

## OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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[www.dir.ca.gov/oshsb](http://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**

This proposal will amend the following Title 8 first-aid requirements:

- Title 8, Construction Safety Orders (CSO), section 1512. Emergency Medical Services. The proposal will update required first-aid supplies and remove unnecessary items.
- Title 8, General Industry Safety Orders (GISO), section 3400. Medical Services and First Aid. The proposal will provide an additional option for employers to maintain a first-aid kit with a standardized set of items, when appropriate, in lieu of the current requirement to maintain a first-aid kit approved by a consulting physician.

The proposal does not affect the title 8 first-aid requirements for working on or near electrical equipment, and the specific first-aid requirements for agriculture, mining, tunneling, logging and sawmill, petroleum, telecommunications, and ship building.

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

Petition No. 519 requested that a prescriptive list of first-aid kit supplies, recommended by the American National Standards Institute (ANSI) national consensus standard Z308.1, "Minimum Requirements for Workplace First Aid Kits and Supplies," replace the existing requirement in section 3400 that the contents of first-aid kits be approved by a consulting physician.

**SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**

This proposal was developed with the assistance of an advisory committee. The advisory committee met on June 29, 2011 and was broadly composed of employee and employer

representatives from general industry and the construction industry, as well as technical experts in fields such as occupational medicine and emergency medical services and first aid.

With respect to section 1512, the advisory committee developed a proposal to update the current list of first-aid supplies and remove unnecessary items. The advisory committee decided that six items listed in the table of section 1512(c)(1) were no longer appropriate to include in first-aid kits, and four new items needed to be added to the table. The proposal leaves in place the existing option for an employer to use a physician to determine the contents of the employer's first-aid kit in lieu of using the first-aid supplies listed in the table of section 1512(c)(1).

With respect to 3400, the advisory committee rejected a recommendation to only contain a single prescriptive list of first-aid materials, such as the list of items in ANSI Z308.1. A single prescriptive list of first-aid items is not appropriate, due to the variety in workplace hazards at different workplaces. The advisory committee found that a single prescriptive list may be adequate only for workplaces with non-unique first-aid needs. This assessment was based on the appendices in the Federal OSHA first-aid regulations<sup>1</sup> and of the ANSI Z308.1 standard itself.<sup>2</sup> Additionally, whenever lengthy prescriptive lists of first-aid supplies have been mandated, first-aid best practice has evolved to make some elements of the list obsolete. Meanwhile, employers were obligated to continue stocking the obsolete items in their first-aid kits for many years.

In 1997, GISO, Article 112, Labeling of Injurious Substances was repealed. Article 112 contained first-aid instructions for about 200 chemicals with distinct warnings and instructions for each chemical. Article 112 was repealed with the justification that it was redundant with section 3400 and section 1512, which contain requirements for obtaining consulting physicians' input into first-aid kit contents. Proponents of the repeal of Article 112, including the Board, advanced the position that a physician, and not a label requirement for a specific chemical, should make the determination on whether a specific first-aid treatment was an appropriate and necessary component of a first-aid kit in a particular workplace.

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<sup>1</sup> 29 CFR 1910.151 Appendix A available at:

[https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=9807](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9807) and 29 CFR 1926.50 Appendix A available at:  
[https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=10623](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10623).

<sup>2</sup> The current version of the standard, ANSI Z308.1-2009, American National Standard – Minimum Requirements for Workplace First Aid Kits and Supplies, acknowledges that it addresses only minimal first-aid needs, and it recommends that employers consult with emergency medical experts when developing their first-aid programs. Section 1 of the standard states, in part: "Because each work environment is unique, it is expected that the required products will be supplemented with additional supplies and quantities based upon the consultation and recommendation of a person competent in first aid and cognizant of the hazards found in the particular work environment." In 1978, the original version of ANSI Z308.1 required that consulting physicians, not employers, make the selection of the items to be supplied in the first-aid kit.

The advisory committee determined that the requirement in section 3400 for a consulting physician preserved the requirement, which previously existed in Article 112, to have distinct first-aid requirements for different chemicals.

To address the Petitioner's request for an alternative to the expertise of consulting physician input into first-aid kit contents without eliminating that expertise, the June 29, 2011 advisory committee developed a proposal that allows the employer to employ equal outside expertise as an alternative to a first-aid kit approved by a consulting physician. This proposal makes an employer choosing not to rely on the expertise of a consulting physician responsible for relying on equivalent expertise without weakening current requirements to ensure that adequate and appropriate first-aid materials are readily available in the workplace. This change aligns section 3400 with the Federal OSHA general industry first-aid regulation which allows employers to rely on any suitable expertise, but does not make clear the expertise must be equivalent in quality to that of a consulting physician. This proposal is more effective than the Federal OSHA equivalent because it does state expressly that the employer is responsible for evaluating the injury and illness risks in the work environment and supplying the correct first-aid items.

This proposal is necessary to modernize sections 1512 and 3400 to reflect the current practice of first aid, and to make implementation of the first-aid requirements easier for employers while also preserving the functional safety and health that these sections have always provided to California workers.

The specific changes are as follows.

**Section 1512. Emergency Medical Services.**

Section 1512 currently requires employers on construction projects to ensure the availability of medical services for emergencies, appropriately trained individuals to render first aid, and appropriately stocked and maintained first aid kits. In addition, this section currently requires employers to inform employees about emergency procedures, provide for prompt transportation to a location where emergency care is provided, provide emergency eyewashes and showers if exposure to injurious chemicals is foreseeable, provide a basket litter for structures 5 floors above or below grade, and, finally, have a written plan specifying how all the applicable parts of this section are to be implemented.

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

### **Subsection (c). First-Aid Kit.**

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

The proposal deletes the following first-aid supplies from the existing table because these items are inappropriate or no longer essential components of a first-aid kit in the modern practice of first aid in typical construction environments: safety pins, scissors, forceps, emesis basin, portable oxygen and associated breathing equipment, and tongue depressors.

The proposal adds the following first-aid supplies to the existing table: medical exam gloves, single-use antibiotic treatment, and single-use antiseptic application. In addition, the proposal adds single-use disposable barrier devices for cardiopulmonary resuscitation (CPR) in workplaces where performance of CPR may be required<sup>3</sup>, regardless of the number of employees. The proposed new first-aid supplies included in the table of subsection (c)(1) are for the purpose of consistency with the proposed new table in section 3400(c)(3), as these items are considered necessary first-aid kit components for most work environments. All the additional items are also currently recommended to be included in first-aid kits in ANSI Z308.1 and, as a result, are available in most commercially available first-aid kits.

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

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

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

In the existing table, the proposal deletes the phrase “additional equipment in adequate quantities consisting of:” following the first asterisk in order to be consistent with the proposed changes to section 3400, and to make it clear that the requirement to maintain adequate

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<sup>3</sup> CPR may be required where CPR trained employees are present. CPR trained employees are required by at least 13 separate Title 8 regulations. Also, employers not covered by those specific regulations often establish worksite specific requirements for the presence of CPR trained employees.

supplies applies to all first-aid kit items. Therefore, it is proposed to include the phrase “and other materials” between the word “Dressing” and the phrase “in adequate quantities consisting of:” to clarify that the following is a list of first-aid supplies and not just dressings.

In the existing table, at the asterisk located at the bottom of the table, the proposal deletes the phrase “To be readily available but not necessarily within the first-aid kit”. This asterisk, with its explanation, was meant to address the storage of required first-aid kit supplies (portable oxygen tanks) that would be too large to fit within most commercially available first-aid cabinets. In the proposed revised table, this asterisk with its explanation is made superfluous because the requirement to have portable oxygen tanks is proposed to be deleted, and all first-aid kit elements that will be required will fit in standard first-aid kits.

### **Subsection (c)(3).**

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

The proposal deletes antiseptics from subsection (c)(3) because the proposal adds antiseptics as mandatory in subsection (c)(1). This proposal is necessary for consistency with the proposed first-aid kit requirements in section 3400.

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

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

### **Section 3400. Medical Services and First Aid.**

Section 3400 currently requires all employers to ensure the availability of medical personnel for advice and consultation, appropriately trained individuals to render first aid if medical facilities are not nearby, and appropriately stocked and maintained first-aid kits. This section also currently requires employers to provide emergency eyewashes and showers if exposure to injurious chemicals is foreseeable, provide stretchers and blankets if ambulance service is not available within 30 minutes, and, finally, make effective provisions in advance for prompt medical treatment in case of serious injury or illness.

### **Subsection (c).**

The proposal amends subsection (c) and clarifies the existing requirement for employers to:

- evaluate the first-aid supplies needed, and
- ensure the adequacy of the quantity and type of first-aid supplies.

The proposal replaces the phrase in the first sentence of subsection (c), “There shall be” with the phrase “Employers shall evaluate the need for first-aid supplies and shall ensure that there are.” The amended language clarifies the existing requirement that employers are responsible for determining the proper contents for their first-aid kit.

In addition, the proposal adds the phrase “adequate quantities and types of” to clarify an existing requirement that employers are responsible for determining both the quantity and type of first-aid materials.

Finally, the proposal moves the current requirement that a consulting physician approve of first-aid materials from existing section 3400(c) to proposed new subsection (3) of section 3400(c) and specifies that it is an option for employers rather than a mandate. The proposal also takes the second and third sentences of Section 3400(c) and re-designates them as subsections (1) and (2) of that subsection.

The proposal adds new subsection (c)(3) to clarify the minimum contents of a first-aid kit. Under the proposal, employers will have the option of providing a first-aid kit containing items determined by an employer-authorized licensed physician (the existing requirement) or with the minimum first-aid kit contents listed in proposed new Table 1. Employers without unusual first-aid needs may elect to comply with the proposal without engaging the services of a consulting physician to determine first-aid kit contents and use the new table in section 3400(c). Employers with unusual first-aid needs may continue to use the existing requirement to have a consulting physician approve of their first-aid kits.

New Table 1, “Minimum First-Aid Materials,” proposed for new section 3400(c)(3), contains a list of eight first-aid supplies with appropriate quantities for a standard workplace. The table also lists a ninth item, a single-use disposable barrier device for the administration of CPR, which would be required in workplaces where the performance of CPR may be necessary. The first-aid supplies and quantities listed in the table are similar to the minimum items required by the ANSI Z308.1 consensus standard. Two items in the ANSI Z308.1 list, burn treatment and first-aid guide, were determined to be unnecessary and are not included in new subsection (c)(3).

The proposal adds two “notes” to section 3400(c)(3). Note 1 reminds employers that the minimum list of supplies in Table 1 may be inadequate to address injuries that may occur in some work environments. Note 1 provides examples of hazardous chemicals (which formerly had specific first-aid requirements provided in repealed GISO, Article 112) with safety data

sheets that recommend specific first-aid treatments that may be required to be included in a first-aid kit by proposed section 3400(c), but are not included in the minimal supplies listed in Table 1. Note 1 also reminds employers that the minimal quantities of supplies listed in the table may be inadequate for a workplace with many workers or for a workplace with a high injury rate.

Note 2 informs employers that the use of certain hazardous chemicals in the workplace may trigger the requirements in GISO, section 5194(h)(2)(E) of the hazard communication standard. Section 5194(h)(2)(E) requires information and training be provided to employees on emergency procedures involving hazardous chemicals. It may be necessary to use first-aid supplies required by section 3400 during such an emergency to treat injured persons. Note 2 clarifies existing requirements and is not related to substantive changes in the proposal.

#### **REFERENCE TO COMPARABLE FEDERAL REGULATION**

Until 1998, the Federal Occupational Safety and Health Administration's (OSHA's) corresponding first-aid regulations (29 CFR §1926.50 for the construction industry and 29 CFR §1910.151 for general industry) contained requirements for consulting physicians' approval of first-aid kit contents. When the consulting physician requirements were removed in 1998, Federal OSHA attached a non-mandatory appendix to both regulations stating that physicians or other experts should be consulted when an employer has unique or changing first-aid needs or when larger amounts or additional first-aid supplies might be necessary for "larger or multiple operations".

This proposal is at least as effective as the corresponding Federal OSHA standards, Title 29, Code of Federal Regulations, §1926.50 (construction industry) and §1910.151 (general industry). These federal regulations in fact provide less protection to employees than this proposal. The federal regulations do not require an employer to evaluate what first-aid items are needed, do not require any specific first-aid items, and do not require that the first-aid items be determined by a physician or other knowledgeable person.

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS RELIED ON BY THE BOARD**

1. [Petition No. 519](#), dated October 29, 2010, submitted by Ricardo Beas, Safety Consultant.
2. Division Evaluation of Petition No. 519, dated December 31, 2010.
3. Occupational Safety and Health Standards Board Decision, dated March 17, 2011, in the matter of Petition No. 519.

4. Appendix A of the Code of Federal Regulations, Title 29, Section 1910.151 at: [https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=9807](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9807) and Appendix A of the Code of Federal Regulations, Title 29, Section 1926.50 at: [https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=10623](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10623).
5. ANSI Z308.1–2009, American National Standard - Minimum Requirements for Workplace First Aid Kits and Supplies, International Safety Equipment Association, May 8, 2009.
6. Email from the Division to interested parties, March 2013, with the attached proposed revisions to Title 8, section 3400, requesting comments on the proposed language as a result of the June 29, 2011 advisory committee meeting, and a list of interested parties.
7. Minutes of the First Aid Advisory Committee Meeting on June 29, 2011, with a list of attendees and sign-in sheets.
8. Minutes of the First Aid Advisory Committee Meeting on November 3, 2006, with a list of attendees and sign-in sheets.
9. California Employment Development Department, Labor Market Information Division, Size of Business Data for California (Quarterly), Tables from “California Size of Business – Number of Businesses by Employment Size and Industry” for 2009 – 2018, Table 2A: Payroll and Number of Businesses by Size of Business – Classified by Industry and Table 2B: Number of Employees by Size Category – Classified by Industry. Available at [http://www.labormarketinfo.edd.ca.gov/LMID/Size\\_of\\_Business\\_Data\\_for\\_CA.html](http://www.labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Data_for_CA.html).
10. Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2018, 29-1069 Physicians and Surgeons, All Others. Reference retrieved on September 16, 2019. Available at <https://www.bls.gov/oes/current/oes291069.htm>.
11. [www.firstaidproductsonline.com](http://www.firstaidproductsonline.com).

The Standards 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 Standards Board’s office at 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833. Appointments can be scheduled via email at [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov) or by calling (916) 274-5721.

### **PETITION**

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 for a physician to be consulted regarding the contents of first-aid kits. On March 17, 2011, the Board granted the petition to the extent that the Petitioner's proposal would be referred to a representative advisory committee for consideration.

A copy of the petition, the Division's evaluation, and the Board's petition decision are included under the heading "Technical, Theoretical, and/or Empirical Studies, Reports, or Documents Relied on by the Board".

#### **ADVISORY COMMITTEE**

This proposal was developed with the assistance of an advisory committee. (A list of advisory committee members, attendance sheets, and minutes are included under the heading "Technical, Theoretical, and/or Empirical Studies, Reports, or Documents Relied on by the Board").

#### **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 section 1512 and section 3400 do not mandate specific technology or equipment.

Section 1512 currently provides two options to employers to determine the contents of their first-aid kits. The first option is to have a licensed physician determine the first-aid kit contents. The second option is to use a table that lists specific supplies that must be included in the first-aid kit. The proposal retains these two options.

Section 3400 currently requires employers to use a licensed physician to determine the first-aid kit contents with no other option. The proposal retains, as an option, the first-aid kit with contents determined by a physician. The proposal adds a second option for employers to use a table of specific first-aid kit items to assist in their determination of the minimum contents of their first-aid kit.

#### **ECONOMIC IMPACT ANALYSIS/ASSESSMENT**

This proposal will not have a significant adverse economic impact on businesses. For construction businesses, the proposed changes to Section 1512 remove costly items from the existing list of first-aid items that are no longer used in first-aid treatment. The proposal

adds items to the list that are typically included in commercially available first-aid kits. Construction employers may also continue to use existing first-aid kits as determined by an employer-authorized, licensed physician, as there are no proposed changes to this option.

For general industry, the proposed changes to section 3400 will provide a second option to employers in determining the contents of their first-aid kits. Employers may continue to use existing first-aid kits as determined by an employer-authorized, licensed physician, or employers without unusual first-aid needs may use a first-aid kit consisting of a list of items typically found in commercially available first-aid kits.

The cost estimates are based upon the advertised costs of first-aid supplies, with consideration of the potential costs for businesses with relatively more employees who will be required to update more than one first-aid kit. The proposal includes changes to section 1512 (affecting construction employers) and section 3400 (affecting general industry employers).

### **Estimated Costs**

*The total statewide dollar costs that business and individuals may incur to comply with this regulation over its lifetime is \$2,092,925.90, based upon \$248,466.24 in initial costs to existing construction businesses and \$1,844,459.66 in annual ongoing costs as new businesses enter the market.*

#### ***Initial Costs to Existing Construction Businesses***

For small construction business, it would cost them \$220,209 to upgrade to the proposal's kit. There are 69,939 small businesses in 2016 and of those small businesses, 39,464 kits would be used. The kit costs \$5.58 and 39,464 kits would be at a cost of \$220,209.

For a typical construction business, it would cost them \$28,257 to upgrade to the proposal's kit. There are 1,109 typical business in 2016 and of those typical business, 5,064 kits would be used. The kit costs \$5.58 and 5,064 kits would be at a cost of \$28,257.

A total of \$248,466.24 in one-time costs for existing construction businesses that use the currently approved DOSH kit and will need to upgrade kit contents to be compliant (see Table 3, reference F).

### **Annual Ongoing Costs for New Businesses**

It is assumed 75% of new construction businesses will opt for the DOSH kit, and 25% will opt for the physician kit. The following estimates reference data shown in Table 1, reference M (New construction businesses) and in Table 2, reference M (New general industry businesses).

If 75% of new construction small businesses use DOSH kits, the total cost would be \$24,340.41 and if 25% use the physician kits, the total cost would be \$63,186.67.

In addition, if 75% of new construction typical businesses use DOSH kits, the total cost would be \$7,626.31 and if 25% use the physician kits, the total cost would be \$3,995.83.

A total compliance cost of \$99,149.22 is estimated for new construction businesses entering the market each year.

If 75% of new general industry small businesses use DOSH kits, the total cost would be \$420,834.59 and if 25% use the physician kits, the total cost would be \$1,219,820.83.

In addition, if 75% of new general industry typical businesses use DOSH kits, the total cost would be \$71,480.03 and if 25% use the physician kits, the total cost would be \$33,175.

A total compliance cost of \$99,149.22 is estimated for new construction businesses entering the market each year (see Table 1, reference M). A total compliance cost of \$1,745,310.45 is estimated for new general industry businesses entering the market each year (see Table 2, reference M).

The combined annual total for compliance costs estimated for new construction and general industry is \$1,844,459.66. This assumes the number of businesses entering the market aligns with EDD LMI projections. Ongoing costs for existing employers are minimal and limited to the employer's need to restock the kit contents as items are used or expire.

*A new small business (general industry) will incur ~\$37 in costs and a new small business in construction will incur ~\$39 in costs. Ongoing costs for existing employers are minimal and limited to the employer's need to restock the kit contents as items are used or expire, which is consistent with the current requirements.*

Total cost to new small businesses in general industry = \$1,640,655.42 divided by projected number of new small businesses in general industry impacted = 44,042 equals ~\$37.

Total cost to new construction small businesses = \$87,527.08 divided by projected number of new construction small businesses impacted = 2,253 equals ~\$39.

*A new typical business in construction will incur ~\$150 in costs and a new typical business (general industry) will incur ~\$201 in costs. Ongoing costs for existing employers are minimal and limited to the employer's need to restock the kit contents as items are used or expire, which is consistent with the current requirements.*

Total cost to new typical construction businesses = \$11,622.14 divided by projected number of typical new construction businesses impacted = 78 equals ~\$150.

Total cost to typical new businesses in general industry = \$104,655.03 divided by projected number of typical new businesses in general industry impacted = 520 equals ~\$201.

These costs apply exclusively to the initial year of implementation.

### **Costs – Existing Businesses**

Existing construction businesses that currently use the DOSH kit will incur additional costs of \$5.58 per kit to be compliant under the new proposal. It is assumed 50% of existing construction businesses currently use the DOSH kit. The following estimates reference data shown in Table 3, reference F.

*An existing small business in construction will incur ~\$6 in costs to upgrade to the proposal's kit contents. [(Total cost to existing small businesses = \$220,209.12) divided by (estimated number of existing construction small businesses impacted = 34,970) equals ~\$6]*

*An existing typical business in construction will incur ~\$51 in costs to upgrade to the proposal's kit contents. [(Total cost to existing typical businesses = \$28,257.12) divided by (estimated number of existing typical construction businesses impacted = 555) equals ~\$51]*

These costs apply exclusively to the initial year of implementation.

*Cost of revisions to Section 3400:* The existing regulation for first-aid kits for general industry employers (Section 3400) mandates that first-aid kits be determined by a consulting physician. This proposal gives employers the option of providing first-aid kits as determined by a physician as in the current requirement or providing the items listed in a new table of first-aid kit items. Employers are not required to make any changes to their first-aid kits if they decide to continue using a physician kit. As a result, the proposed changes to Section 3400 give a second option to employers who prefer not to use a physician kit.

The cost for the new DOSH kit is \$11.81

### **Estimated Benefits**

*A total of \$3,266,672.89 in savings is estimated for new general industry businesses entering the market each year based on the updated kit requirements allowable as an alternative option to the physician kit in the proposed regulation (see Table 2, reference N).*

[ $\$3,266,672.89$  in savings = Total estimated cost for DOSH kits  $\$492,314.61$  (Table 2, reference G) + Total estimated cost for physician kits  $\$1,252,995.83$  (Table 2, reference L) – Total estimated compliance cost of current requirements (only physician kits are permitted)  $\$5,011,983.34$ ]

*Benefits of revisions to Section 1512:* The proposal will delete several items from the current list of required first-aid items in the DOSH kits. Existing construction employers who use the DOSH kits will no longer need to restock these items as they are used up or expire. While these are sunk costs because the items have been purchased in the past, there will be costs avoided by not restocking these items in the future.

*Benefits of revisions to Section 3400:* Section 3400 currently requires all general industry employers to maintain first-aid materials as determined by a consulting physician. The proposal allows general industry employers to follow this existing requirement or provide, at a minimum, a first-aid kit with the contents listed in the proposed revisions to Section 3400 (Table 5).

Some employers may determine that the supplies listed in Table 5 in the proposed revision to Section 3400 is sufficient for their worksite and may choose to provide a first-aid kit with those supplies in lieu of providing a first-aid kit as determined by an employer-authorized licensed physician. Such employers may experience an economic benefit from doing so. The first-aid supplies listed in the proposed revision to Section 3400 have an estimated total retail cost of  $\$11.81$  (Table 5). This is considerably lower than the cost of consulting a physician as previously required.

To estimate this economic benefit, it is assumed 75% of new general industry businesses will opt to purchase the items in Table 5 of the proposed revision to Section 3400, rather than a first-aid kit determined by an employer-authorized licensed physician.

### **Fiscal Effect on Local and State Government**

*Local and state government agencies must comply with the same requirements as the private sector.*

The existing regulation on first-aid kits mandates that: 1) general industry employers' first-aid kits be determined by a consulting physician; while 2) construction employers use first-aid kit supplies determined by an employer-authorized, licensed physician or have DOSH first-aid kits.

This proposal gives local and state government agencies the option of stocking first-aid kits as determined by a physician or providing the items listed per the tables shown in Section 3400 (general industry) and 1512 (construction).

Local and state government employers not performing construction work do not need to make any changes to their first-aid kits if they decide to continue using a physician kit. As a result, the proposed changes to Section 3400 have no negative fiscal impact on local and local government agencies. Some local and state government agencies may even experience an economic benefit, just like that of private general industry employers, if they determine that the supplies listed in Table 6 in the proposed revision to Section 3400 are sufficient for their worksite.

The small number of local and state government agencies that perform construction work and choose to stock the DOSH first-aid kits with items specified in the proposal for Section 1512 will be able to delete several items from the current list of required first-aid items, therefore avoiding the cost of restocking these items in the future.

**Calculation Tables**

Table 1. Costs to projected new construction businesses to comply with new requirements<sup>4</sup>

size of construction business	# employee range of construction business	Avg N of new employees each year 2013-2016	Avg N of new businesses each year	Proposed regulation								Total costs for new construction businesses to meet proposed requirements
				Assume 75% new construction businesses use DOSH kit			Assume 25% new construction businesses use physician kit					
				N of businesses use DOSH new kit	N of DOSH kit needed (25 employees /kit)	Total cost for DOSH kit (\$11.81 per kit)	N of new businesses use physician kit	N of kits needed (25 employees /kit)	\$100 per business physician consulting fee	Total Kit Cost (assume \$10 per kit)	Total cost for physician kit	
<b>Small business</b>	0-4	647.33	1,115.67	836.75	836.75	9,882.02	278.92	278.92	27,891.67	2,789.17	30,680.83	<b>87,527.08</b>
	5-9	2,824.67	415.67	311.75	311.75	3,681.77	103.92	103.92	10,391.67	1,039.17	11,430.83	
	10-19	4,633.67	336.33	252.25	252.25	2,979.07	84.08	84.08	8,408.33	840.83	9,249.17	
	20-49	8,733.33	274.67	206.00	412.00	4,865.72	68.67	137.33	6,866.67	1,373.33	8,240.00	
	50-99	7,617.33	110.33	82.75	248.25	2,931.83	27.58	82.75	2,758.33	827.50	3,585.83	
						<b>24,340.41</b>					<b>63,186.67</b>	
<b>Typical business</b>	100-249	8,157.00	51.33	38.50	269.50	3,182.80	12.83	89.83	1,283.33	898.33	2,181.67	<b>11,622.14</b>
	250-499	4,513.33	14.33	10.75	139.75	1,650.45	3.58	46.58	358.33	465.83	824.17	
	500-999	6,961.00	11.00	8.25	214.50	2,533.25	2.75	71.50	275.00	715.00	990.00	
	1000+	526.00	1.00	0.75	22.00	259.82	0.25	-	-	-	-	
						<b>7,626.31</b>					<b>3,995.83</b>	
<b>Total</b>						<b>31,966.72</b>					<b>67,182.50</b>	<b>99,149.22</b>
Reference	B	C	D	E	F	G	H	I	J	K	L	M
Source	EDD Labor Market Info			D*.75	C/D/25*E	F*11.81	D*.25	C/D/25*H	H*100	I*10	J+K	G+L

<sup>4</sup> Source of “Average N of new employees each year 2013-2016” and “Average N of new businesses each year” data is Employment Development Department Labor Market Information, Table 2A: Payroll and Number of Businesses by Size of Business - Classified by Industry and Table 2B: Number of Employees by Size Category – Classified by Industry. Available at [http://www.labormarketinfo.edd.ca.gov/LMID/Size\\_of\\_Business\\_Data\\_for\\_CA.html](http://www.labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Data_for_CA.html). Averages are projected based on a 4 year average of annual employee/employer growth, 2013-2016.

Table 2. Costs to projected new general industry businesses to comply with new requirements<sup>5</sup>

# employee range of business	Avg N of new employees each year 2013-2016	Avg N of new businesses each year	Proposed regulation								Total costs for new businesses to meet proposed requirements	Savings due to proposal	
			Assume 75% new businesses use DOSH kit			Assume 25% new businesses use physician kit							
			N of businesses use DOSH new kit	N of DOSH kit needed (25 employees/kit)	Total cost for DOSH kit (\$11.81 per kit)	N of new businesses use physician kit	N of kits needed (25 employees/kit)	\$100 per business physician consulting fee	Total Kit Cost (assume \$10 per kit)	Total cost for physician kit			
0-4	34,610.33	35,828.00	26,871.00	26,871.00	317,346.51	8,957.00	8,957.00	895,700.00	89,570.00	985,270.00			
5-9	16,709.00	2,450.00	1,837.50	1,837.50	21,700.88	612.50	612.50	61,250.00	6,125.00	67,375.00			
10-19	40,383.33	2,921.33	2,191.00	2,191.00	25,875.71	730.33	730.33	73,033.33	7,303.33	80,336.67			
20-49	65,263.67	2,214.67	1,661.00	3,322.00	39,232.82	553.67	1,107.33	55,366.67	11,073.33	66,440.00			
50-99	45,717.67	627.67	470.75	1,412.25	16,678.67	156.92	470.75	15,691.67	4,707.50	20,399.17			
<b>Small Business</b>					<b>\$ 420,834.59</b>					<b>\$ 1,219,820.83</b>	<b>\$ 1,640,655.42</b>	<b>\$(3,238,627.91)</b>	
100-249	49,390.33	348.67	261.50	1,569.00	18,529.89	87.17	523.00	8,716.67	5,230.00	13,946.67			
250-499	39,922.33	112.33	84.25	1,263.75	14,924.89	28.08	421.25	2,808.33	4,212.50	7,020.83			
500-999	22,625.00	29.67	22.25	689.75	8,145.95	7.42	229.92	741.67	2,299.17	3,040.83			
1000+	84,009.67	29.33	22.00	2,530.00	29,879.30	7.33	843.33	733.33	8,433.33	9,166.67			
<b>Typical Business</b>					<b>\$ 71,480.03</b>					<b>\$ 33,175.00</b>	<b>\$ 104,655.03</b>	<b>\$(28,044.98)</b>	
<b>Total</b>					<b>\$492,314.61</b>					<b>\$ 1,252,995.83</b>	<b>\$ 1,745,310.45</b>	<b>\$(3,266,672.89)</b>	
Ref	B	C	D	E	F	G	H	I	J	K	L	M	N
Source	EDD Labor Market Info			D*.75	C/D/25*E	F*11.81	D*.25	C/D/25*H	H*100	I*10	J+K	G+L	G+L-[cost for kits if all physician approved]

<sup>5</sup> Source of “Average N of new employees each year 2013-2016” and “Average N of new businesses each year” data is Employment Development Department Labor Market Information, Table 2A: Payroll and Number of Businesses by Size of Business - Classified by Industry and Table 2B: Number of Employees by Size Category – Classified by Industry. Available at [http://www.labormarketinfo.edd.ca.gov/LMID/Size\\_of\\_Business\\_Data\\_for\\_CA.html](http://www.labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Data_for_CA.html). Averages are projected based on a 4 year average of annual employee/employer growth, 2013-2016.



Table 3. Costs to existing construction businesses to upgrade to proposal's kit contents

# employee range of construction business	# employee in 2016 <sup>6</sup>	# business in 2016 <sup>7</sup>	# business using DOSH kit	# kits used	Cost of adding \$5.58 per kit
0-4	63,683	42,048	21,024.00	21,024.00	\$ 117,313.92
5-9	81,926	12,402	6,201.00	6,201.00	\$ 34,601.58
10-19	111,812	8,263	4,131.50	4,131.50	\$ 23,053.77
20-49	165,058	5,463	2,731.50	5,463.00	\$ 30,483.54
50-99	120,328	1,763	881.50	2,644.50	\$ 14,756.31
<b>Small construction business</b>					\$ 220,209.12
100-249	124,657	842	421.00	2,526.00	\$ 14,095.08
250-499	62,683	189	94.50	1,323.00	\$ 7,382.34
500-999	43,665	66	33.00	891.00	\$ 4,971.78
1000+	16,029	12	6.00	324.00	\$ 1,807.92
<b>Typical construction business</b>					\$ 28,257.12
<b>Total construction costs for existing businesses</b>					\$ 248,466.24
Reference	B	C	D	E	F
Source	EDD Labor Market Info		C*.5	B/C/25*D	E*5.58

Table 4. Additional items required by proposal

Additional Item Required by Proposal	cost per item	# required	total cost
Medical exam gloves	\$0.95 per box of 2 pairs	2	\$0.95
Antibiotic treatment, single use	\$1.89 per package of 10	6	\$1.89
Antiseptics, single use	\$0.99 per box of 10	10	\$0.99
CPR (cardiopulmonary resuscitation) masks	\$1.50 each	1	\$1.75
<b>Total cost per kit upgrade</b>			<b>\$5.58</b>

<sup>6</sup> Source: Employment Development Department Labor Market Information, Table 2B: Number of Employees by Size Category – Classified by Industry, 2016 Q3. Available at [http://www.labormarketinfo.edd.ca.gov/LMID/Size\\_of\\_Business\\_Data\\_for\\_CA.html](http://www.labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Data_for_CA.html).

<sup>7</sup> Source: Employment Development Department Labor Market Information, Table 2A: Payroll and Number of Businesses by Size of Business - Classified by Industry, 2016 Q3. Available at [http://www.labormarketinfo.edd.ca.gov/LMID/Size\\_of\\_Business\\_Data\\_for\\_CA.html](http://www.labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Data_for_CA.html).

Table 5. Minimum First-Aid Materials Required in Section 3400

Type of Supply and Minimum Size	Minimum Quantity	Retail Cost
Absorbent compress, 32 sq. in. with no side smaller than 4 in.	1	\$1.25
Adhesive bandages, 1 x 3 in. (2.5 x 7.5 cm)	16	\$0.89
Adhesive tape, 3/8 in. x 2.5 yd. (2.3 m total)	1	\$1.35
Antibiotic treatment, single-use application	6	\$1.89
Antiseptic, single-use application	10	\$0.99
Medical exam gloves	2 pairs	\$0.95
Sterile pad, 3 x 3 in. (7.5 x 7.5 cm)	4	\$1.49
Triangular bandage, 40 x 40 x 56 in. (101 x 101 x 142 cm)	1	\$1.25
Single-use disposable barrier device for CPR in workplaces where performance of CPR may be required	1	\$1.75
<b>Total estimated cost per first-aid kit</b>		<b>\$11.81</b>

ADDITIONAL BACKGROUND DETAIL

**Existing Requirements**

1. Construction employers are required to provide a first-aid kit as determined by an employer-authorized, licensed physician (“physician kit”) or in accordance with the table in Section 1512 (Division of Occupational Safety and Health kit “DOSH kit”).
2. General industry employers are required to provide a first-aid kit as determined by an employer-authorized, licensed physician.

**Summary of Proposed Changes**

1. No proposed change for construction employers that use the physician kit. Additions and subtractions to the table in Section 1512 are proposed for construction employers that use the DOSH kit.
2. No proposed change for general industry employers that use the physician kit. A new DOSH kit is proposed for Section 3400 as an alternative to using the physician kit.

**Key Assumptions**

1. Existing construction businesses that currently use the DOSH kit will incur costs to meet the new proposal’s requirements. It is assumed half of existing construction businesses currently use the DOSH kit.
2. No other existing construction or general industry businesses will incur costs to be compliant because it is assumed existing businesses already meet the current requirements.

3. All new construction and general industry businesses will be affected by the new proposal. It is assumed 75% of new construction and general industry businesses will opt for the DOSH kit to meet the requirements and 25% will opt to use the physician kit.<sup>8</sup>
4. The average cost per physician kit is \$10, associated with approximately \$100 for the physician's time.<sup>9</sup>
5. It is assumed one kit (DOSH or physician) covers 25 employees.

### Industry Estimates<sup>10</sup>

1. Number of existing construction employers covered by Section 1512: 71,048.
2. Approximate number of new construction employers to be covered by Section 1512 during first year: 2,330.
3. Approximate number of new general industry employers covered by Section 3400 during first year: 44,562.
4. *Cost of revisions to Section 1512:* This proposal modernizes the existing table of required first-aid items for the construction industry in Section 1512 by removing several previously required items and adding new items to the table.
5. The cost to upgrade the contents of the current DOSH kit to meet the requirements in the regulation is \$5.58.

This proposal will neither create nor eliminate jobs within the State of California. This proposal will not create new businesses or eliminate existing businesses within the State of California or lead to the expansion of businesses doing business within the State of California.

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<sup>8</sup> It should be noted that new businesses in agriculture, logging/sawmills, shipbuilding, mining, marine terminals, and diving operations will not be impacted since they have their own first aid regulations that are not being changed. Therefore the estimates provided for new businesses in general industry may slightly overestimate the total cost.

<sup>9</sup> See BLS data. Average physician wage is \$103/hour in California Source. Accessed September 16, 2019: <https://www.bls.gov/oes/current/oes291069.htm#st>

<sup>10</sup> Source: Employment Development Department Labor Market Information, Table 2A: Payroll and Number of Businesses by Size of Business - Classified by Industry. Available at [http://www.labormarketinfo.edd.ca.gov/LMID/Size\\_of\\_Business\\_Data\\_for\\_CA.html](http://www.labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Data_for_CA.html). Existing totals based on 2016 Q3 data. The number of new employers is projected based on a 4 year average of annual employer growth, 2013-2016.

### **BENEFITS OF THE PROPOSED ACTION**

By clarifying the requirements for first-aid kit contents and making it easier for employers to clearly understand the requirements, the proposed changes will improve the rate at which first-aid kits are provided, and adequately and properly provisioned. This regulation is expected to be neutral to and will provide neither a benefit nor a detriment to the state's environment.

### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states.

The Board has determined that the proposed amendments may affect businesses. However, no significant economic impact is anticipated because employers are already required to maintain first-aid kits in the workplace that are properly provisioned. The proposed changes provide employers with improved guidance and options, making it easier for them to comply with the requirements.

### **REASONABLE ALTERNATIVES TO THE PROPOSAL AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES**

No reasonable alternatives to the proposal were identified or brought to the Board's attention. An alternative of making no changes to the regulations was considered, but rejected because the current proposal eliminates unnecessary requirements, modernizes requirements, and provides additional options to employers.