

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
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NOTICE OF PROPOSED MODIFICATIONS TO

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Section 1512 of the Construction Safety Orders
and Section 3400 of the General Industry Safety Orders

First Aid

Pursuant to Government Code section 11346.8(c), the Occupational Safety and Health Standards Board (Board) gives notice of the opportunity to submit written comments on the above named standards in which modifications are being considered as a result of public comments and/or Board staff consideration.

On April 21, 2022, the Board held a Public Hearing to consider revisions to title 8, section 1512 of the Construction Safety Orders and section 3400 of the General Industry Safety Orders. The Board received oral and written comments on the proposed revisions. The standards have been modified as a result of these comments and Board consideration.

A copy of the full text of the standard, with the modifications clearly indicated, is attached for your information. Anything that has been added is indicated by a bold underline, and anything that has been removed is indicated by a bold strikethrough.

Pursuant to Government Code section 11347.1, notice is also given of the opportunity to submit comments concerning the addition to the rulemaking file of the following documents relied upon by the Board:

ADDITIONAL DOCUMENT INCORPORATED BY REFERENCE

- American National Standards Institute, Inc. (ANSI)/International Safety Equipment Association (ISEA) Z308.1, American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies, 2021 Edition.

ADDITIONAL DOCUMENT RELIED UPON

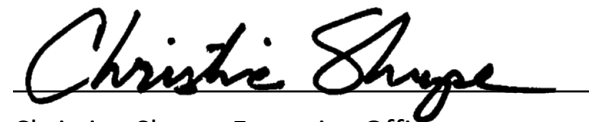
- American National Standards Institute, Inc. (ANSI)/International Safety Equipment Association (ISEA) Z308.1, American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies, 2021 Edition.

Any written comments on these modifications or document relied upon must be received by 5:00 p.m. on October 28, 2022 at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833 or submitted by fax to (916) 274-5743 or e-mailed to oshsb@dir.ca.gov. Only comments related to the modification of the text will be considered. This proposal will be scheduled for adoption at a future business meeting of the Board.

The Board's rulemaking files on the proposed action are open to public inspection BY APPOINTMENT Monday through Friday, from 8:00 a.m. to 4:30 p.m., at the Board's office at 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833. Appointments can be scheduled via email at oshsb@dir.ca.gov or by calling (916) 274-5721.

Inquiries concerning the proposed changes may be directed to the Executive Officer, Christina Shupe, at (916) 274-5721.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

A handwritten signature in black ink, reading "Christina Shupe", written over a horizontal line.

Christina Shupe, Executive Officer

Date: October 12, 2022

PROPOSED MODIFICATIONS

**(Deleted regulatory language is shown in bold strikethrough
and new regulatory language is shown in bold underline.)**

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PROPOSED STATE STANDARD,
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Amend Section 1512 to read:

§1512. ~~Emergency~~**Emergency** Medical Services ~~and First Aid~~.

(a) Provision of Services. Where more than one employer is involved in a single construction project on a given construction site, each employer is responsible to ensure the availability of emergency medical services for its employees. The employers on the project may agree to ensure employee access to emergency medical services for the combined work force present at the job site. Such an emergency medical service program shall be adequate to service the combined work force present, but only one emergency medical program need be established at such site.

(b) 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.

EXCEPTION: Engineering contractors or service providers on a job site not engaged in construction activity (e.g., operation of tools, equipment or machinery directly associated with construction) that are in compliance with the requirements of ~~§~~section 3400(b) of the General Industry Safety Orders.

(c) First-Aid Kit.

(1) Every employer working on or furnishing personnel on a construction project, on line crews and on other short duration or transient jobs shall provide at least one first-aid kit in a weatherproof **American National Standards Institute, Inc. (ANSI)/International Safety Equipment Association (ISEA) Z308.1, American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies, 2021 Edition, Type IV container suitable for conditions on the job site or vehicle-container**. The contents of the first-aid kit shall be **checked by the employer before being sent out on each job and inspected at least weekly-inspected regularly** to ensure that the expended items are promptly replaced. The contents of the first-aid kit shall be arranged to be quickly found and remain sanitary. **All employees shall have ready access to a first-aid kit, including employees at remote worksites or in work vehicles. The location of each first-aid kit shall be clearly indicated.** First-aid dressings shall be sterile in individually sealed packages for each item. The minimum first-aid supplies shall be determined by an employer-authorized, ~~licensed~~ physician **or other licensed**

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health care professional (PLHCP) as defined in section 5144, or shall meet the minimum requirements listed in Table 1 of this section for Class A first-aid kits within ANSI/ISEA Z308.1, American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies, 2021 Edition, which is hereby incorporated by reference.~~in accordance with the following Table:~~

<i>Supplies for First Aid</i>	<i>Type of Supply Required by Number of Employees</i>			
	1-5	6-15	16-200	over 200
Dressings and other materials in adequate quantities consisting of:				
1. Adhesive dressings	X	X	X	X
2. Adhesive tape rolls, 1-inch wide	X	X	X	X
3. Eye dressing packet	X	X	X	X
4. 1-inch gauze bandage roll or compress		X	X	X
5. 2-inch gauze bandage roll or compress	X	X	X	X
6. 4-inch gauze bandage roll or compress		X	X	X
7. Sterile gauze pads, 2-inch square	X	X	X	X
8. Sterile gauze pads, 4-inch square	X	X	X	X
9. Sterile surgical pads suitable for pressure dressings			X	X
10. Triangular bandages	X	X	X	X
11. Safety pins <u>Medical exam gloves</u>	X	X	X	X
12. Tweezers and scissors	X	X	X	X
* Additional equipment in adequate quantities consisting of:				
13. Cotton-tipped applicators			X	X
14. Forceps <u>Antibiotic treatment, single-use application</u>	X	X	X	X
15. Emesis basin <u>Antiseptic, single-use application</u>	X	X	X	X
16. Flashlight			X	X
17. Magnifying glass			X	X
18. Portable oxygen and its				

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breathing equipment <u>Single-use disposable barrier device for CPR in workplaces where performance of CPR may be required</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
19. Tongue depressors				<u>X</u>
<u>19. Appropriate record forms</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
20. Up-to-date 'standard' or 'advanced' first-aid textbook, manual or				
<u>Equivalent</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

*To be readily available but not necessarily within the first-aid kit.

Table 1: ANSI/ISEA Z308.1-2021 Minimum Requirements for Class A First-Aid Kits

<u>First Aid Supply (Minimum Size or Volume)</u>	<u>Minimum Quantity</u>
<u>Adhesive bandage, 1 x 3 in. (2.5 x 7.5 cm)</u>	<u>16</u>
<u>Adhesive tape, 2.5 yd (2.3 m) total</u>	<u>1</u>
<u>Antibiotic application, 1/57 oz (0.5 g)</u>	<u>10</u>
<u>Antiseptic, 1/57 oz (0.5 g)</u>	<u>10</u>
<u>Breathing barrier</u>	<u>1</u>
<u>Burn dressing (gel soaked), 4 x 4 in. (10 x 10 cm)</u>	<u>1</u>
<u>Burn treatment, 1/32 oz (0.9 g)</u>	<u>10</u>
<u>Cold pack*, 4 x 5 in. (10 x 12.5 cm)</u>	<u>1</u>
<u>Eye covering w/means of attachment, 2.9 sq in. (19 sq cm)</u>	<u>2</u>
<u>Eye/skin wash, 1 fluid oz (29.6 ml) total</u>	<u>1</u>
<u>First-aid guide**</u>	<u>1</u>
<u>Foil blanket, 52 x 84 in. (132 x 213 cm)</u>	<u>1</u>
<u>Hand sanitizer, 1/32 oz (0.9 g)</u>	<u>10</u>
<u>Medical exam gloves</u>	<u>2 pair</u>
<u>Roller bandage, 2 in. x 4 yd (5 cm x 3.66 m)</u>	<u>1</u>
<u>Scissors***</u>	<u>1</u>
<u>Sterile pad, 3 x 3 in. (7.5 x 7.5 cm)</u>	<u>2</u>
<u>Trauma pad, 5 x 9 in. (12.7 x 22.9 cm)</u>	<u>2</u>
<u>Triangular bandage, 40 x 40 x 56 in. (101 x 101 x 142 cm)</u>	<u>1</u>

*** In accordance with ANSI/ISEA Z308.1-2021, each cold pack shall reach a temperature between 20 and 40°F (-6 and 4°C) within 10 seconds of activation and shall maintain this**

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temperature for a period of at least 10 minutes. Cold packs shall activate under normal hand pressure and shall not leak under normal conditions of use.

** Topics included in the first-aid guide shall consist of those listed in Appendix A of ANSI/ISEA Z308.1-2021.

*** In accordance with ANSI/ISEA Z308.1-2021, scissors shall be autoclavable, at least 3.5 in. long (8.9 cm), capable of cutting through clothing, feature a blunt end to protect a person from accidental injury, and of medical professional quality.

~~(2) Other supplies and equipment, when provided, shall be in accordance with the documented recommendations of an employer authorized, licensed physician upon consideration of the extent and type of emergency care to be given based upon the anticipated incidence and nature of injuries and illnesses and availability of transportation to medical care. Based upon its size and the types of hazards in the workplace, the employer shall evaluate the need for, and shall provide:~~

(A) Additional first-aid kits; and

(B) Additional types or quantities of first-aid equipment and/or supplies.

NOTE 1 to subsection (c)(2): The minimum list of supplies in Table 1 may not be adequate to address the injuries that may occur in some work environments. For example, where there are exposures to chemical hazards for which specific first-aid treatments are specified on the Safety Data Sheets or otherwise recommended (such as for hydrofluoric acid, phenol solutions and cyanide compounds), provision of first-aid supplies beyond the minimum list in Table 1 and appropriate for such chemical exposures may be necessary to achieve compliance with the requirements of this subsection. Similarly, those places of employment with larger numbers of employees or frequent injuries requiring first-aid treatment may find it necessary to stock larger quantities of materials than the amounts listed in Table 1 in order for first-aid supplies to be always readily available.

NOTE 2 to subsection (c)(2): Employers should be aware that whenever first-aid materials for the treatment of chemical injuries are included in first-aid kits, the requirements of subsection 5194(h)(2)(E) for training on emergency procedures are triggered.

~~(3) Drugs, antiseptics, eye irrigation solutions, inhalants, medicines, or proprietary preparations shall not be included in first-aid kits unless specifically approved, in writing, by an employer-authorized, PLHCP licensed physician.~~

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(i) Written Plan. The employer shall have a written plan to provide emergency medical services. The plan shall specify the means of implementing all applicable requirements in this section. When employers form a combined emergency medical services program with appropriately trained persons, one written plan will be considered acceptable to comply with the intent of this subsection.

NOTE:

The provisions of ~~S~~Section 1512 are not intended to exclude immediate treatment of minor injuries which do not require the services of a ~~PLHCP~~physician.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3 and Section 2440, Labor Code.

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Amend Section 3400 to read:

§3400. **Emergency** Medical Services and First Aid.

(a) Employer shall ensure the ready availability of medical personnel for advice and consultation on matters of industrial health or injury.

(b) In the absence of an infirmary, clinic, or hospital, in near proximity to the workplace, which is used for the treatment of all injured employees, a person or persons shall be adequately trained to render first aid. Training shall be equal to that of the American Red Cross or the Mine Safety and Health Administration.

(c) Employers shall evaluate the need for first-aid supplies and shall ensure that there are ~~There shall be~~ adequate quantities and types of first-aid materials, ~~approved by the consulting physician,~~ readily available for employees on every job.

(1) Such materials shall be kept in a sanitary and usable condition **and shall be stored in an American National Standards Institute, Inc. (ANSI)/International Safety Equipment Association (ISEA) Z308.1, American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies, 2021 Edition, Type I, II, III, or IV container suitable for conditions on the job site or vehicle. All employees shall have ready access to a first-aid kit, including employees at remote worksites or in work vehicles. The location of each first-aid kit shall be clearly indicated.**

(2) A frequent inspection shall be made of all first-aid materials, which shall be replenished as necessary.

(3) At a minimum, employers shall furnish at least one first-aid kit containing the types and quantities of materials as determined by an employer-authorized, ~~licensed~~ physician **or other licensed health care professional (PLHCP) as defined in section 5144, or as listed in Table 1, shall meet the minimum requirements listed in Table 1 of this section for Class A first-aid kits within ANSI/ISEA Z308.1, American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies, 2021 Edition, which is hereby incorporated by reference.** Based upon its size and the types of hazards in the workplace, employers shall evaluate the need for, **and shall provide:**

(A) Additional first-~~kitsaid~~ kits; and

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(B) Additional types or quantities of first-aid equipment and/or supplies.

Table 1: ANSI/ISEA Z308.1-2021 Minimum Requirements for Class A First-Aid Kits ~~Materials~~

<u>Type of Supply and Minimum Size</u>	<u>Minimum Quantity</u>
<u>Absorbent Compress, 32 sq. in. (206 sq. cm), with no side smaller than 4 in. (10 cm)</u>	<u>1</u>
<u>Adhesive Bandages, 1 x 3 in. (2.5 x 7.5 cm)</u>	<u>16</u>
<u>Adhesive Tape, 3/8 in. x 2.5 yd. (2.3 m total)</u>	<u>1</u>
<u>Antibiotic Treatment, single-use application</u>	<u>6</u>
<u>Antiseptic, single-use application</u>	<u>10</u>
<u>Medical Exam Gloves</u>	<u>2 pairs</u>
<u>Sterile Pad, 3 x 3 in. (7.5 x 7.5 cm)</u>	<u>4</u>
<u>Triangular Bandage, 40 x 40 x 56 in. (101 x 101 x 142 cm)</u>	<u>1</u>
<u>Single-use disposable barrier device for CPR in workplaces where performance of CPR may be required</u>	<u>1</u>

<u>First Aid Supply (Minimum Size or Volume)</u>	<u>Minimum Quantity</u>
<u>Adhesive bandage, 1 x 3 in. (2.5 x 7.5 cm)</u>	<u>16</u>
<u>Adhesive tape, 2.5 yd (2.3 m) total</u>	<u>1</u>
<u>Antibiotic application, 1/57 oz (0.5 g)</u>	<u>10</u>
<u>Antiseptic, 1/57 oz (0.5 g)</u>	<u>10</u>
<u>Breathing barrier</u>	<u>1</u>
<u>Burn dressing (gel soaked), 4 x 4 in. (10 x 10 cm)</u>	<u>1</u>
<u>Burn treatment, 1/32 oz (0.9 g)</u>	<u>10</u>
<u>Cold pack*, 4 x 5 in. (10 x 12.5 cm)</u>	<u>1</u>
<u>Eye covering w/means of attachment, 2.9 sq in. (19 sq cm)</u>	<u>2</u>

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<u>Eye/skin wash, 1 fluid oz (29.6 ml) total</u>	<u>1</u>
<u>First-aid guide**</u>	<u>1</u>
<u>Foil blanket, 52 x 84 in. (132 x 213 cm)</u>	<u>1</u>
<u>Hand sanitizer, 1/32 oz (0.9 g)</u>	<u>10</u>
<u>Medical exam gloves</u>	<u>2 pair</u>
<u>Roller bandage, 2 in. x 4 yd (5 cm x 3.66 m)</u>	<u>1</u>
<u>Scissors***</u>	<u>1</u>
<u>Sterile pad, 3 x 3 in. (7.5 x 7.5 cm)</u>	<u>2</u>
<u>Trauma pad, 5 x 9 in. (12.7 x 22.9 cm)</u>	<u>2</u>
<u>Triangular bandage, 40 x 40 x 56 in. (101 x 101 x 142 cm)</u>	<u>1</u>

* In accordance with ANSI/ISEA Z308.1-2021, each cold pack shall reach a temperature between 20 and 40°F (-6 and 4°C) within 10 seconds of activation and shall maintain this temperature for a period of at least 10 minutes. Cold packs shall activate under normal hand pressure and shall not leak under normal conditions of use.

** Topics included in the first-aid guide shall consist of those listed in Appendix A of ANSI/ISEA Z308.1-2021.

*** In accordance with ANSI/ISEA Z308.1-2021, scissors shall be autoclavable, at least 3.5 in. long (8.9 cm), capable of cutting through clothing, feature a blunt end to protect a person from accidental injury, and of medical professional quality.

NOTE 1 to subsection (c)(3): The minimum list of supplies in Table 1 may not be adequate to address the injuries that may occur in some work environments. For example, where there are exposures to chemical hazards for which specific first-aid treatments are specified on the Safety Data Sheets or otherwise recommended (such as for hydrofluoric acid, phenol solutions and cyanide compounds), provision of first-aid supplies beyond the minimum list in Table 1 and appropriate for such chemical exposures may be necessary to achieve compliance with the requirements ~~in the first sentence of subsection 3400(c).~~ Similarly, those places of employment with larger numbers of employees or frequent injuries requiring first-aid treatment may find it necessary to stock larger quantities of materials than the amounts listed in Table 1 in order for first-aid supplies to be always readily available.

NOTE 2 to subsection (c)(3): Employers should be aware that whenever first-aid materials for the treatment of chemical injuries are included in first-aid kits, the requirement of ~~sub~~Section 5194(h)(2)(E) for training on emergency procedures ~~are may be~~ triggered.

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(f) Effective provisions shall be made in advance for prompt medical treatment in the event of serious injury or illness. This shall be accomplished by one or a combination of the following that will avoid unnecessary delay in treatment:

(1) A communication system for contacting a ~~doctor~~**PLHCP** or emergency medical service, such as access to 911 or equivalent telephone system. The communication system or employees using the system shall have the ability to direct emergency services to the location of the injured or ill employee.

(2) Readily accessible and available on-site treatment facilities suitable for treatment of reasonably anticipated injury and illness.

(3) Proper equipment for prompt medical transport when transportation of injured or ill employees is necessary and appropriate.

NOTE: Medical services and first aid provisions for electrical workers shall also comply with ~~Ss~~sections 2320.10 (Low-Voltage) and 2940.10 (High-Voltage) as applicable.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3 and Section 2440, Labor Code.

SUMMARY AND RESPONSE TO COMMENTS

SUMMARY AND RESPONSE TO WRITTEN AND ORAL COMMENTS

I. Written Comments:

1. Mathew Kuzemchak, Area Director, Federal Occupational Safety and Health Administration (OSHA), by email dated April 15, 2019

Comment:

The proposed occupational safety and health standards does not appear to be at least as effective as the federal standard.

Specifically, Section 1512 (c)(1) states “The contents of the first-aid kit shall be inspected regularly” while OSHA’s medical services and first aid standard for the construction industry states, “The contents of the first aid kit ... shall be checked by the employer before being sent out on each job and at least weekly.” The use of “regularly” in the state standard is non-specific and is likely to result in more than one week between inspections, increasing the likelihood that first-aid supplies will be depleted without the employer’s knowledge. The result is that crucial supplies are more likely to be unavailable at crucial moments.

The remainder of the standard appears to be as effective as, or more effective than, the Federal standard.

Response:

In response to this comment, the Board has harmonized the language in subsection 1512(c)(1) with the federal language. The state regulation will therefore be at least as effective as the corresponding federal regulation.

The Board thanks Mr. Kuzemchak for his comments and participation in the Board’s rulemaking process.

2. Dave Smith, Safety/Health Consultant, Dave Smith & Company Inc., by email dated April 18, 2022

Comment:

Mr. Smith points out that “In most states, employers who follow the ANSI/ISEA Z308.1 Consensus Standard are compliant. California has always been an outlier in requiring doctor letters for the specific contents of first aid kits.”

Mr. Smith’s experience is that many occupational physicians are not familiar with the doctor letter requirement. In both construction and general industry, education of the occupational physician was required, in that he needed their approval of the contents of a first aid kit. While this approval has always been achieved, he notes that it requires employer as well as the occupational physician time.

Mr. Smith notes that, “for most employers, readily available ANSI compliant first aid kits will allow easy compliance except for adding CPR barriers “where performance of CPR may be required. Again, more easily implemented safety orders will be more effective.” He points out that no easily located US vendors sell “DOSH Kits,” although many sell ANSI / ISEA 308.1 compliant kits, and he encourages DOSH to align its requirements with those of ANSI/ISEA 308.1.

Response:

The Board agrees with the commenter that it would be easier for employers to comply with the standard from the American National Standards Institute/International Safety Equipment Association (*ANSI/ISEA Z308.1-2021 American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies*). This ANSI standard is widely recognized in the U.S., and ANSI-compliant first-aid kits are easy to find and purchase.

The original proposal that contained lists that differed from the ANSI standard would be more difficult to find and purchase. The Board believes that this change would not negatively impact the safety and health of employees. As a result, the proposal has been updated by replacing the original list with a list of first aid supplies that is identical to the ANSI/ISEA Z308.1-2021 list for Class A first aid kits. The Board believes this list will effectively meet the first aid needs of employees and employers.

In addition, the Board agrees with the commenter that requiring construction employers to obtain a doctor’s letter for additional first-aid supplies is overly burdensome. The Board has therefore made three changes in response to this comment:

- (1) the Board has included the phrase “employer-authorized physician or other licensed health care professional (PLHCP) as defined in section 5144,” in order to expand the range of health care professionals to whom the employer may turn for approvals;
- (2) as an alternative to seeking approval by a PLHCP, the Board has introduced language that gives the employer the option of simply meeting the requirements for first-aid supplies listed in Table 1, which now comports with the ANSI/ISEA Z308.1-2021 list for Class A first aid kits; and
- (3) the Board has added the language from section 3400 to section 1512 that requires the employer to evaluate the need for, and provide, additional first-aid kits and additional types or quantities of first aid equipment and/or supplies, “based upon its size and the type of hazards in the workplace.” This language gives the employer flexibility in assessing hazards in the workplace and responding accordingly with more, or more specialized, first-aid equipment, as needed.

The Board has also added Note 1 and Note 2 from section 3400 to section 1512, which gives employers further flexibility in stocking larger quantities of first-aid materials and providing more specialized first-aid treatments where warranted.

The Board thanks Mr. Smith for his comments and participation in the Board's rulemaking process.

3. Linda Kiesbu, Director, Northern California Safety Consortium, by email dated April 21, 2022

Comment:

The Northern California Safety Consortium strongly supports keeping appropriate CPR barrier devices in the first-aid kit. The Consortium points out that "students in AHA courses are taught the proper time to use hands only, and they are also taught CPR, including the breathing. There are also some instances when breathing alone may be the appropriate thing, e.g., following an opiate overdose or a near drowning. This further reinforces the obvious need for barrier devices. Our suggestion would be to be specific in the language as to what constitutes an appropriate barrier device. The minimum standard to protect an employee would be a pocket mask, rather than the disposable keychain type barrier devices, in consideration of protection from airborne diseases like COVID."

Response:

The Board agrees with the commenter on the importance of retaining an appropriate Cardiopulmonary Resuscitation (CPR) breathing barrier in first-aid kits. A CPR breathing barrier is required under ANZI/ISEA Z308.1-2021 for Class A first-aid kits, and the Board has replaced the current list with the ANSI/ISEA list. A CPR breathing barrier will therefore be required for all first aid kits.

The Board thanks Ms. Kiesbu for her comments and participation in the Board's rulemaking process.

4. Michael Walton, Secretary, Construction Employers' Association, by email dated April 13, 2022

Comment:

Mr. Walton points out that "the rationale for requiring a doctor's authorization to add instant cold compresses, hand sanitizer or even knuckle bandages, all common first-aid supplies, but not included in the Table, is confusing and inconsistent with CCR Section 3400(c)(3)(B), the first-aid kit requirements for general industry."

He notes that under "CCR Sections 6251 regarding first-aid for logging and sawmills, as well as CCR Section 3439 regarding first-aid kits for agricultural operations, both high hazard industries, do not contain a physician authorization for the contents of first-aid kits. In fact, these regulations do not even include minimum requirements for the contents of first-aid kits. In addition, it's bewildering that under the existing requirements of Section 1512, scissors are required, but once the new regulation takes effect, an employer will need physician authorization to include them if they follow Table 1."

Mr. Walton writes that, “In contrast, the General Industry Safety Orders equivalent regulation, as proposed, does not require an employer to obtain a doctor’s authorization to add ‘additional types or quantities of first-aid equipment and/or supplies.’”

“When an employer is providing the required items contained in Table 1 of CCR Section 1512, the regulation should offer the same flexibility regarding the addition of items to the first-aid kit that is being proposed to CCR Section 3400. Like workplaces covered by Section 3400, construction projects often have Safety Data Sheets applicable to that workplace which may specify additional first-aid items.”

Finally, Mr. Walton notes that “Section 1512 (c)(3) already requires written physician authorization for drugs, inhalants, or medicines to be included in the first-aid kit. If an employer is meeting the minimum first-aid kit content requirements as specified in the Table and complying with Section 1512 (c)(3), a doctor’s authorization to place additional first-aid supplies in the kit is unnecessary.”

Response:

The Board agrees with the commenter that it would be easier for employers to comply with the standard from the American National Standards Institute/International Safety Equipment Association (*ANSI/ISEA Z308.1-2021 American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies*). This ANSI standard is widely recognized in the U.S. and ANSI-compliant first-aid kits are easy to find and purchase.

The original proposal that contained lists that differed from the ANSI standard would be more difficult to find and purchase. The Board believes that this change would not negatively impact the safety and health of employees. As a result, the proposal has been updated by replacing the original list with a list of first-aid supplies that is identical to the ANSI/ISEA Z308.1-2021 list for Class A first-aid kits.

The Board’s intent is not to require a doctor’s authorization to add cold compresses, hand sanitizer, or bandages to first-aid supplies for the construction industry.

The Board agrees with the commenter that requiring construction employers to obtain a doctor’s letter for additional first-aid supplies is overly burdensome. The Board has therefore made three changes in response to this comment:

- (1) the Board has included the phrase “employer-authorized physician or other licensed health care professional (PLHCP) as defined in section 5144,” in order to expand the range of health care professionals to whom the employer may turn for approvals;
- (2) as an alternative to seeking approval by a PLHCP, the Board has introduced language that gives the employer the option of simply meeting the requirements for first-aid supplies listed in Table 1, which now comports with the ANSI/ISEA Z308.1-2021 list for Class A first aid kits; and

- (3) the Board has added the language from section 3400 to section 1512 that requires the employer to evaluate the need for, and provide, additional first-aid kits and additional types or quantities of first aid equipment and/or supplies, “based upon its size and the type of hazards in the workplace.” This language gives the employer flexibility in assessing hazards in the workplace and responding accordingly with more, or more specialized, first aid equipment, as needed.

The Board has also added Note 1 and Note 2 from section 3400 to section 1512, which gives employers further flexibility in stocking larger quantities of first-aid materials and providing more specialized first-aid treatments where warranted.

The Board thanks Mr. Walton for his comments and participation in the Board’s rulemaking process.

5. Rangel Melendez, Director of Quality, Environmental, Health & Safety, Jain Americas, by email dated March 18, 2022

Comment:

Mr. Melendez notes that “Section 3400(b) implies “...near proximity to the workplace...” is to be as near as possible. Not every employer is near an “infirmary, clinic, or hospital” and the distance to them can be an issue of misinterpretation.” He notes that he has checked in the past with Consultation and has been told on different occasions that “it all “depends” on the situation.”

Mr. Melendez points out that his facility is “located within 2 minutes of an Occupational clinic, about 5 to 7 minutes to a hospital and other clinics around the hospital, and the fire department is within 2 to 3 minutes response time.” He notes that he has “been told that those may be too far for some emergencies, yet, if left to interpretation, they are “in the near proximity of the workplace”.” He is requesting that the language be modified to include more specifics regarding how close “near proximity” should be.

Response:

The distance in section 3400(b) may differ depending on the circumstances of the place of employment, and one specific distance cannot be set that will be appropriate for all places of employment.

In addition, the comment is beyond the scope of the proposal, as it concerns existing regulatory language not addressed in the current proposal.

The Board thanks Mr. Melendez for his comments and participation in the Board’s rulemaking process.

II. Oral Comments:

Oral comments received at the April 21, 2022, Public Hearing in Oakland, California.

1. Dave Smith, Dave Smith & Company Inc. *(comment provided during Public Comment portion of the meeting)*

Comment:

As a safety consultant, Mr. Smith stated his support for the first aid kit amendments that were prompted by Petition 519. Mr. Smith encourages the Board to vote yes on the proposed amendment. While Mr. Smith did not consider the proposed amendment “perfect,” he thought it was a big step forward. Mr. Smith also outlined several issues in his written comments. Also, please see Mr. Smith’s comments above (#2) from his written statement submitted to the Board, along with the Board’s response.

Response:

The Board thanks Mr. Smith for his comments and participation in the Board’s rulemaking process.

2. Steve Johnson, Associated Roofing Contractors of BAC

Comment:

Mr. Johnson notes that a CPR breathing device might not be needed because the American Heart Association now allows hands-only CPR. He raised a concern that an employer could be cited for not having such an item when it is no longer necessary for CPR, according to the AHA. Additionally, Mr. Johnson explained that it makes sense to include eye irrigation solution in first aid kits for construction sites because, “something flying into a worker’s eye, just something in the air” is pretty common and having an eye irrigation solution available would be helpful. He suggests that it would not take the place of a portable eye wash station that allows for 15-minutes of irrigation but would be helpful to have available.

Response:

The Board agrees with Mr. Johnson that the AHA has adopted hands-only CPR as an approach that is intended to improve the likelihood that bystanders will perform CPR because it does not require mouth-to-mouth resuscitation (https://cpr.heart.org/-/media/CPR-Files/Resources/Bystander-CPR/2202-updates/DS19398_ECC_CPRWeek_Fact_Flyer_01kk.pdf). However, for two reasons, the Board does not believe this change by the AHA warrants removal of the CPR breathing barrier from the items required in first-aid kits.

First, cardiac arrest is not the sole reason that a CPR breathing barrier might be needed. A CPR breathing barrier will also be needed to help an injured person who has stopped breathing but whose heart continues to function for some amount of time, such as can occur in certain kinds of drownings, electrocutions, drug overdoses, blunt chest trauma, isolated head injuries and other incidents. In these cases, chest compressions would be unnecessary but mouth-to-mouth

resuscitation would be required; as such, a CPR breathing barrier would be needed. Having such a device readily available in the first-aid kit is a reasonable response to this potentiality.

Second, in responding to numerous comments, the Board has decided to harmonize the required minimum list of first aid supplies in sections 1512 and 3400 with the requirements of the ANZI/ISEA Z308.1-2021 list for Class A first-aid kits, which currently requires a “CPR breathing barrier,” This is listed in the ANSI/ISEA Z308.1 Table 1 as “Breathing Barrier,” which is the term the Board will use in its list of required first aid items. The Board recognizes that varying from the ANSI consensus standard in this regulation could cause confusion for employers who are attempting to purchase a first-aid kit that meets both ANSI and Cal/OSHA requirements.

The Board agrees with Mr. Johnson regarding the availability of eye wash solution for minor eye irritations that do not require 15-minutes of flushing with a portable eye-wash station. This item is also included in the ANZI/ISEA Z308.1-2021 list for Class A first-aid kits and is therefore listed in Table 1 as a required first-aid item for sections 1512 and 3400.

The Board thanks Mr. Johnson for his comments and participation in the Board’s rulemaking process.

3. Brian Miller, Construction Employment Association

Comment:

Mr. Miller read some of the items from the CEA letter that was sent to the Board. CEA believes requiring a doctor’s authorization to add instant cold compresses, hand sanitizer or even knuckle bandages, all common in first aid kits but not included in the table, is confusing and inconsistent with section 3400(c)(3)(b), the first aid kit requirements for general industry. He also mentioned that a physician’s authorization will be needed to put scissors in the first aid kits if this regulation moves forward.

Mr. Miller called for greater flexibility in the rule regarding the types of first-aid items that the employer could supply, beyond the basic list of required items, based on the employer’s assessment of workplace hazards, including hazards facing contractors, in addition to those faced by employees. The commenter notes that the regulation should give the employer sufficient leeway to obtain and make available first-aid equipment that is specific to the unique hazards these workers face on a particular job. He illustrates this using the example of heat stress, noting that “...we do have a device, we call it our heat kit, or heat illness kit. It is a red bag. It's got cold compresses in it. It's got a cold towel in there, so you can wring some water on it. It has electrolytes in it. It's got a water bottle. And so if somebody is exhibiting heat illness symptoms, we can grab that bag and take it over to that employee, get him in some shade, get him some rest, get him some water, get him some electrolytes, get him some coolants on the neck, start getting him into a recovery period, determine if we need to call EMS or not. But now to have those kits on the job site I'm going to have to have a physician's note, because it's not authorized, right? So it's just kind of confusing to me.”

Response:

Please see the response to written comment #4.

The Board thanks Mr. Miller for his comments and participation in the Board's rulemaking process.

4. Cassie Hilaski, Nibbi Brothers

Comment:

Ms. Hilaski concurs with the previous point that construction "not be held to the limits of a doctor's approval if we want to put more things in our first aid kits," and that "flexibility is being proposed for general industry, and it makes no sense....why construction would be limited in that way." Ms. Hilaski points out that the safety data sheets they work with often specify first-aid items that are required to treat persons exposed to the chemical product, and they need the ability to add those items without having to obtain a physician's approval.

She points out that her first aid-trained personnel are capable of assessing the hazards on the job site, anticipating what first-aid supplies would be needed, and adding those supplies without having to "run to a doctor to get their approval." Finally, she points out that if employers are following Table 1 and subsection (c)(3), a doctors authorization to place additional supplies in the first-aid kit is unnecessary.

Response:

As mentioned within the response to written comment #4, the Board agrees with the commenter that requiring construction employers to obtain a doctor's letter for additional first aid supplies is overly burdensome. The Board has therefore made three changes in response to this comment:

- (1) the Board has included the phrase "employer-authorized physician or other licensed health care professional (PLHCP) as defined in section 5144," in order to expand the range of health care professionals to whom the employer may turn for approvals;
- (2) as an alternative to seeking approval by a PLHCP, the Board has introduced language that gives the employer the option of simply meeting the requirements for first-aid supplies listed in Table 1, which now comports with the ANZI/ISEA Z308.1-2021 list for Class A first-aid kits; and
- (3) the Board has added the language from section 3400 to section 1512 that requires the employer to evaluate the need for, and provide, additional first aid kits and additional types or quantities of first aid equipment and/or supplies, "based upon its size and the type of hazards in the workplace." This language gives the employer flexibility in assessing hazards in the workplace and responding accordingly with more, or more specialized, first aid equipment, as needed.

The Board has also added Note 1 and Note 2 from section 3400 to section 1512, which gives employers further flexibility in stocking larger quantities of first aid materials and providing more specialized first aid treatments where warranted.

The Board thanks Ms. Hilaski for her comments and participation in the Board's rulemaking process.

5. Toli Mikell, PARC Environmental

Comment:

Mr. Mikell points out that the Board should conform its list of required first-aid items to an established standard, be it Red Cross or the ANSI Standard, and that the standard should allow employers the flexibility to stock additional first-aid supplies that are recognized to be of value without having to obtain a doctor's note.

Response:

Please see the response to written comment #4.

The Board thanks Mr. Mikkel for his comments and participation in the Board's rulemaking process.

6. Kevin Bland, Ogletree, Deakins, Nash, Smoak and Stewart, PC

Comment:

Mr. Bland points out that in his recollection from 2006, physician authorization would not be needed for adding standard items to a first aid kit, such as gauze or hand sanitizer, whereas medications would require authorization. He recommends clarifying that item in the final statement of reasons, unless it can be clarified in the language itself. In general, Mr. Bland is seeking clarification on the obligation of employers to seek authorization from a physician when the employer wants to add first aid supplies beyond the minimal list, and he suggests that allowing flexibility in adding items to first aid kits would be helpful to employers.

Response:

Please see the response to oral comment #4.

The Board thanks Mr. Bland for his comments and participation in the Board's rulemaking process.

7. Barbara Burgel, Occupational Safety and Health Standards Board Member

Comment:

Board Member Burgel explained that she would prefer that the standard uses PLHCP, Physician or other Licensed Health Care Professional, rather than using “physician,” as is used in other standards.

Board Member Burgel concurred with and supported the comments made by the construction industry that flexibility should be encouraged and allowed under the standard, which would give employers the ability to go beyond the minimum requirement list; however, she noted that in some cases, such as with antidotes for cyanide poisoning, for example, approval by the licensed health care professional would be appropriate, as well as pharmacy consultation.

Response:

The Board agrees that the regulation should refer to “Physician or other Licensed Health Care Professional” (PLHCP) instead of “physician” to be consistent with other title 8 regulations and has made this change throughout the proposal.

With regard to the question of flexibility, the Board has added the language from section 3400 to section 1512 that requires the employer to evaluate the need for, and provide, additional first-aid kits and additional types or quantities of first-aid equipment and/or supplies, “based upon its size and the type of hazards in the workplace.” This language gives the employer flexibility in assessing hazards in the workplace and responding with more, or more specialized, first-aid equipment, as needed.

The Board has also added Note 1 and Note 2 from section 3400 to section 1512, which gives employers further flexibility in stocking larger quantities of first-aid materials and providing more specialized first-aid treatments where warranted.

Board Member Burgel’s comments are noted for the record.

8. Kate Crawford, Occupational Safety and Health Standards Board Member

Comment:

Board Member Crawford requested clarification on this point that has come up by the construction industry and Kevin Bland regarding minimum requirements, and when physician oversight is required.

Response:

Please see the response to written comment number #4.

Board Member Crawford’s comments are noted for the record.

9. David Thomas, Occupational Safety and Health Standards Board Chair

Comment:

Chair Thomas opined that the current regulatory text is too complicated and needs to be fixed.

Response:

The Board has simplified the proposal by harmonizing the required minimum list of first-aid supplies in both sections 1512 and 3400 with the requirements of the ANZI/ISEA Z308.1-2021 list for Class A first-aid kits, while also giving the employer the option to add to this list based on the employer's own assessment of hazards in the workplace. This ANSI standard is widely recognized in the U.S., and ANSI-compliant first-aid kits are easy to find and purchase. The original proposal contained lists for first-aid kits that differed from the ANSI standard, which would make these first-aid kits more difficult to find and purchase.

Chair Thomas' comments are noted for the record.