OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
(916) 274-5721
www.dir.ca.gov/oshsb

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

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

FIRST AID

SUMMARY

This proposal would implement changes to California Code of Regulations (CCR) title 8, section 1512, Emergency Medical Services and section 3400, Medical Services and First Aid.

The purpose of the proposed rulemaking is to facilitate employer compliance and improve employee safety by clarifying and modernizing the requirements of sections 1512 and 3400 regarding the first-aid needs of employees.

The proposed revisions to both sections meet these objectives by ensuring that:

(1) Workplace first-aid kits meet the requirements for Class A first-aid kits in American National Standards Institute (ANSI)/International Safety Equipment Association (ISEA) Z308.1-2021, American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies;

(2) The location of all first-aid kits is “clearly indicated” in the workplace;

(3) All employees have “ready access” to an ANSI/ISEA Z308.1-2021-compliant first-aid kit within three to four minutes;

(4) Employers assess any unique hazards in the workplace and provide first-aid supplies in accordance with those hazards, aZ308s needed, in addition to the supplies required under the ANSI/ISEA Z308.1-2021 standard; and,

(5) Employers who choose to do so are able to consult with a physician or licensed health care professional (PLHCP) in lieu of consulting with a physician regarding their first-aid needs, and as an alternative to complying with the ANSI/ISEA-Z308.1-2021 standard.

In general, these changes will reduce the time it takes an injured employee to receive first-aid treatment and will improve the effectiveness of such treatments.

The proposed rules do not apply where a CCR title 8 vertical standard includes its own first-aid requirements, including:

- Logging and Sawmill Safety Orders (section 6251)[1]
- Mine Safety Orders (section 6969)[2]
- Agricultural Operations (section 3439)[3]

The Occupational Safety and Health Standards Board (Board) initiated this rulemaking in response to Petition No. 519, adopted by the Board on March 17, 2011. The Board granted the petition to the extent that the Division of Occupational Safety and Health (Cal/OSHA) was directed to convene a representative advisory committee to examine the issues raised by the petition regarding section 3400 and to review and revise, as necessary, the list of first-aid supplies required under section 1512.

Petition No. 519 requested that section 3400 be revised to allow employers to seek out allied health professionals in lieu of a physician to determine their first-aid needs, or to simply comply with the ANSI Z308.1 standard. The petitioner requested "that a similar table as used in the construction regulation be used and included in the revision, preferably following the guidelines of the above ANSI standard." The Board convened an advisory committee on June 29, 2011 to consider Petition No. 519.

The Board had previously received petition numbers 481, 482 and 483 in 2006 pertaining to first aid. Petition 481, from J. Alan Schumann, sought to add a requirement mandating the inclusion of instructional materials in first-aid kits. Petition 482, from an anonymous Petitioner, sought to create a requirement for employees to be able to access the 911 emergency line from the workplace. Petition 483, from Dave K. Smith, requested that sections 1512 and 3400 be amended by removing the requirement that first-aid supplies be approved by a consulting physician, and replacing this with a requirement that first-aid kits comply with the ANSI Z308.1-2003 standard, or be approved by a consulting physician.

The Board granted Petitions 481, 482 and 483 to the extent that it directed Cal/OSHA to convene an advisory committee to determine the merits of these petitions together as a group. The Board convened this advisory committee on November 3, 2006.

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[1] California Code of Regulations title 8, subchapter 13. Logging and Sawmill Safety Orders. Article 1.5. Accident Prevention and First Aid. Section 6251. First Aid. https://www.dir.ca.gov/Title8/6251.html.

[2] California Code of Regulations title 8, subchapter 17. Mine Safety Orders. Article 5. Care of Injured. Section 6969 (15-1). Care of the Injured. https://www.dir.ca.gov/title8/6969.html.

[3] California Code of Regulations title 8, subchapter 7. General Industry Safety Orders. Group 3. General Plant Equipment and Special Operations. Article 13. Agricultural Operations. Section 3439. First-Aid Kit. https://www.dir.ca.gov/title8/3439.html.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

What is the problem this rulemaking intends to address? [Government Code (GC) section 11346.2(b)(1)].

The advisory committee convened on November 3, 2006 rejected the concepts proposed in petitions 481 and 482, but generally concurred with the recommendations in petition 483; however, the committee was not able to reach a decision on how best to update the text of sections 1512 and 3400.

The advisory committee convened on June 29, 2011, for Petition No. 519 concurred with the Petitioner that requiring employers to consult with a physician on the content of first-aid kits is unnecessary for employee safety and overly burdensome for employers. The committee recommended that sections 1512 and 3400 should retain the ability of employers to consult with a physician as an alternative to complying with a standardized ANSI/ISEA Z308.1-compliant list of first-aid supplies, but that the consultation be expanded beyond a physician to a "physician or other licensed health care professional (PLHCP)." The committee concluded that allied health professionals, such as registered nurses, physician assistants and paramedics, are fully capable of consulting with employers on first-aid practices, so employee safety is maintained with their involvement, and they are generally more cost-effective compared to physicians.

The committee noted that the list of first-aid supplies required under section 1512 is outdated, and that requiring employers to adjust the specific types and quantities of first-aid supplies based by the number of employees on a job makes compliance unnecessarily difficult, given that the number of employees on construction crews can vary each day.

The committee generally concurred with the Petitioner that aligning the first-aid kit requirements in sections 1512 and 3400 with the ANSI/ISEA Z308.1 standard would improve both compliance and employee safety. Committee members suggested that sections 1512 and 3400 should also retain the ability of employers to consult with a physician as an alternative to complying with a standardized ANSI/ISEA Z308.1 list of first-aid supplies, but that this should be expanded to include a "physician or other licensed health care provided (PLHCP)." Finally, the committee recommended that sections 1512 and 3400 include language pertaining to specialized first-aid supplies that might be needed to address unique hazards in the workplace; that is, hazards for which the minimum set of first-aid supplies in the ANSI/ISEA Z308.1 standard might be inadequate.

What is the purpose of this rulemaking? [GC section 11346.2(b)(1)]

The purpose of this rulemaking is to facilitate employer compliance and improve employee safety by updating and clarifying the requirements under sections 1512 and 3400 pertaining to the first-aid needs of employees.

In support of this objective, the June 29, 2011, advisory committee expressed support for applying the ANSI/ISEA Z308.1 standard as the minimum set of first-aid supplies that should be required under sections 1512 and 3400. The committee recommended that it would also be important for these sections to either require or allow employers to augment this standard list with specialized supplies that would be necessary

to address any unique hazards in the workplace, such as by providing "snakebite kits" in outdoor work areas where snakes are likely to present. The committee recommended that augmenting first-aid kits with specialized supplies would require that employers evaluate hazards in the workplace and supply the first-aid items appropriate to those hazards. As noted above, the committee also recommended that it would be important to continue giving employers the option of consulting with a physician regarding the content of first-aid kits, but that this option should be expanded beyond physicians to include PLHCPs.

In response to the committee's recommendations and to comments received by the Board in 2023 and 2024, the proposed changes to sections 1512 and 3400 will ensure that:

(6) Workplace first-aid kits meet the requirements for Class A first-aid kits in American National Standards Institute (ANSI)/International Safety Equipment Association (ISEA) Z308.1-2021, American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies;

(7) The location of all first-aid kits is "clearly indicated" in the workplace;

(8) All employees have "ready access" to an ANSI/ISEA Z308.1-2021-compliant first-aid kit within three to four minutes;

(9) Employers assess any unique hazards in the workplace and provide first-aid supplies in accordance with those hazards, as needed, in addition to the supplies required under the ANSI/ISEA Z308.1-2021 standard; and,

(10) Employers who choose to do so are able to consult with a physician or licensed health care professional (PLHCP) in lieu of consulting with a physician regarding their first-aid needs, and as an alternative to complying with the ANSI/ISEA-Z308.1 2021 standard.

In general, these changes will reduce the time it takes an injured employee to receive first-aid treatment and will improve the effectiveness of such treatments.

Why is this rulemaking necessary? [GC sections 11346.2(b)(1) and 11349(a)]

The proposed revisions correct several shortcomings in sections 1512 and 3400. Both sections require employers to obtain physician approval for the contents of first-aid kits, rather than following national first-aid consensus standards. This is burdensome for employers, particularly small businesses, and leads to a lack of uniformity in the contents and quality of first-aid kits. Both sections do not require employers to assess unique hazards in the workplace and provide first-aid supplies in accordance with those hazards. Section 1512 requires certain first-aid supplies at construction sites that are unnecessary or outdated, and some are quite costly, such as oxygen and breathing equipment. Section 1512 requires construction employers to provide different types of first-aid supplies depending on the number of employees on a particular job, which is logistically challenging because the number of employees on construction jobs can

change each day. Section 3400 does not provide sufficient specificity to employers regarding the content and quality of first-aid kits.

Changes to sections 1512 and 3400 are necessary to ensure that these sections: (1) provide for a minimum set of first-aid supplies that reflects the modern practice of first-aid; (2) ensure that employees have ready access to an appropriately stocked first-aid kit; (3) ensure that employers evaluate the need for, and provide, additional first-aid kits and more specialized first-aid supplies based on the number and distribution of employees in the workplace and the types of hazards present; and (4) retain the option of employers to consult with a physician while expanding this to include Physicians or other Licensed Health Care Providers (PLHCPs).

What are the proposed changes to sections 1512 and 3400?

The proposed changes to sections 1512 and 3400 are as follows:

SECTION 1512. EMERGENCY MEDICAL SERVICES

Section 1512 currently requires employers on construction projects to ensure the availability of (1) medical services for emergencies; (2) appropriately trained individuals to render first aid; and (3) appropriately stocked and maintained first-aid kits.

In addition, this section requires employers to inform employees about emergency procedures, provide for prompt transportation to a location where emergency care can be provided, provide emergency eyewashes and showers if exposure to hazardous chemicals is foreseeable, provide for two-way emergency communication and a basket litter when employees are working in structures with five or more floors or 48 feet above or below ground level, and have a written plan specifying how section 1512 is to be implemented.

SECTION 1512. EMERGENCY MEDICAL SERVICES

The proposal revises the title of section 1512 from “Emergency Medical Services” to “Emergency Medical Services and First Aid.”

- This change is necessary to more accurately portray the contents of the section and to align the title of section 1512 with the title of section 3400, which the proposal also amends to “Emergency Medical Services and First Aid.” This change will help employers and employees recognize that these sections pertain to the same topic.

Subsection (b) EXCEPTION

The proposal makes a change in the “EXCEPTION” below subsection (b), replacing “Section” with “section.”

- This change is necessary to fix a typographical error. The term “section” should not be capitalized.

Subsection (c)(1)

At subsection 1512(c)(1), the proposal amends the second sentence to read, “The contents of

the first-aid kit shall be checked by the employer before being sent out on each job and at least weekly on each job to ensure that the expended items are promptly replaced."

- This change is necessary to ensure that first-aid kits are always properly stocked and that the proposed changes to section 1512 are at least as effective as the federal Occupational Safety and Health Administration (OSHA) standard. This language is verbatim with the federal OSHA standard at 1926.50 subsection (d)(2).

At subsection 1512(c)(1), the proposal adds two new sentences, which read, "All employees shall have ready access to a first-aid kit. The location of each first-aid kit shall be clearly indicated."

- This change is necessary to reduce the time it takes an injured employee to receive first-aid treatment. Time spent searching for a first-aid kit that is either inaccessible or whose location is poorly marked could endanger the life of a seriously injured employee.

- This change is necessary to ensure that the proposed changes to section 1512 are consistent with federal OSHA's 2007 interpretation of "near proximity" for first-aid kits, which states that, "while the standards do not prescribe a number of minutes, OSHA has long interpreted the term "near proximity" to mean that "emergency care must be available within no more than 3-4 minutes from the workplace, an interpretation that has been upheld by the Occupational Safety and Health Review Commission and by federal courts."[4]

At subsection 1512(c)(1), the proposal adds the phrase "…types and quantities of…" and replaces "licensed physician" with "physician or other licensed health care professional (PLHCP) as defined in section 5144[.]"

- The addition of "…types and quantities of…" is necessary to clarify that Table 1 includes minimum requirements pertaining to both the "type" of first-aid item and the "quantity" of that item that is required in each first-aid kit.

[4] Federal OSHA Standard Interpretations (January 16, 2007). Standard numbers 1910.151, 1910.151(b), 1910.266, 1910.266(i)(7), 1910.269, 1910.269(b), 1910.1030, 1910.1030(b), 1910.1030(g)(2), 1926.50, 1926.50(c). By Richard E. Fairfax, Director, Directorate of Enforcement Programs. https://www.osha.gov/laws-regs/standardinterpretations/2007-01-16-0.

- Replacing "physician" with "PLHCP" is necessary to give employers the option of consulting with either a physician or an allied health professional regarding their first-aid needs. Because allied health professionals are capable of providing this service at lower cost, this change reduces costs to the employer but does not reduce worker safety.

At subsection 1512(c)(1), the proposal adds the phrase, "or shall meet the requirements of Table 1 of this section, which conforms with the requirements for Class A first-aid kits specified within American National Standards Institute (ANSI)/International Safety Equipment Association (ISEA) Z308.1-2021, American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies."

- This change is necessary to provide the employer with the option of meeting the first-aid kit requirements of Table 1, rather than consulting with a PLHCP. The inclusion of the ANSI/ISEA Z308.1-2021 list reduces costs and improves employee safety by requiring a minimum set of first-aid supplies that reflects the modern practice of first-aid, as demonstrated, for example, by the inclusion of medical exam gloves to prevent contact with blood borne pathogens; a breathing barrier to protect against exposure to infectious agents; a foil blanket for the treatment of shock; hand sanitizer to prevent cross-contamination; medical-grade scissors to access serious wounds; and a standard set of practical trauma supplies to treat both minor and major wounds.

At subsection (c)(1), the proposal eliminates the existing table in its entirety and adds a new Table 1, entitled "Minimum Requirements for First Aid Kits." This table lists 19 first-aid items and their quantities that will be required under the proposed revisions to section 1512 in first-aid kits at construction workplaces. This list is identical to the list of items required under the ANSI/ISEA Z308.1-2021 standard for Class A first-aid kits and is identical to the list of first-aid items required in Table 1 of the proposed changes to section 3400.

- Removing existing Table 1 is necessary to facilitate employer compliance by requiring a single set of first-aid items, as listed in the revised Table 1, which must be supplied in first-aid kits, irrespective of the number of employees on the job. This is simpler for employers to implement, given that the number of employees working on a construction job can vary each day.

- This change facilitates employer compliance and improves employee safety by standardizing the minimum set of first-aid items that must be readily accessible to employees, if the employer opts not to consult with a PLHCP on this matter. The proposed change retains the ability of employers to consult with a PLHCP in lieu of complying with Table 1, if that is the employer's preferred approach.

- This change is necessary to eliminate the logistical challenges associated with the existing list of required first-aid supplies and to align section 1512 with modern first-aid practices. Because the proposed list of first-aid supplies meets the requirements of the ANSI/ISEA Z308.1-2021 standard for Class A first-aid kits, it also ensures that first-aid kits will meet the needs of most employees; will be available on the market at reasonable

cost; and will be efficient to implement.

The proposal adds three footnotes under Table 1, designated with one, two or three asterisks.

- These footnotes are necessary to harmonize Table 1 with the requirements of the ANSI/ISEA Z308.1-2021 standard for Class A first-aid kits, which includes each of these footnotes.

- The footnotes clarify three items listed in Table 1. The first footnote clarifies that a chemical cold pack is required, rather than a cold pack that must be refrigerated. The second footnote establishes a minimum set of topics that must be included in the required first-aid guide. The second footnote references a new mandatory Appendix A, which lists the first-aid topics that must be covered by the first-aid guide, which is included in the Table 1 list of minimum supplies that must be in all first-aid kits. This list complies with the list in Appendix A in the ANSI/ISEA Z308.1-2021 standard for Class A first-aid kits. The third footnote specifies requirements for medical scissors; it is intended to prevent the use of poor-quality scissors that can cause additional injuries to an injured employee when used to remove clothing, and that can contain infectious agents if not properly sterilized after use.

- These footnotes ensure that, for these three items, first-aid kits are stocked with supplies that are appropriate for use in first aid.

New subsection (c)(2)

The proposal deletes the following existing language: “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.”

The requirement to provide “other supplies and equipment,” based on the “nature of injuries and illnesses” in the workplace is retained in the revised text in (c)(2), described below; however, the requirement to obtain the approval of a licensed physician to do so has been removed. In the proposed changes to subsection (c)(2), the responsibility to assess unique workplace hazards and provide first-aid supplies accordingly rests with the employer.

- This change is necessary to simplify compliance with section 1512 and reduce the cost of doing so. Employers are capable of, and responsible for, evaluating the nature of potential injuries and illnesses in the workplace and providing first-aid supplies appropriate to those injuries or illnesses.

In place of the existing (c)(2), the proposal adds the following phrase: “Based upon its size, the location(s) of employees, and the types of hazards in the workplace, the employer shall evaluate the need for, and shall provide: (A) Additional first-aid kits to ensure ready access by employees; and (B) Additional types and quantities of first-aid equipment and supplies appropriate to the types of hazards in the workplace.”

- This addition is necessary to improve employee safety by ensuring that the employer assesses the need for, and provides, additional first-aid kits to ensure ready access in large workplaces or where employees are otherwise not co-located, as well as first-aid equipment and supplies that might be needed to address any unique hazards in the workplace. For example, where employees could be exposed to high heat, the employer would be required to assess the potential frequency, intensity and duration of exposure to high heat and provide first-aid items that could be used to cool and hydrate a heat-stressed employee while emergency medical services are being summoned.

- This change will ensure that, beyond the minimum list of first-aid supplies required under Table 1 (or as recommended by a PLHCP), any additional first-aid supplies that may be needed to address unique hazards in the workplace will be provided by the employer.

New Notes to subsection (c)(2)

Under subsection (c)(2)(B), the proposal adds a new note, pointing out that when first-aid kits contain materials for the treatment of chemical injuries, the requirements of CCR title 8, section 5194(h)(2)(E) apply, pertaining to employee training on emergency procedures.

- This addition is necessary to clarify that under section 5194, employees must be trained in the use of first-aid treatments for chemical injuries if those treatments are included in first-aid kits.

Subsection (c)(3)

The proposal removes “antiseptics” and “eye irrigation solutions” from the existing list of items requiring approval by a PLHCP and replaces “licensed physician” with “PLHCP,” the acronym used for “physician or other licensed health care professional.”

- This change is necessary because under the proposed changes to section 1512, antiseptics and eye irrigation solutions are included in the required first-aid items listed in Table 1; therefore, by definition they do not need approval by a PLHCP. These items are listed in Table 1 as “antiseptic, 1/57 oz (0.5 g)” and “eye/skin wash, 1 fluid oz (29.6 ml) total.”

- Using “PLHCP” in place of “licensed physician” is necessary to be consistent with subsection 1512(c)(1) and to provide employers with the option of consulting with a PLHCP regarding the inclusion of drugs, inhalants, medicines and proprietary preparations in first-aid kits. By allowing consultation with an allied health professional in lieu of a physician, this change reduces costs to the employer but does not reduce employee safety.

Subsection (i)

The proposal makes a change in the “Note” below subsection (i), replacing “physician” with

"PLHCP," and replacing "Section" with "section."

- This change is necessary because the term "PLHCP" is used throughout the section, rather than "physician," which allows employers to consult with non-physician health care providers regarding their first-aid needs. This facilitates employer compliance by improving the number of health care providers available to employers for these services, without reducing employee safety. The change to "section" is necessary because this term is not capitalized throughout the section.

Appendix A – Mandatory

This new Appendix lists the required contents of the first-aid guide that is required in Table 1. The list complies with the Appendix 1 list in the ANSI/ISEA Z308.1-2021 standard.

SECTION 3400. MEDICAL SERVICES AND FIRST AID

Section 3400 currently requires employers to:

(1) ensure the "availability of medical personnel for advice and consultation on matters of industrial health and injury;"

(2) provide for appropriately trained individuals to render first aid if medical facilities are not located nearby;

(3) provide "adequate first-aid materials, approved by the consulting physician" that are "readily available for employees on every job;" and,

(4) prepare for prompt treatment of a serious injury or illness by providing for a means of communicating with emergency medical services, providing on-site treatment and providing equipment for prompt medical transport.

This section also requires employers to provide emergency eyewashes and showers if exposure to hazardous chemicals could occur and, if required by Cal/OSHA, to provide stretchers and blankets unless "ambulance service is available within 30 minutes under normal conditions."

Section 3400. Medical Services and First Aid.

The proposal revises the title of section 3400 from "Medical Services and First Aid" to "Emergency Medical Services and First Aid."

- This change is necessary to more accurately portray the requirements of the section, which pertain to emergency medical services and first aid, not to "medical services," a term that includes primary care and other clinical services outside the scope of the section. This change is also the same title proposed for section 1512, which will help employers and employees recognize that these sections pertain to the same topic.

Subsection (c)

At subsection 3400(c), the proposal amends the sentence to read, "Employers shall evaluate the need for first-aid materials and shall ensure that there are adequate quantities and types of first-aid materials readily available for employees on every job."

- This new subsection specifies that consulting with a "physician or other licensed healthcare professional (PLHCP)" is an option for employers who opt not to stock first-aid kits with the list of supplies under the new Table 1.

- This change is necessary to remove the requirement pertaining to the "consulting physician," which is moved to a new subsection (c)(3) of section 3400, and refers to a "physician or other licensed health care professional (PLHCP)" in lieu of a physician.

- This change is also necessary to ensure that employers evaluate hazards in the workplace and provide adequate quantities and types of first-aid materials accordingly. This requirement is described in more detail in subsection (c)(3).

New subsection (c)(1)

The proposal adds a new subsection 3400(c)(1) that reads, "All employees shall have ready access to a first-aid kit. The employer shall furnish a sufficient number of first-aid kits to meet this requirement. The location of each first-aid kit shall be clearly indicated."

- This change is necessary to reduce the time it takes an injured employee to receive first-aid treatment. Time spent searching for a first-aid kit that is inaccessible, or whose location is poorly marked, could endanger the life of a seriously injured employee.

- This is consistent with federal OSHA's 2007 letter of interpretation, which found that, "while the standards do not prescribe a number of minutes, OSHA has long interpreted the term "near proximity" to mean that "emergency care must be available within no more than 3-4 minutes from the workplace, an interpretation that has been upheld by the Occupational Safety and Health Review Commission and by federal courts."[5]

New subsection (c)(2)

The proposal adds a new subsection 3400(c)(2) that reads:

"The minimum types and quantities of materials in first-aid kits shall either comply with the requirements of Table 1 of this section, which conforms with the requirements for Class A first-aid kits specified within ANSI/ISEA Z308.1-2021, American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies, hereby incorporated by reference, or shall be determined by an employer-authorized physician or other licensed health care professional (PLHCP), as defined in section 5144."

- This addition indicates that the requirements of Table 1 are identical to those of the ANSI/ISEA Z308.1-2021 standard for Class A first-aid kits.

- This addition is necessary to specify that the employer can meet the requirements for stocking first-aid kits by either complying with Table 1 or by consulting with a PLHCP.

New subsection (c)(3)

The proposal adds a new subsection 3400(c)(3) that reads, "Based upon its size, the location(s) of employees, and the types of hazards in the workplace, the employer shall evaluate the need for, and shall provide, additional first-aid kits and additional types and quantities of first-aid equipment and supplies."

- This change will ensure that, beyond the minimum list of first-aid supplies required under Table 1 (or as recommended by a PLHCP), the employer must ensure that employees have ready access to a first-aid kit by providing additional kits, as needed, depending on the size of the workplace, the location(s) of employees, and the types of hazards in the workplace. In addition, the employer must provide additional types of first-aid supplies, as needed, to

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[5] Federal OSHA Standard Interpretations (January 16, 2007). Standard numbers 1910.151, 1910.151(b), 1910.266, 1910.266(i)(7), 1910.269, 1910.269(b), 1910.1030, 1910.1030(b), 1910.1030(g)(2), 1926.50, 1926.50(c). By Richard E. Fairfax, Director, Directorate of Enforcement Programs. https://www.osha.gov/laws-regs/standardinterpretations/2007-01-16-0.

address any unique hazards in the workplace

- For example, where employees could be exposed to high heat, the employer would be required to assess the potential frequency, intensity and duration of exposure to high heat and provide first-aid items that could be used to cool and hydrate a heat-stressed employee while emergency medical services are being summoned.

- This addition is necessary to improve employee safety by ensuring that the employer assesses the need for, and provides, additional first-aid kits as well as specialized first-aid supplies to address any unique hazards in the workplace.

New Table 1

The proposal adds a new "Table 1: Minimum Requirements for First Aid Kits." This table lists 19 first-aid supplies and their quantities that would be required in general industry first-aid kits under the proposed revisions to section 3400. This list is identical to the list of supplies required under the ANSI/ISEA Z308.1-2021 standard for Class A first-aid kits and is identical to the list of first-aid supplies required in Table 1 of the proposed changes to section 1512.

- This change is necessary to facilitate employer compliance and improve employee safety by modernizing and standardizing the minimum set of first-aid items that employers must include in first-aid kits, if the employer opts not to consult with a PLHCP.

- This change is necessary to align section 3400 with the requirements of the ANSI/ISEA Z308.1-2021 standard, as well as with modern first-aid practices, as demonstrated, for example, by the inclusion of medical exam gloves to prevent contact with blood borne pathogens; a breathing barrier to protect against exposure to infectious agents; a foil blanket for the treatment of shock; hand sanitizer to prevent cross-contamination; medical-grade scissors to access serious wounds; and a standard set of practical trauma supplies to treat both minor and major wounds.

- Because the proposed list of first-aid supplies meets the requirements of the ANSI/ISEA Z308.1-2021 standard, it also ensures that first-aid kits will be (1) readily available on the market at reasonable cost; (2) simple to implement; and (3) able to meet the first-aid needs of most employees.

Under Table 1, the proposal adds three footnotes, designated with one, two or three asterisks.

- These footnotes are necessary to harmonize Table 1 with the requirements of the ANSI/ISEA Z308.1-2021 standard, which includes each of these footnotes.

- The footnotes clarify three items listed in Table 1. The first footnote specifies that a chemical cold pack is required, rather than a cold pack that must be refrigerated. The second footnote establishes the minimum set of topics that must be included in the required first-aid guide, and it refers to a new Appendix A, which lists the topics that must

be included in the first-aid guide. This list complies with Appendix A of ANSI/ISEA Z308.1-2021. The third footnote specifies requirements for medical scissors; it is intended to prevent the use of poor-quality scissors that can cause additional injuries to an injured employee when used to remove clothing, and that can contain infectious agents if not properly sterilized after use.

- These footnotes ensure that, for these three items, first-aid kits are stocked with supplies that are appropriate for use in first aid.

Under subsection (c)(3), the proposal adds a new note, pointing out that when first-aid kits contain materials for the treatment of chemical injuries, the requirements of CCR title 8, section 5194(h)(2)(E) apply, pertaining to employee training on emergency procedures.

- This Note is necessary to clarify that under section 5194, employees must be trained in the use of first-aid treatments for chemical injuries if those treatments are included in first-aid kits.

Subsection (f)(1)

At subsection (f)(1), the proposal replaces "doctor" with "PLHCP," which is the acronym used for "physician or other licensed health care professional."

- This change is necessary because "PLHCP" is used throughout the proposed changes to section 3400 in place of "physician" or "doctor."

Appendix A – Mandatory

This new Appendix lists the required contents of the first-aid guide that is required in Table 1. The list complies with the Appendix 1 list in the ANSI/ISEA Z308.1-2021 standard.

Does this rulemaking adopt or amend a federal law or regulation? [GC section 11346.2(c)]

Until 1998, Federal OSHA's corresponding first-aid regulations (under 29 CFR section 1910.151 for general industry and 29 CFR section 1926.50 for the construction industry) required employers to consult with a physician regarding the content of first-aid kits. Federal OSHA removed the consulting physician requirement in 1998 and replaced it with a non-mandatory appendix to both regulations, which states that physicians or other experts should be consulted when an employer has unique first-aid needs or when larger quantities or additional first-aid supplies might be necessary for "larger or multiple operations."

The proposed changes to sections 1512 (construction) and 3400 (general industry) are at least as effective as the corresponding Federal OSHA standards, 29 CFR section 1926.50 (construction) and section 1910.151 (general industry). If adopted, the proposed changes to these sections will offer more protections to employees compared to the federal regulations, which do not require any specific types of first-aid supplies; do not require the employer to evaluate and provide first-aid supplies based on any unique workplace hazards; and do not provide employers with the option of determining their first-aid needs by consulting with a

PLHCP in lieu of a physician.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

What is the evidence that the rulemaking will have no significant adverse economic impact on businesses? [GC §11346.2(b)(5)(A) and (§11346.3)].

ESTIMATED COSTS OF IMPLEMENTATION

The Board conducted this analysis using data from the first quarter of 2022, which was the most up-to-date data available at the time. The methodological approach used in 2022 is still representative of the regulated universe. To account for California employment changes and price growth that occurred between the first quarter of 2022 and December 2023, the Board has applied an additional correction factor of 4% to all cost estimates, based on California's CPI inflation rate of 3.9% during this period.[6] This adjustment is included throughout the Economic Impact Analysis/Assessment described below.

[6] California Department of Industrial Relations. Consumer Price Index Calculator. https://www.dir.ca.gov/oprl/CPI/CPICalculator/CpiCalculator.aspx. Accessed July 25, 2024. At this website, select: (1) California, (2) All Urban Consumers, (3) Annual Average, (4) 2022, (5) Annual Average, (6) 2023. As of July 25, 2024, the percent change in the Consumer Price Index (CPI) was 3.9%.

ASSUMPTIONS

The Board relied on ten assumptions to derive estimated costs for the proposed revisions to sections 1512 and 3400. Each of these assumptions is described below.

Using these ten assumptions, the Board built six different cost models that apply 18 scenarios to predict a range of potential costs, to which the Board applied 8.2% in taxes and a 50% overage to account for indirect costs and variability across workplaces.

Based on these models, the Board derived an overall point estimate (mean), along with the expected variability around the mean (standard deviation and coefficient of variation). The use of these assumptions and descriptive statistics provides for cost estimates that are both transparent and robust. The Board then applied the 4% inflation factor to adjust these values, as noted above.

A description of the ten assumptions follows.

Assumption 1. Aggregating data from 18 cost scenarios produces a stable point estimate.

The Board developed a cost model with 18 cost scenarios. The model estimates that between 5% and 95% of employers will continue to consult with a PLHCP, or about 43%,[7] and the remaining 57% of employers will comply with Table 1 by choosing Option 1, 2 or 3 (described below) with equal frequency, at an average cost per first-aid kit of $24.66.[8]

The model produces a mean point estimate of $14,774,451 in first year costs for construction and general industry businesses under the proposed revisions to sections 1512 and 3400, respectively. This estimate includes 8.2% in taxes and 50% overage to account for indirect costs and variability across workplaces. One standard deviation ($5.7 million) around the mean of $14,774,451 produces a cost range from $9.1 to $20.5 million, which captures 68% of values in the population. Two standard deviations around the mean produces a cost range from $3.4 to $26.2 million, which captures 95% of values in the population. The coefficient of variation of 0.4 indicates that the data are reasonably concentrated around the mean. The 4% inflation adjustment brings this point estimate to $15,365,429 as the total first year cost for the proposed revisions to sections 1512 and 3400.

Based on this analysis, the Board is confident that the first year point estimate of $15,365,429 is the most plausible estimate.

Assumption 2: A minimum of one first-aid kit is needed for every 25 employees.

Employers need to determine the number of first-aid kits that will be needed to meet the requirement in the revisions to sections 1512 and 3400 that all employees have "ready access" to a first-aid kit. For example, while a single first-aid kit might be sufficient for a group of 25

[7] The average of 5% + 10% + 25% + 50% + 75% + 95% = 43%.
[8] The average of $12.00 + $34.95 + $27.02 = $24.66.

employees co-located in a single office, two or more kits would be needed for 25 employees who are dispersed across a large warehouse or industrial setting. Because the design and hazards in each workplace are unique, assessing "ready access" is possible only on a facility-by-facility basis; therefore, the Board applied an approach based on Federal OSHA guidance.

Federal OSHA's interpretation of "near proximity" for purposes of first aid ranges from three to four minutes in most cases.[9] The proposed revisions also require employers to provide more specialized first-aid supplies, if warranted, to address any unique hazards in the workplace. Federal OSHA's first-aid guidance document takes this same approach.[10]

Given the "ready access" requirement in the revisions to section 1512 and 3400, and OSHA's interpretation of "near proximity," the Board estimated initial costs by assuming that a minimum of one first-aid kit would be needed for every 25 employees. The Board applied a tax rate of 8.2% to all estimates, and then applied a 50% overage to account for indirect costs and variability across workplaces.

Assumption 3: Between 5% and 95% of employers will rely on PLHCP to determine the contents of their first-aid kits.

Existing section 3400 requires that "adequate first-aid material" be determined by a consulting physician. Similarly, existing section 1512 mandates that "the minimum first-aid supplies shall be determined by an employer-authorized physician," or the employer can choose to provide first-aid supplies as listed in the existing Table 1.

Under the revisions to sections 1512 and 3400, employers may continue to provide first-aid kits as determined by a PLHCP, in lieu of a physician, which will reduce the costs of obtaining such approvals. Employers who choose to consult with a PLHCP are not necessarily required to change any of the items in their existing first-aid kits under the revisions to sections 1512 and 3400, unless this conflicts with the employer's assessment of unique workplace hazards that is required under the revisions.

Accordingly, the Board constructed 18 scenarios to estimate first year costs for first-aid kits, which assume that 95%, 75%, 50%, 25%, 10% or 5% of employers would continue to rely on a PLHCP to determine the contents of their first-aid kits, and that this consultation would be cost-neutral. In the aggregate, the model estimates that 43% of employers will choose to continue relying on a PLHCP.

The approximately 57% of employers who do not choose to rely on a PLHCP will have to comply with the new Table 1 in the revisions to sections 1512 and 3400. In each model, the Board

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[9] Federal OSHA Standard Interpretations (January 16, 2007). Standard numbers 1910.151 1910.151(b) 1910.266 1910.266(i)(7) 1910.269 1910.269(b) 1910.1030 1910.1030(b) 1910.1030(g)(2) 1926.50 1926.50(c). By Richard E. Fairfax, Director, Directorate of Enforcement Programs. https://www.osha.gov/laws-regs/standardinterpretations/2007-01-16-0

[10] Federal OSHA (2006). Best Practices Guide: Fundamentals of a Workplace First-Aid Program. OSHA 3317-06N 2006. https://www.osha.gov/sites/default/files/publications/OSHA3317first-aid.pdf

calculated costs for first-aid kits based on the percentage of employers who choose to purchase or build their own first-aid kits, including 8.2% in taxes (see Assumption 4, below). The Board then added 50% as an overage to account for variability across workplaces and indirect costs (see Assumption 8).

Assumption 4: The estimated 57% of employers who choose not to rely on a PLHCP will choose one of the following options:

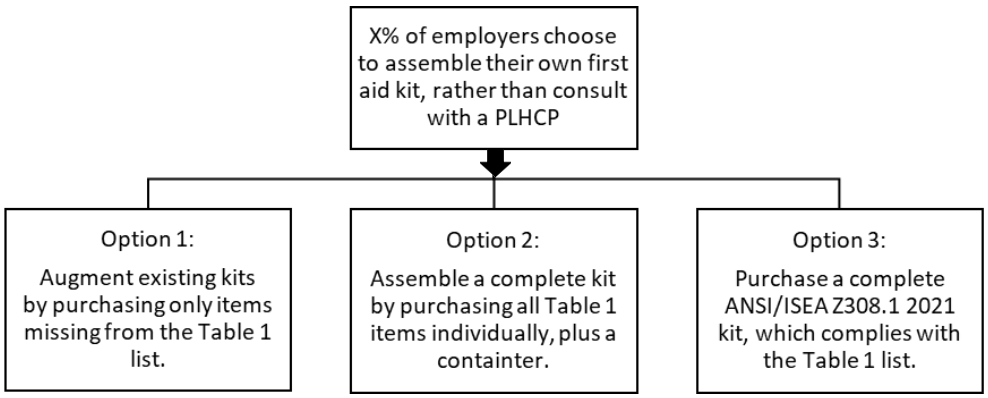
Option 1—Augment existing kits: Under this Option, the employer would augment their existing first-aid kits with any items that are missing from the new Table 1 list in the revised sections 1512 and 3400, as needed.

Option 2—Build a full kit: Under this Option, the employer would assemble their own first-aid kits by purchasing the full set of individual items listed in the new Table 1 and packaging them into a suitable container.

Option 3—Purchase a commercial kit: Under this Option, the employer would purchase a complete, commercially packaged, ANSI/ISEA Z308.1 2021 Class A-compliant first-aid kit, which under the proposed revisions to sections 1512 and 3400 is compliant with the new Table 1 list.

These three Options are illustrated in Figure 1.

Figure 1. Three options available to employers who elect not to consult with a PLHCP.



Assumption 5. The cost of Option 1 is $12.00 per kit, assuming that 10 new items would need to be purchased.

Under Option 1, employers would augment their existing first-aid kits with individual items from the required Table 1 list in the revisions to sections 1512 and 3400. A sample of prices for each item is listed in Appendix A, Figure 2 in the Attachment to the std 399. The median price for the 19 items listed is $1.20, including 8.2% tax. Shipping is typically provided free of charge. The Board assumed that employers would need to augment their existing kits with 10 new

items, at $1.20 per item, or $12.00 per first-aid kit, and that employers would have a suitable container and would therefore not need to purchase one for $7.50.

Assumption 6. The cost of Option 2 is $34.95 per kit, assuming bulk purchasing.

A 2022 search of Amazon.com revealed that employers could purchase the full set of 19 individual first-aid items listed in the new Table 1 in the revisions to sections 1512 and 3400 for $34.95, including 8.2% tax. This price includes $32.30 for the 19 first-aid items and plastic container and $2.65 in taxes. A sample of prices for each item is listed in Appendix A, Figure 2 in the Attachment to the std 399.

Assumption 7. The cost of Option 3 is $27.02 per kit.

A 2022 Google search revealed that employers are able to purchase a complete ANSI/ISEA Z308.1 2021 Class A-compliant first-aid kit for $27.02, including 8.2% tax. This includes $24.98 for the kit and $2.04 in taxes. Shipping is typically provided free of charge. This first-aid kit meets the requirements of the new Table 1.

In the aggregate, the model assumes that about 57% of employers will comply with Table 1 by choosing Option 1, 2 or 3 with equal frequency. This results in an average price per first-aid kit of $24.66.[11]

Assumption 8. The Board applied a 50% overage on all cost estimates to account for indirect costs and variability across workplaces.

When calculating costs based on the estimate that a minimum of one first-aid kit will be needed for every 25 employees, the Board applied a 50% overage to account for indirect costs and for variability across different workplaces. As noted above, to meet the "ready access" requirement, a single first-aid kit might be acceptable in an office setting with 25 co-located employees, but it would be insufficient for 25 employees dispersed throughout a large warehouse or industrial facility, particularly if these facilities contained unique hazards that could cause an injury for which quick access to first-aid treatment would be needed. Raising all cost estimates by 50% reasonably accounts for the inherent differences among workplaces across different industry sectors.

Indirect costs include those resulting from staff time to arrange for a consultation with a PLHCP, for example, or to assess inventories and update the contents of first-aid kits to ensure they comply with the new Table 1, or to identify and purchase complete ANSI/ISEA Z308.1-2021 Class A-compliant kits, which meet the requirements of the new Table 1.

Assumption 9. The Board applied a tax rate of 8.2% to all cost estimates.

The Board calculated the median tax rate of 8.2%, effective October 1, 2022, using the rates listed for 1,786 California cities and counties by the California Department of Tax and Fee

[11] The average of $12.00 + $34.95 + $27.02 = $24.66.

Administration (CDTFA).[12] The Board applied this figure in estimating all costs. In each model, the Board applied the 50% overage after including the tax rate. The Board then applied the 4% adjustment factor to account for inflation that occurred between the first quarter of 2022 to December 2023.

Assumption 10. The cost of first-aid kits is best estimated using the total number of employees, rather than the number of businesses.

As noted below, the revisions to sections 1512 and 3400 affect 1,658,341 businesses and 17,621,358 employees in construction and general industry. The number of first-aid kits needed in a workplace is determined primarily by the number of employees present. The Board therefore estimated the number of first-aid kits that will be needed, along with their costs, based on the number of affected employees, rather than on the number of affected businesses. It would be inappropriate, for example, to assume that a coffee shop with five employees and a construction company with 500 employees each represent a single business for purposes of assessing the cost impacts of the proposed revisions to these sections.

TOTAL NUMBER OF EXISTING BUSINESSES AFFECTED

The revisions to sections 1512 and 3400 affect 1,658,341 businesses and 17,621,358 employees. [13,14] Of these businesses, section 1512 affects 89,489 construction businesses and 890,884 construction employees, and section 3400 affects 1,568,852 general industry businesses and 16,730,474 employees.[15] Five percent (5%) of total affected businesses and employees are therefore in construction and 95% are in general industry.

FIRST YEAR COSTS FOR EXISTING BUSINESSES

First year costs of the revisions to sections 1512 and 3400 together are $15,365,430 (Figure 2). Five percent (5%) of total first year costs under section 1512 are incurred by construction businesses ($776,831) and 95% of first year costs under section 3400 are incurred by general industry businesses ($14,588,599). The costs per business and per employee are similar in both

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[12] CDTFA. California City & County Sales & Use Tax Rates (effective October 1 to December 31, 2022). Average = 8.2%. https://www.cdtfa.ca.gov/taxes-and-fees/Archive-Rates-10-1-2022-12-31-2022.pdf

[13] California Employment Development Department (EDD): Size of Business Data for California (Quarterly). Payroll and Number of Businesses by Size of Business – Classified by Industry (Table 2A) – 2022, Qtr 1. Total businesses at line 10 (Total All Industries) in Table 2A are 1,658,341. Construction employers at line 26 are 89,489. https://labormarketinfo.edd.ca.gov/LMID/Size-Data-for-CA-Quarterly.html

[14] EDD: Size of Business Data for California (Quarterly). Number of Employees by Size Category – Classified by Industry (Table 2B) – 2022, Qtr 1. Total employees at line 11 (Total All Industries) in Table 2B are 17,621,358. Construction employees at line 27 are 890,884. https://labormarketinfo.edd.ca.gov/lmid/size_of_business_data.html

[15] California Employment Development Department (EDD): Size of Business Data for California (Quarterly). Payroll and Number of Businesses by Size of Business – Classified by Industry (Table 2A) – 2022, Qtr 1. Total businesses at line 10 (Total All Industries) in Table 2A are 1,658,341. Construction businesses at line 26 are 89,489. General industry businesses are 1,568,852. https://labormarketinfo.edd.ca.gov/LMID/Size-Data-for-CA-Quarterly.html.

sectors. Businesses are able to estimate their first year costs of the revisions using these figures.

Figure 2. First year costs for construction (section 1512) and general industry (section 3400), including 8.2% in taxes, 50% overage to account for indirect costs and variability across workplaces, and 4% adjustment for inflation occurring between the first quarter of 2022 and December 2023.

	Number of affected businesses	Percent of total businesses	Number of affected employees	Percent of affected employees	Total first year costs of revisions	Percent of total first year costs	First year cost per business	First year cost per employee
Section 1512	89,489	5%	890,884	5%	$776,831	5%	$8.68	$0.87
Section 3400	1,568,852	95%	16,730,474	95%	$14,588,599	95%	$9.30	$0.87
Total	1,658,341	100%	17,621,358	100%	$15,365,430	100%	$17.98	$0.87

ANNUAL MAINTENANCE COSTS FOR EXISTING BUSINESSES (YEARS 2+)

After the first year, annual maintenance costs are estimated at $12.00 per first-aid kit, which includes 8.2% in taxes.[16] Assuming that a minimum of one first-aid kit is needed for every 25 employees, as noted above under Assumption #2, a total of 704,854 kits will be needed to meet the first-aid needs of the 17,621,358 employees affected by the revisions to sections 1512 and 3400.[17] The total estimated statewide cost of maintaining first-aid kits is therefore $13,194,867 each year, including 50% overage to account for indirect costs and variability across workplaces, and the 4% adjustment factor.[18]

Of these total annual maintenance costs, construction businesses would likely incur 5%, or $659,743 per year, and general industry businesses would incur 95%, or $12,535,124 per year.

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[16] This cost estimate assumes that 10 "sets" of items are used from each kit per year, where a "set" means the full number of individual items required by Table 1, such as 16 adhesive bandages, 10 antibiotic applications, or one cold pack. The median price for these 19 items (not including the container) is $1.20, including 8.2% tax.[16] These 19 items are required under the revisions to sections 3400 and 1512 in Table 1 for those employers who choose not to consult with PLHCP. Ten replacement items at $1.20 per item therefore costs $12.00 per first-aid kit per year.

[17] 17,621,358 employees / 25 = a minimum of 704,854 first-aid kits for all employers covered by the revisions to section 1512 and 3400.

[18] Calculations:

- Total first-aid kits needed: 17,621,358 employees / 25 employees per first-aid kit = a minimum of 704,854 first-aid kits.
- Unadjusted cost per year: 704,854 first-aid kits * $12.00 per kit per year = $8,458,252 per year.
- Adjusted cost for 50% overage: $8,458,252 + ($8,458,252 * 0.5) = $12,678,378.
- Adjust cost for 4% inflation: $12,678,378 * 1.04 = $13,194873 total cost per year in maintenance costs for affected construction and general industry businesses, beginning in year two of the proposed revisions.

The estimated annual maintenance costs for existing businesses over six years (2025 to 2030) include first year costs of $15,365,429 (2025, inclusive), plus annual maintenance costs over the following five years (2026 to 2030, inclusive) of $13,194,867 per year, for a total cost of $81,339,764 by 2030.[19] These estimates include 8.2% in taxes, 50% overage for indirect costs, and the 4% inflation adjustment factor.

FIRST YEAR AND ANNUAL (YEARS 2+) COSTS FOR SMALL (<100 EMPLOYEES) AND TYPICAL EXISTING BUSINESSES (≥100 EMPLOYEES)

The total first year and annual (years 2+) costs for small and typical businesses are illustrated in Figures 3 and 4, below. These figures show that small businesses comprise 98.5% of affected businesses, but they employ 56% of the affected workforce, whereas typical businesses comprise only 1.5% of affected businesses but employ 44% of the affected workforce. As a consequence, the first year and annual maintenance costs for typical businesses are significantly higher than those of small businesses.[20]

Figure 3*. First year costs for small businesses (<100 employees) and typical businesses (≥100 employees), showing total, per business and per employee costs.*

	Total affected businesses, 1512 & 3400	Percent of total businesses	Total affected employees, 1512 & 3400	Total first year costs of revisions	Percent of total first year costs	Percent of affected employees	First year cost per business	First year cost per employee
Small Business	1,634,092	98.5%	9,786,602	$8,533,698	56%	56%	$5.22	$0.87
Typical Business	24,249	1.5%	7,834,756	$6,831,732	44%	44%	$282	$0.87
Total	1,658,341	100%	17,621,358	$15,365,429	100%	100%	$287	$0.87

Figure 4. *Annual ongoing (years 2+) maintenance costs for small businesses (<100 employees) and typical businesses (≥100 employees) showing total, per business and per employee costs.*

[19] (1 year * $15,365,429 per year) + (5 years * $13,194,867 per year) = $81,339,764 by 2030.

[20] Why the per business costs are so different between small and typical businesses: (1) Because typical construction and general industry businesses make up only 1.5% of affected businesses but employ 44% of employees, the cost per business is much higher compared to small businesses. (2) The model described in the Attachment to the Economic and Fiscal Impact Statement (std 399) assumes that between 5% and 95% of small and typical employers will continue to consult with a PLHCP, or about 43%. These businesses are assumed to incur zero first year costs under the revisions to sections 1512 and 3400. Only 56% of businesses will incur the costs of complying with the new Table 1 by implementing one of the three Options. (3) The model assumes that one first-aid kit is needed for every 25 employees. Ninety-two percent (92%) of the 44% of small businesses that choose to comply with Table 1 rather than consult with a PLHCP have fewer than 19 employees, so they will need only one first-aid kit per business.

	Total affected businesses, 1512 & 3400	Percent of total businesses	Total affected employees, 1512 & 3400	Total annual costs of revisions	Percent of total annual costs	Percent of affected employees	Annual cost per business	Annual cost per employee
Small Business	1,634,092	98.5%	9,786,602	$7,328,208	56%	56%	$4.48	$0.75
Typical Business	24,249	1.5%	7,834,756	$5,866,665	44%	44%	$242	$0.75
Total	1,658,341	100%	17,621,358	$13,194,873	100%	100%	$246	$0.75

The first year and annual (year 2+) maintenance costs per employee ($0.87 and $0.75 respectively) are identical for small and typical businesses because the revisions to sections 1512 and 3400 require the same kinds of first-aid supplies in Table 1 for both types of businesses. Construction and general industry employers are able to estimate their first year and annual ongoing first-aid costs based on these per employee estimates.

FUTURE COSTS FOR EXISTING BUSINESSES, 2025-2030

By 2030, the statewide costs that existing businesses are expected to incur to comply with the revisions to sections 1512 and 3400 include $15,365,429 in the first year (2025), plus $13,194,867 in each of the five years thereafter (2026-2030) in maintenance costs, both of which include 8.2% in taxes, 50% overage to account for variability among workplaces, and the 4% adjustment factor to account for inflation between the first quarter of 2022 and December 2023. This equates to a total cost by 2030 of $81,339,764, or $13,556,627 on average per year over this six year period. [21]

SAVINGS FOR NEW BUSINESSES, 2025-2030

California's workforce is expected to reach 20,629,600 by 2030, up from 17,621,358 as of the first quarter of 2022. This represents an expansion of 17%, or 3,008,242 new employees.[22] As noted above, 95% (19,598,120) of these new employees will likely be employed in general industry, and 5% (1,031,480) will be employed in construction.

If California businesses see a similar 17% growth rate by 2030, as expected, the total number of businesses will reach 1,940,259, up from 1,658,341 as of the first quarter of 2022. This represents an expansion of 281,918 new businesses. Ninety-five percent (267,822) of these will likely be in general industry and 5% (14,095) in construction.

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[21] (1 year * $15,365,429 per year) + (5 years * $13,194,867 per year) = $81,339,764 by 2030. This comes to $13,556,627 on average per year.

[22] EDD. Employment Projections. Go to "Long-term Projections," then to "California," "Long-term (Ten-years) Projections," then to "Industry Projections 2020-2030." Line 5 shows base year employment estimate of 2020 and projected year employment estimate of 2030. The numeric change indicated differs somewhat from our number because our base year is the first quarter of 2022, not 2020.
https://labormarketinfo.edd.ca.gov/data/employment-projections.html

The proposed revisions to sections 1512 and 3400 will result in cost savings for these new businesses because they will no longer be required to consult with a physician regarding their first-aid needs. The revised sections will allow these businesses to either consult with a PLHCP or simply comply with the new Table 1 of required first-aid supplies. The new Table 1 list comports with the requirements of the ANSI/ISEA-2021 standard, so compliant first-aid kits and supplies will be readily available on the market. In addition, the revisions to section 1512 remove several first-aid supplies from the current list of required items that construction businesses will no longer be required to purchase and maintain, including portable oxygen and breathing equipment.

Under existing sections 1512 and 3400, each new business would be required to consult with a physician regarding their first-aid needs. A one-hour consultation at $240 per hour for these new 281,918 businesses comes to $67,660,320 over the six years between 2025 and 2030 (inclusive), assuming that new businesses would begin entering the market in 2025.[23] This estimate does not include costs resulting from inflation during this period. This comes to $11,276,720 in savings each year during this six year period.

The revisions to sections 1512 and 3400 therefore allow new California businesses to save a total of $11,276,720 each year between 2025 and 2030 by allowing employers to provide first-aid kits that comply with the new Table 1, without having to consult with a physician.

COSTS TO LOCAL AGENCIES

The revisions to section 3400 will affect 1,786 local government agencies that employ 1,716,700 employees.[24] Local agencies are expected to incur an estimated $1,496,721 in costs in the first year and $1,285,465 in annual maintenance costs each year thereafter (Figure 5). These estimates include 8.2% in tax, 50% overage, and the 4% adjustment factor.

These costs are not reimbursable by the state for reasons other than those listed in Section 17556 of the Government Code. The proposed revisions impose requirements that apply generally to all individuals and entities in the state; they do not impose any requirements unique to local governments.[25]

The first year cost of $1,496,721 comes to $838 per agency and, because a minimum of one first-aid kit is needed for every 25 employees, to $0.87 per employee (Figure 5).[26] Local agencies are able to estimate their first year costs using this figure.

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[23] $240 per hour * 286,918 new businesses = $67,660,320

[24] EDD. Employment by Industry Data. Go to "California," then to "2010-current" under "Historical Monthly Data." Scroll right to March 2022, which corresponds to the third quarter of 2022. https://labormarketinfo.edd.ca.gov/data/employment-by-industry.html

[25] *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56-58.

[26] $1,496,721 / 1,786 local agencies = $838 per agency in the first year. $1,496,721 / 1,716,700 local agency employees = $0.87 per employee in the first year.

Figure 5. First year and annual costs for local agencies, showing total, per agency and per employee costs.

	Number of affected agencies	Number of affected employees	Total first year costs of revisions	First year cost per agency	First year cost per employee	Total annual costs of revisions	Annual cost per agency	Annual cost per employee
Local Agencies	1,786	1,716,700	$1,496,721	$838	$0.87	$1,285,465	$720	$0.75

The annual maintenance cost of $1,285,465 for all local agencies combined assumes that each first-aid kit will require $12.00 of replacement items per year.[27] This equates to an annual maintenance cost of $720 for each local agency, or $0.75 per employee (Figure 5).[28] Local agencies are able to estimate their annual first-aid maintenance costs using this figure.

SAVINGS FOR LOCAL AGENCIES

The revisions to section 3400 give local agencies the option of complying with the new Table 1 list of first-aid items, in lieu of consulting with a physician, which is a cost-saving measure. However, because physician consultation is an existing requirement under section 3400, it represents a sunk cost that local agencies have already incurred.

The cost savings resulting from the revisions to section 3400 will therefore only be realized by new local agencies that form in the future, assuming that existing local agencies do not consult with a physician more than one time regarding their first-aid needs. Since the formation of new local agencies is a relatively rare occurrence in California compared to the formation of new businesses, as noted above, the Board assumes that the proposed revisions to section 3400 offer zero savings to local agencies.

COSTS TO STATE AGENCIES

The revisions to section 3400 will cost the state's 200 state government agencies a total of $457,687 in the first year, or $2,378 per agency and annual maintenance costs of $442,046 each year thereafter (Figure 6). The first-year estimate assumes that a minimum of one first-aid kit is needed for every 25 employees. Both estimates includes 8.2% in taxes, 50% overage to account for indirect costs and variability across agencies, and the 4% adjustment factor.

Because these 200 state agencies employ 545,600 employees, the first year cost of $475,687 comes to $0.87 per employee (Figure 6). State agencies are able to estimate their first year implementation costs using this figure.

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[27] 1,716,700 employees / 25 = 68,668 first-aid kits. 68,668 kits * $12.00 = $824,016. To calculate 50% overage: $824,016 + ($824,016 * 0.50) = $1,236,024. To calculate the 4% adjustment: $1,236,024 * 1.04 = $1,285,465.
[28] $1,285,465 / 1,786 agencies = $720 each year in maintenance costs per agency.

FIGURE 6. First year and annual costs for state agencies, showing total, per agency and per employee costs.

	Number of affected agencies	Number of affected employees	Total first year costs of revisions	First year cost per agency	First year cost per employee	Total annual costs of revisions	Annual cost per agency	Annual cost per employee
State Agencies	200	545,600	$475,687	$2,378	$0.87	$442,046	$2,210	$0.81

The annual maintenance cost of $442,046 for the 200 state agencies combined assumes that each first-aid kit will require $12.00 of replacement items per year.[29] This estimate includes 8.2% in tax, 50% overage and the 4% adjustment factor. This equates to an annual cost of $2,210 per agency, or $0.81 per employee (Figure 6). State agencies are able to estimate their annual first-aid maintenance costs using this figure.

SAVINGS FOR STATE AGENCIES

The revisions to section 3400 give state agencies the option of complying with the new Table 1 list of first-aid items, in lieu of consulting with a physician, which is a cost-saving measure. However, because physician consultation is an existing requirement under section 3400, it represents a sunk cost that state agencies have already incurred.

The cost savings resulting from the revisions to section 3400 will therefore only be realized by new state agencies that form in the future, assuming that existing state agencies do not consult with a physician more than one time regarding their first-aid needs. Since the formation of new state agencies is a relatively rare occurrence in California compared to the formation of new businesses, the Board assumes that the proposed revisions to section 3400 offer zero savings to state agencies.

Are there reasonable alternatives to the rulemaking, and what are the Board's reasons for rejecting those alternatives? [GC section 11346.2(b)(4)(A)]

The Board considered making no changes to sections 1512 and 3400; however, the Board rejected this approach because (1) several comments received by the Board, including those made by the advisory committee, raised concerns regarding the effectiveness of both sections; and (2) the proposed revisions address limitations in sections 1512 and 3400 by eliminating unnecessary first-aid items, modernizing the contents of first-aid kits, ensuring ready access to first-aid kits by employees, ensuring the availability of first-aid items for unique workplace hazards, and providing additional options for employers regarding consultation with a PLHCP in

[29] 545,600 employees / 25 = 21,824 first-aid kits. 21,824 kits * $12.00 = $261,888 per year. To calculate 50% overage: $261,888 + ($261,888 * 0.50) = $392,832. To calculate 8.2% tax: $393,832 * 1.082 = $425,044. To calculate 4% adjustment: $425,0444 * 1.04 = $442,046. To calculate the cost per state agency: $442,046 / 200 = $2,210 per year in maintenance costs per agency. To calculate the cost per employee: $442,046 / 545,600 = $0.81 per employee.

lieu of a physician. The Board determined that these changes would improve employee safety while also improving effectiveness and reducing costs for employers.

For section 1512, the Board considered retaining the physician consultation requirement and the existing lists of first-aid items, which differ based on the number of employees present on a construction job. Under this alternative, construction businesses are required to manage the contents of their first-aid kits as the number of employees on a job changes. The existing lists also require construction employers to purchase outdated first-aid equipment. While these represent sunk costs for existing employers, all new construction employers in California would face these costs. In light of these factors, the Board rejected this alternative in favor of allowing employers to either comply with the new Table 1, or seek consultation with a PLHCP.

For section 3400, the Board considered retaining the physician consultation requirement. Under this alternative, general industry businesses would be required to continue consulting with a physician regarding their first-aid needs. While these represent sunk costs for existing employers, all new general industry employers in California would face these costs. In light of these factors, the Board rejected this alternative in favor of allowing employers to either comply with the new Table 1, or seek consultation with a PLHCP.

To quantify the costs of this alternative approach, which would continue the physician consultation requirement, each of the 281,918 new businesses that are expected by 2030 would be required to consult with a physician regarding their first-aid needs. A one-hour consultation at $240 per hour for these new 281,918 businesses comes to $67,660,320 over the six years between 2025 and 2030 (inclusive), assuming that new businesses enter the market beginning in 2025. This estimate does not include costs resulting from inflation during this period. This comes to $11,276,720 each year during this six year period that new businesses would incur under this alternative.

In addition to the costs of physician consultation required under this alternative, each of the new 281,918 businesses would be required to purchase and maintain first-aid kits. With 3,008,242 new employees, as noted above, and assuming that a minimum of one first-aid kit is needed for every 25 employees, and that the first-year cost of first-aid kits is $0.87 per employee, as described above, the total first year cost of first-aid kits for these 281,918 new businesses would be $2,617,171, including 8.2% in taxes, 50% overage, and the 4% adjustment factor.

Assuming the annual maintenance cost for first-aid kits is $0.75 per employee for both small and typical businesses, as described above, the total annual maintenance costs for 3,008,242 new employees is $2,256,182 per year, including 8.2% in taxes, 50% overage, and the 4% adjustment factor, or $11,280,910 over five years (2026-2030, inclusive).

Therefore, the costs of the alternative for 281,918 new businesses over the six years from 2025 to 2030 include the cost of a one-hour physician consultation ($67,660,320); first year implementation costs ($2,617,171); and total annual maintenance costs ($11,280,910), for a total cost of $81,558,401 over this six year period.

BENEFITS OF THE PROPOSED ACTION

What benefits can be anticipated from this rulemaking? [GC sections 11346.2(b)(1) and 11346.3(b)(1)(D)].

The proposed revisions to sections 1512 and 3400 will improve worker safety by ensuring that:

(1) First-aid kits meet the requirements for Class A first-aid kits in American National Standards Institute (ANSI)/International Safety Equipment Association (ISEA) Z308.1-2021, American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies;

(2) A properly stocked and maintained first-aid kit is "readily available" to all employees, meaning that it is accessible within three to four minutes;

(3) The location of all first-aid kits is clearly indicated in the workplace;

(4) Employers assess any unique hazards in the workplace and provide first-aid supplies in accordance with those hazards, as needed; and,

(5) Employers who choose to do so are able to consult with a physician or licensed health care professions (PLHCP) in lieu of consulting with a physician, and as an alternative to complying with the ANSI/ISEA-Z308.1 2021 standard.

In general, these changes will reduce the time it takes an injured employee to receive first-aid treatment and will improve the effectiveness of such treatments.

The proposal will generate substantial cost savings for businesses in construction (section 1512) and general industry (section 3400) by removing the physician consultation requirement. As described above, between 2025 and 2030, the revisions will save 281,918 new businesses an estimated $67,660,320 in physician consultation costs that will no longer be required.

Construction businesses will also benefit by the simpler, standardized list of first-aid supplies required in the new Table 1 under the revised section 1512, rather than having to adjust their first-aid supplies as the number of employees on a job increases or decreases.

The proposal could improve the safety of California residents to the extent that employees are willing to render assistance if a member of the public is injured while conducting business in the employee's workplace.

In most cases (for employees as well as members of the public), the first-aid supplies required by the proposal will be used to treat minor injuries; in some cases, however, these supplies could make an important difference in the outcome of an injured person. For example, the required breathing barrier will improve the effectiveness of rescue breathing and cardiopulmonary resuscitation, which can increase an individual's chance of survival when initiated prior to the arrival of emergency medical services. Similarly, using the medical scissors to quickly access a serious injury and apply a trauma dressing and roller bandage to staunch

bleeding can effectively prevent continued loss of blood. Using the foil blanket to forestall hemorrhagic shock can make an important difference for an employee who has suffered a serious loss of blood.

Will the rulemaking affect the creation or elimination of jobs or businesses within the state? [GC sections 11346.3(b)(1)(A) and (B)].

Among employers who choose to comply with Table 1 rather than consult with a PLHCP, the revisions to section 1512 and 3400 will require a standard set of supplies in first-aid kits, and they will require that employees have "ready access" to those first-aid kits. It is therefore reasonable to expect that demand could increase for first-aid kits and supplies that comply with the new Table 1 in both sections; however, given the low cost of the required first-aid supplies, it is unlikely this demand would be sufficient to cause the creation of new jobs or businesses in the state.

There is no foreseeable way that the proposal could result in the elimination of jobs or businesses, now or in the future.

Will the rulemaking affect the expansion of businesses currently doing business within the state? [GC section 11346.3(b)(1)(C)].

As noted above, the proposal will cause an increased need for first-aid kits and supplies that comply with the new Table 1 in sections 1512 and 3400; it is therefore reasonable to expect that businesses that supply these items could experience an expansion as they respond to this increased demand. However, given the low cost of the required first-aid supplies, it is unlikely that this demand would be sufficient to cause a marked expansion of businesses currently doing business within the state.

Will the rulemaking benefit the health and welfare of California residents, worker safety and the state's environment? [GC section 11346.3(b)(1)(C)].

The proposed revisions to section 1512 and 3400 will improve worker safety by ensuring that employees have ready access to a modern first-aid kit that is properly stocked and maintained and whose location is clearly indicated in the workplace. These required elements of the revisions to sections 1512 and 3400 will reduce the time it takes an injured employee to receive first-aid treatment, and they will improve the effectiveness of such treatments. The proposal could also improve the safety of California residents to the extent that employees are willing to render assistance if a member of the public is injured while conducting business in the employee's workplace.

As noted above, in most cases (for employees as well as members of the public) the first-aid supplies required by the proposal will be used to treat minor injuries; in some cases, however, they could make an important difference in the outcome for an injured employee. For example, the required breathing barrier will improve the effectiveness of rescue breathing and

cardiopulmonary resuscitation, which can increase an individual's chance of survival when initiated prior to the arrival of emergency medical services. Similarly, using the required medical scissors to quickly access a serious injury and apply a trauma dressing and roller bandage to staunch bleeding can prevent continued loss of blood. Using the foil blanket to forestall hemorrhagic shock can make a marked difference for an employee who has suffered a serious loss of blood.

The proposal will have no effect on the state's environment.

PETITIONS

Petitioner: J. Alan Schumann, Ph.D File No.: 481

The Board received a petition on February 16, 2006, to amend section 3400 of the General Industry Safety Orders contained in title 8 of the California Code of Regulations by adding a requirement mandating the inclusion of instructional materials in first-aid kits. The Board granted the Petition to the extent that it directed Cal/OSHA to convene an advisory committee to determine if additional instructional material were warranted, and if so, to develop language for rulemaking. The Board directed that the advisory committee be consolidated with Petitions 482 and 483 and be limited in scope to the issues specific to these three petitions.

Petitioner: Anonymous File No.: 482

The Board received a petition on March 9, 2006, to amend section 3400 of the General Industry Safety Orders contained in title 8 of the California Code of Regulations by adding a requirement mandating that all workplaces have access to the 911 emergency line. The Board granted the Petition to the extent that it directed Cal/OSHA to convene an advisory committee to determine the necessity of the proposed petition and, if appropriate, develop language for rulemaking. The Board further directed that the advisory committee be consolidated with Petitions 481 and 483 and be limited in scope to the issues specific to these three petitions.

Petitioner: Dave K. Smith File No.: 483

The Board received a petition on April 19, 2006, to amend sections 3400 and 1512 by deleting the provision requiring that minimum first-aid supplies be approved by a consulting physician and replacing this provision with a requirement that first-aid kits comply with ANSI standard Z308.1-2003, or be approved by a consulting physician. The Board granted the Petition to the extent that it directed Cal/OSHA to convene an advisory committee specific to this Petition and to Petitions 481 and 482.

Petitioner: Ricardo Beas File No.: 519

The Board received a petition on November 3, 2010, to amend section 3400 of the General Industry Safety Orders contained in title 8 of the California Code of Regulations regarding the requirement that employers consult with a physician regarding the contents of first-aid kits. On

March 17, 2011, the Board granted the petition to the extent that it directed Cal/OSHA to convene an advisory committee to consider the Petitioner's request.

A copy of petitions 481, 482, 483 and 519, along with the Board's petition decisions, are included under the heading "Technical, Theoretical, and/or Empirical Studies, Reports, or Documents Relied on by the Board."

DOCUMENTS INCORPORATED BY REFERENCE

None.

ADVISORY COMMITTEE

This proposal was developed with the assistance of advisory committees convened by Cal/OSHA on November 3, 2006, and June 29, 2011. A list of advisory committee members and minutes for these two meetings are included under the heading "Technical, Theoretical, and/or Empirical Studies, Reports, or Documents Relied on by the Board."

Changes made to the proposal during 2022 and 2023 were informed by written and oral comments received by the Board on this matter during this period. Most of these comments reiterated the points raised by the 2006 and 2011 advisory committees. The Board did not convene advisory committee meetings on this matter during 2022-2023.

FIRE PREVENTION STATEMENT

This proposal does not include fire prevention or protection standards. Therefore, approval of the State Fire Marshal pursuant to Government Code Section 11359 or Health and Safety Code Section 18930(a)(9) is not required.

SPECIFIC TECHNOLOGY OR EQUIPMENT

The proposed changes to sections 1512 and 3400 do not mandate specific technology or equipment. Existing section 3400 requires employers to consult with a licensed physician to determine the contents of first-aid kits. The revision to section 3400 provides two alternative approaches: complying with a new Table 1 of minimum first-aid supplies that must be included in all first-aid kits, or consulting with a PLHCP.

Existing section 1512 provides two alternatives for employers to determine the contents of first-aid kits: (1) consulting with a licensed physician, or (2) complying with Table 1, which lists a minimum set of supplies that must be included in first-aid kits, based on the number of employees present on the job. The proposal retains these two options; however, it adds the option of consulting with a PLHCP, and it updates and standardizes the minimum set of supplies in Table 1 that must be included in all first-aid kits, regardless of the number of employees on the job.

TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS RELIED UPON BY THE BOARD

1. Amended Petition Decision of the Occupational Safety and Health Standards Board (February 16, 2006) in the matter of Petition No. 481, submitted by J. Alan Schumann, Ph.D. https://www.dir.ca.gov/dosh/DoshReg/petition481.pdf.

2. Amended Petition Decision of the Occupational Safety and Health Standards Board (March 9, 2006) in the matter of Petition No. 482, submitted by Anonymous. https://www.dir.ca.gov/dosh/DoshReg/petition482.pdf.

3. Amended Petition Decision of the Occupational Safety and Health Standards Board (April 19, 2006) in the matter of Petition No. 483, submitted by Dave Smith. https://www.dir.ca.gov/dosh/DoshReg/petition483.pdf.

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

5. Occupational Safety and Health Standards Board Adopted Decision (March 17, 2021) in the matter of Petition No. 519. https://www.dir.ca.gov/oshsb/documents/petition-519-adopteddecision.pdf.

6. Division of Occupational Safety and Health (Cal/OSHA) (June 29, 2011). First Aid Advisory Committee Meeting.

7. https://www.dir.ca.gov/dosh/DoshReg/Draft%20Consolidated%20Minutes%20First%20Aid%20Advisory%20meeting%20June%2029.pdf.

8. Division of Occupational Safety and Health (Cal/OSHA) (November 3, 2006). First Aid Advisory Committee Meeting. https://www.dir.ca.gov/dosh/doshreg/FirstAid_11-3-06_AC_minutes.pdf.

10. California Employment Development Department, Labor Market Information Resources and Data, Size of Business Data for California (Quarterly), Payroll and Number of Businesses by Size of Business – Classified by Industry (Table 2A) 2014—2023, Qtr 1, 2022. https://labormarketinfo.edd.ca.gov/LMID/Size-Data-for-CA-Quarterly.html.

11. California Employment Development Department, Labor Market Information Resources and Data, Number of Employees by Size Category – Classified by Industry (Table 2B) 2014—2023, Qtr 1, 2022. https://labormarketinfo.edd.ca.gov/LMID/Size-Data-for-CA-Quarterly.html.

12. California Department of Tax and Fee Administration (CDTFA). California City and County Sales and Use Tax Rates (effective October 1 to December 31, 2022). Average = 8.2%. https://www.cdtfa.ca.gov/taxes-and-fees/Archive-Rates-10-1-2022-12-31-2022.pdf

13. State of California. State Agency Listing, Alphabetical. https://www.ca.gov/agenciesall/. Federal OSHA (April 15, 2022). https://www.ca.gov/agenciesall/

14. Federal OSHA (April 15, 2022). Letter to the Occupational Safety and Health Standards

Board from Area Director Matthew Kuzemchak, describing specific elements of the existing section 1512 that are not "at least as effective" as the federal standard. (Letter only, not on Board website. A PDF is available in the file folder)

15. Federal OSHA (December 9, 2022). Letter to the Occupational Safety and Health Standards Board from Area Director Matthew Kuzemchak, indicating that the proposed revisions to specific elements of section 1512 are "at least as effective" as the federal standard. (Letter only, not on Board website. A PDF is available in the file folder)

16. Federal OSHA Standard Interpretations (January 16, 2007). Standard numbers 1910.151, 1910.151(b), 1910.266, 1910.266(i)(7), 1910.269, 1910.269(b), 1910.1030, 1910.1030(b), 1910.1030(g)(2), 1926.50, 1926.50(c). By Richard E. Fairfax, Director, Directorate of Enforcement Programs. https://www.osha.gov/laws-regs/standardinterpretations/2007-01-16-0.

17. Federal OSHA (2006). Best Practices Guide: Fundamentals of a Workplace First-Aid Program. OSHA 3317-06N 2006. https://www.osha.gov/sites/default/files/publications/OSHA3317first-aid.pdf.

18. Appendix A, Code of Federal Regulations, Title 29, section 1910.151, Occupational Safety and Health Standards, Medical and First Aid, First Aid Kits (Mandatory). https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9807.

19. Appendix A, Code of Federal Regulations, Title 29, section 1926.50, Occupational Safety and Health Standards, Medical and First Aid, First Aid Kits (Non-Mandatory). https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10623.

20. First Aid Products Online (March 25, 2024). Online resource for ANSI Class A 2021 First-Aid Kits www.firstaidproductsonline.com.

21. Amazon.com (April 12, 2024). Online resource for costs and product details for first-aid items required by sections 1512 and 3400 Amazon.com: First Aid Only 76 Piece 10 Person ANSI A First Aid Kit (91322): Health & Household.

22. Economic Research Institute. Physician Consultant Salary, San Francisco. https://www.erieri.com/salary/job/physician-consultant/united-states/california/san-francisco.

These documents are available for review BY APPOINTMENT Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board 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.