

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

BOARD STAFF'S REVIEW OF THE PETITION

By: Tom Mitchell

Petition File No.: 519

Tom Mitchell

Submitted by: Tom Mitchell

Title: Senior Industrial Hygienist

Date: January 11, 2011

Introduction

On November 3, 2010, the Occupational Safety and Health Standards Board (Board) received a petition dated October 29, 2010 from Ricardo Beas (Petitioner). Mr. Beas, a safety consultant, did not indicate that he was representing a particular company. The Petitioner requested that the Board amend Title 8, California Code of Regulations (CCR), Section 3400(c) of the General Industry Safety Orders (GISO), concerning first aid materials.

Labor Code Section 142.2 permits interested persons to propose new or revised regulations concerning occupational safety and health and requires the Board to consider such proposals and to render its decision no later than six months following their receipt.

Reason for the Petition

Section 3400(c) requires employers to provide adequate first aid materials, approved by the consulting physician, readily available for employees on every job. The Petitioner states that the existing standard is deficient in that it does not clearly spell out what first aid materials are required. The Petitioner notes that the consulting physician would have to be fully knowledgeable of the employer's operations and the many different circumstances under which injuries can result. He states that the amount and type of first aid materials necessary for each such situation can vary substantially, based on type of employer operations or size of workforce in any particular onsite or offsite location. The Petitioner proposes that Section 3400(c) be revised to allow employers to look at sources other than a physician to determine its particular needs for first aid materials. He suggests that these other sources should include: 1) the American National Standard Instituted (ANSI) standard Z308.1-1998, Minimum Requirements for Workplace first-aid Kits, which is reference in the federal OSHA first aid standard 29 Code of Federal Regulations (CFR) Section 1910.151; and 2) a table of first aid supplies, similar to the table in Title 8, Construction Safety Orders (CSO), Section 1512(c)(1). The Petitioner notes that Section 1512, Emergency Medical Services, allows employers to provide first aid materials that are either approved by the consulting a physician or provide the first aid materials listed in the table included in the standard. He states that Section 3400 should be modified to be similar to the CSO requirements for first aid materials.

History

Four previous petitions concerning first aid materials were rejected by the Board. These Petitions were: No. 42 in 1977, No. 74 in 1978, and combined Petitions No. 237 and No. 242 in 1986. The 1986 petitions proposed to amend Sections 3400 and 1512 to delete those provisions that require physician approval of first aid materials and to add text that would allow non-prescription medications to be included in first aid kits without physician approval. Also in 1986, as a result of the AB-1111 review, the Board received comments on proposed revisions to Section 3400(c) that would require that the contents of first-aid kits comply with a table of required first aid

materials or be approved by a physician. In view of the considerable comments received in opposition to the revisions, the proposal was withdrawn.

In 2006, the Board granted Petition No. 483 which requested that Section 3400 of the GISO and Section 1512 of the CSO be amended to require that first aid kits be approved by the consulting physician or comply with ANSI Z308.1-2003. That Petition Decision directed the Division to convene an advisory committee to consider the petitioner's proposal along with issues presented in Petitions No. 481 and No. 482 related to first aid instructional devices and communication systems for contacting emergency services. That advisory committee did not reach a consensus regarding required first aid materials; as a result, the rulemaking proposal adopted by the Board in response to the three petitions did not amend the existing provisions concerning first aid materials.

National Consensus Standard

The Industrial First Aid Group of the International Safety Equipment Association developed ANSI Z308.1-2003, updating and expanding ANSI Z308.1-1998, to provide guidance for minimum performance levels of first aid kits for all types of uses and situations in the work environment. The list of recommended contents was expanded to include analgesics, burn dressings, and CPR barriers. The standard also takes into account all types of packaging of first aid products, along with containers for use in indoor and outdoor, mobile and stationary settings. The standard notes that because each workplace is unique, it is expected that the required products will be supplemented with additional products 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.

Federal OSHA Standards

In 1998, as part of Phase I of the Standards Improvement Project, federal OSHA amended 29 CFR, Sections 1910.151 and 1926.50, the federal counterpart standards to CCR, Sections 3400 and 1512, respectively. The amendments removed the requirement that first aid supplies be approved by a physician, required that adequate first aid supplies be readily available, and added a non-mandatory appendix, which referenced ANSI Z308.1-1978 and provided guidance to employers regarding the minimal kit contents. OSHA stated the requirement that a consulting physician approve first aid supplies was removed because it determined that commercial first aid kits are readily available and would meet the needs of most employers. Federal OSHA noted that employers may have to enhance their first aid kits if unique or changing first aid needs exist in their workplaces. Federal OSHA advised employers in Appendix A that if they had unique needs to consult with the local fire/rescue departments, appropriate medical professionals, or a local emergency room for help. Federal OSHA also advised employers that they should assess the specific needs of their worksite periodically and augment the first aid kit accordingly. In 2005, as part of Phase II of the Standards Improvement Project, the non-mandatory appendix was revised to update the ANSI reference from the 1978 edition of ANSI Z308.1 to the revised 1998 edition.

Division of Occupational Safety and Health (Division) Evaluation

The Division evaluation recommends that the Petition be granted to the extent that an advisory committee is convened to consider the Petitioner's request, and review and revise, as necessary, the table of minimum first aid supplies in Section 1512(c) of the CSO.

Staff Evaluation

On November 3, 2006, the Division convened an advisory committee to consider the issues presented in Petitions No. 481, 482 and 483. Petition No. 483 sought to allow use of ANSI Z308.1 compliant first aid kits as an alternative to the approval of first aid kit contents by a consulting physician. While the committee did not reach agreement on this issue, employer representatives strongly supported the petitioner's proposal. The committee did agree that the table of first aid supplies in Section 1512 is outdated, but some participants felt that the correct expertise to review the table was not present at the meeting and that expanding the scope of the advisory committee to update the current table went beyond the petitioner's request to rely on the ANSI Z308.1 standard.

The Division's evaluation of Petition No. 519 notes that when the Board adopted amendments to Section 3400 at the July, 2009 Board Meeting, the Division agreed to revisit requirements for first aid supplies. The Petitioner's proposal has merit; however it is evident from past experience with similar petitions and advisory committees that dealt with similar proposals that stakeholders have differing opinions in regards to specifying the minimum contents of first aid kits, requiring the contents be approved by a physician, and including prescription and non-prescription medications in kits. Board staff concludes that the Petitioner's recommendation raises several technical, practical, and potential legal issues that should be considered by an advisory committee composed of employee and employer representatives from general industry and the construction industry as well as technical experts in such fields as occupational medicine and emergency medical services and first aid.

Recommendation

Board staff recommends that the petition be granted to the extent that the Division should convene a representative advisory committee for the purpose of addressing the issues presented in Petition No. 519 and reviewing and revising, as necessary, the required first aid supplies listed in Section 1512(c). The Petitioner should be extended an invitation to participate in the advisory committee.