composed of employee and employer representatives from the general industry and the construction industry, as well as technical experts in such fields as occupational medicine and emergency medical services and first aid. The committee decided the regulation should make the following clear:

1. The employer is responsible for thoroughly assessing the work environment for injury risks;
2. First-aid materials that are appropriate for the injury risks that are present in the work environment must be provided whether or not outside first-aid experts have been consulted.

The advisory committee discussed what items should or should not be included in a minimum first-aid kit. The committee also agreed that a minimal list of first-aid supplies would not be adequate for all workplaces, and that the changes to the standard should make clear that an employer's adoption of the proposed minimum list of supplies must still follow a workplace assessment of need. The committee also discussed the Petitioner's contention that it was difficult to obtain consulting physician input into first aid matters, but experiences differed on this point.

In March 2013, the Division sent a copy of the proposed changes to section 3400(c) to all advisory committee attendees and interested parties. This proposed rulemaking reflects both minor word

changes and corrections to section 3400 suggested by the responses to the March 2013 transmittal and changes to the table in section 1512 that had been discussed at the advisory committee meeting on June 29, 2011.

A synopsis of the proposed changes is as follows:

Section 1512. Emergency Medical Services.

The proposal revises the title of section 1512 from “Emergency Medical Services” to “Medical Services and First Aid” to accurately portray the contents of the section and to be consistent with the title of section 3400, “Medical Services and First Aid”.

Subsection (c). First-Aid Kit.

Section 1512(c)(1) currently requires employers on construction projects to ensure availability of appropriately stocked and maintained first-aid kits. This subsection also currently requires that the minimum first-aid supplies be determined by an employer-authorized, licensed physician, or, alternatively, in accordance with a table included in the subsection.

This proposed rulemaking revises the existing table of minimum first-aid kit supplies of section 1512(c)(1). It is proposed to include the phrase “and other materials” by removing six current items (safety pins, scissors, forceps, emesis basin, portable oxygen and its breathing equipment, and tongue depressors) from the table. These items are no longer considered appropriate or essential for the modern practice of first aid, and are not always stocked by the vendors of first-aid kits.

Four new items [medical exam gloves, single-use antibiotic treatment, single-use antiseptic application, and single-use CPR (cardiopulmonary resuscitation) disposable barrier device] are proposed to be added to the table of section 1512(c)(1) for consistency with the table proposed in section 3400(c)(3) and because these items are considered necessary for the modern practice of first aid. All the additional items are also currently recommended to be included in first-aid kits in American National Standards Institute (ANSI) Z308.1 Standard: *Minimum Requirements for Workplace First Aid Kits and Supplies*, and as a result are available in most commercially available first-aid kits.

Additionally, two of the new items proposed to be added to the table of section 1512(c)(1), medical exam gloves and CPR disposable barrier devices are currently required by GISO, section 5193, Bloodborne Pathogens, because of the risk of transmission of bloodborne infection during the treatment of cuts, scrapes, open wounds, or other first-aid measures that expose employees to potentially infectious bodily fluids.

The proposed first-aid supplies added to the section 1512(c) table are required in the first-aid kit regardless of the number of employees in an establishment. To indicate this, an “X” is included in each existing column of the table, as each existing column represents a different number of employees in an establishment.

In the table of section 1512(c)(1), revisions are proposed to numerically list all the first-aid supplies in this table.

The Board proposes to delete an existing phrase requiring additional equipment in adequate quantities consisting of items following the first asterisk in the existing section 1512(c)(1) table in order to be consistent with revised section 3400 and to make it clear that the requirement to maintain adequate supplies applies to all first-aid kit items, not just the ones appearing above the asterisk. Therefore, it is proposed to include the phrase “and other materials” between the word “Dressings” and the phrase “in adequate quantities consisting of:” to clarify that the following is a list of first aid supplies and not just dressings.

The Board also proposes to delete the second existing asterisk with its explanation located at the end of the table of first-aid supplies in section 1512(c)(1) that states “To be readily available but not necessarily within the first-aid kit”. This asterisk, with its explanation, was meant to address the storage of currently required first-aid kit supplies (portable oxygen tanks) that would be too large to fit within most commercially available first-aid cabinets. In the proposed revised table, this asterisk with its explanation is superfluous because the portable oxygen tank requirement is being removed, and all first-aid kit elements that will be required will fit in standard first-aid kit containers.

Subsection (c)(3).

Section 1512(c)(3) currently requires that drugs, medicines, and similar medically related preparations are not to be included in first-aid kits unless specifically approved, in writing, by an employer-authorized, licensed physician.

The Board proposes to add antiseptics to the table in section 1512(c)(1) as a mandatory item in the first-aid kit and delete them from section 1512(c)(3) to be consistent with the first-aid kit requirements contained in section 3400.

The Board proposes to delete eye irrigation solutions from section 1512(c)(3). Eye irrigation solutions cannot serve as a replacement for eye wash stations (required by GISO, section 5162) needed to flush chemical splashes from the eyes. In many instances, eye irrigation solutions can worsen a chemical splash, so these solutions must not be included in first-aid supplies.

Section 3400. Medical Services and First Aid.

Subsection (c).

Section 3400(c) currently requires all employers to ensure the availability of adequate first-aid kits approved by a consulting physician.

This proposal revises section 3400(c) by moving the existing requirement that first-aid kits be approved by a consulting physician to an optional provision in new subsection (3) of section 3400(c). The proposal also clarifies the existing requirement that employers are responsible for ensuring the adequacy of first-aid materials for their workplace based upon the size of the workplace and the type of hazards found within it.

The following non-substantive changes to the existing text of subsection (c) are proposed to improve clarity. The second sentence is re-designated as a separate subsection (1) and the third sentence is re-designated as a separate subsection (2).

New proposed subsection (c)(3) allows employers to use first-aid kits approved by an employer-authorized, licensed physician similar to the existing requirement or to use, at a minimum, a new proposed table of first-aid materials. The employers shall evaluate the need for additional first-aid kits and additional types and quantities of first-aid equipment and supplies based on the size of their business and the hazards involved. The proposed table lists the minimum type and quantity of first-aid materials suitable for a workplace without unusual first-aid needs. This list is the same as the ANSI Z308.1 list of minimum materials, except that burn ointment and a first-aid manual are omitted from the proposed list.

Two new “notes” are added to this section. The first “note” informs employers that the use of certain hazardous chemicals in the workplace may require additional first-aid materials be included in a first-aid kit for the contents to be considered adequate. It further states that employers may need to assess other factors when determining the contents of the first-aid kits. The second “note” reminds employers with hazardous chemicals in the workplace of an existing requirement in GISO, section 5194(h), Hazard Communication, that information on first-aid treatment of hazardous chemical exposures must be included as part of employee information and training.

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a comprehensive system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as: (1) the requirement of the Federal Occupational Safety and Health Administration and the Labor Code that state regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

This proposal is at least as effective as the equivalent federal standards in Title 29 Code of Federal Regulations, section 1910.151 (general industry) and section 1926.50 (construction industry) published by the Occupational Safety and Health Administration.

Anticipated Benefits

Section 1512. Emergency Medical Services.

By modernizing the table of minimum first-aid supplies upon which construction employers may rely to stock workplace first-aid kits, the proposed changes to section 1512(c) make it easier for construction employers to be in compliance with the regulation. The proposed changes also remove requirements to stock certain items that are no longer considered necessary for the modern practice of first aid.

Section 3400. Medical Services and First Aid.

These proposed revisions to section 3400(c) will make it easier for employers to comply with the regulation. Employers without unusual first-aid needs can comply with this regulation without engaging the services of a consulting physician to determine first-aid kit contents and use the new proposed table in section 3400(c). Employers with unusual first-aid needs may continue to use the existing requirement to have a consulting physician approve their first-aid kits. Employees will be safer because the proposed revisions clarify the existing requirement that employers must evaluate the risks of injury and illness in the workplace in order to make decisions about first-aid kit contents.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies and School Districts: None.

Cost or Savings to State Agencies: Depending on the function of the agency, costs and savings will be similar to the impacts described below for general industry or construction industry employers.

Cost to Any Local Government or School District Which Must be Reimbursed in Accordance with Government Code Sections 17500 through 17630: None.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: Depending on the function of the agency, costs and savings will be similar to the impacts described below for general industry or construction industry employers.

Cost or Savings in Federal Funding to the State: None.

Cost Impacts on a Representative Private Person or Business:

This proposal will not have a significant adverse economic impact on businesses.

For construction businesses, the proposed changes to section 1512 remove costly items from the existing list of first-aid items that are no longer used in first-aid treatment. The proposal adds items to the list that are typically included in commercially available first-aid kits. Construction employers may also continue to use existing first-aid kits as determined by an employer-authorized, licensed physician, as there are no proposed changes to this option.

The cost to existing small construction employers to upgrade to the first-aid kit contents required in this proposal is estimated to be about \$6. A typical construction employer with average number of employees will need more kits; these employers incur about \$51 in costs to upgrade to the proposal's kit contents. A new small construction business will incur about \$39 in costs while a new typical construction business will incur approximately \$150 in costs.

For general industry, the proposed changes to section 3400 will provide a second option to employers in determining the contents of their first-aid kits. Existing employers may continue to use existing first-aid kits as determined by an employer-authorized, licensed physician without incurring new costs. Employers without unusual first-aid needs may choose the second option to use a first-aid kit

consisting of a list of items typically found in commercially available first-aid kits at a cost of \$11.81 per kit. A new small business in general industry will incur approximately \$37 in costs while a typical general industry business will incur about \$201 in costs.

For both construction and general industries, ongoing costs of the proposal will be minimal and limited to the employer's need to restock kit contents as items are used or expire.

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses to Compete:

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states. Employers in all states are currently required to supply and maintain first-aid materials. The types and quantities of first-aid supplies that employers must purchase and supply are not significantly changed by this proposal. Based upon a review of commercially available first-aid materials and first-aid kits, most businesses will experience cost savings or no change in expenditures on first-aid materials as a result of this proposal.

For construction businesses, the proposal removes items from the existing list of required first-aid items that are no longer recommended or used for first-aid treatment. Any items added to the construction list are of similar or lower cost to the ones removed, and are already typically included in the first-aid kits employers currently purchase.

For general industry, employers may continue to follow the existing requirement of having a consulting physician determine the contents of their first-aid kits. The proposal will allow a second alternative for employers without unusual first-aid needs who elect not to use a physician. These employers will be able to rely on a brief consensus list of inexpensive first-aid items that are less in number and expense than are found in typical first-aid kits available for purchase.

Significant Affect on Housing Costs: None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. Small business employers are currently required to provide and maintain first-aid supplies. The types and quantities of first-aid supplies that businesses must purchase and supply are not significantly changed by this proposal.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The proposed regulations will not have any effect on the creation or elimination of California jobs or the creation of new businesses or the elimination of existing California businesses or affect the expansion of existing California businesses.

There will be no significant adverse economic impact on businesses as a result of this proposal because the types and quantities of first-aid supplies that businesses must purchase and supply is not

significantly changed by this proposal. For general industry, employers will no longer be obligated to engage the services of a consulting physician to advise on first-aid kit contents. Instead, these employers will be able to rely on a brief consensus list of inexpensive first-aid items that are less in number and expense than are found in typical commercially available first-aid kits. For construction businesses, the proposal removes items from the existing list of required first-aid items that are no longer recommended or used for first-aid treatment. Any items added to the construction list are of similar or lower cost to the ones removed, and are already typically included in the first-aid kits employers currently purchase.

This proposal clarifies the requirements for provision of first-aid supplies, making it easier for employers to comply. Workers in California will benefit by the proposal because first-aid kits on the job will be more likely to be adequately provisioned than currently.

BENEFITS OF THE PROPOSED ACTION

By clarifying the requirements for first-aid kit contents and making it easier for employers to clearly understand the requirements, the proposed changes will improve the rate at which first-aid kits are initially provided to the workplace and will help ensure the kits are adequately provisioned. General industry employers choosing to no longer seek the advice of a consulting physician may save an average of \$100. Therefore, the proposed regulations will benefit the health and welfare of California residents and worker safety. It is not anticipated that the regulations will affect the state's environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulations or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled public hearing or during the written comment period.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Christina Shupe (Executive Officer) or the designated back-up person, Steve Smith (Principal Safety Engineer) at the Occupational

Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF THE PROPOSED REGULATIONS AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Shupe or Mr. Smith at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as modified. Please request copies of any modified regulations by contacting Ms. Shupe or Mr. Smith at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Shupe or Mr. Smith at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.