

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**AMENDED PETITION DECISION OF THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
(PETITION FILE NO. 483)**

INTRODUCTION

The Occupational Safety and Health Standards Board (Board) received a petition on April 19, 2006, from Mr. Dave K. Smith, (Petitioner) representing Dave Smith & Company, Inc. The Petitioner requests the Board to amend Title 8, California Code of Regulations, Section 3400 of the General Industry Safety Orders (GISO) and Section 1512(c) of the Construction Safety Orders (CSO), concerning first aid materials.

Labor Code Section 142.2 permits interested persons to propose new or revised standards concerning occupational safety and health, and requires the Board to consider such proposals, and render a decision no later than six months following receipt. Further, as required by Labor Code Section 147, any proposed occupational safety or health standard received by the Board from a source other than the Division must be referred to the Division for evaluation, and the Division has 60 days after receipt to submit a report on the proposal.

SUMMARY

The Petitioner is requesting to amend Section 3400 by deleting the provision that requires minimum first aid supplies shall be approved by the consulting physician, and replacing this provision with a requirement that first aid kits shall comply with American National Standards Institute (ANSI) standard Z308.1-2003 or be approved by the consulting physician. The Petitioner is also requesting to amend Section 1512 by deleting the provision that requires minimum first aid supplies shall comply with the table of supplies specified in the standard or shall be approved by the consulting physician, and replacing this provision with a requirement that first aid kits shall comply with ANSI Z308.1-2003 or be approved by the consulting physician. The Petitioner states these amendments are necessary because it is difficult for employers to obtain physician approvals and manufacturers produce first aid kits that comply with ANSI standards.

DIVISION'S EVALUATION

The Division's evaluation report dated July 18, 2006, states that the Division recommends that the Board grant the petition for the following noncontroversial changes proposed by the Petitioner:

- Section 1512(c)(1) currently opens by providing for the physical integrity of first aid kits before discussing determination of the minimum contents of first aid kits. The Petitioner would separate these two concepts by renumbering the latter discussion as 1512(c)(2).

Current subsections 1512(c)(2) and (c)(3) become subsections (c)(3) and (c)(4), respectively, in the Petitioner's new version of the standard.

- In Section 3400(b), the Petitioner would change "*Mining Enforcement and Safety Administration*" to "*Mine Safety and Health Administration*."
- In Section 3400(c), the Petitioner proposes changing the word "*workmen*" to "*employees*."
- In Section 1512(d), the Petitioner proposes replacing the phrase, "*all of his employees*" with "*their employees*."

The Division further recommends that the issue of physician approval and alternate list of first aid supply be granted to the extent that the Board staff convene an advisory committee to explore those two issues. The Division does not feel that the Petitioner's changes to the following are as protective as the existing language.

- Section 3400 requires a physician approve the minimum contents of first aid kits. The Petitioner states that in practice employers have difficulty meeting this requirement, especially in regard to obtaining a signed statement from the physician. First aid supply companies, the Petitioner notes, stock their commercially available kits according to applicable ANSI standards such as ANSI 308.1-2003, Minimum Requirements for Workplace First Aid Kits. Therefore, the Petitioner suggests changing the language of Section 3400(c) by replacing the current *obligatory* requirement for consulting physician approval for kit contents with *optional* approval by the physician; the alternative to physician approval for first aid kit contents would be concordance with ANSI Z308.1-2003.
- Section 1512(c)(1) currently provides for physician approval of minimum first aid supplies or, optionally, for compliance with a table included in this section. The Petitioner would replace the table with the option of compliance with the ANSI Z308.1-2003 standard.
- In the Petitioner's new Section 1512(c)(3), a requirement in current Section 1512(c)(2) for physician input into decisions on additional first aid supplies and equipment beyond the minimum would be eliminated. Only *employer* consideration of anticipated injuries and availability of medical transport would remain as factors in decisions on additional first aid supplies and equipment.
- Current Section 1512(c)(3) would, as mentioned, become (c)(4), but would keep the requirement for written physician approval of the inclusion of prescription drugs or proprietary preparations in first aid kits. However, the words "antiseptics, eye irrigation solutions, inhalants, medicines" would be stricken.
- The Petitioner adds new Section 1512(c)(5), which would permit the inclusion in first aid kits of prepackaged, single use, over-the-counter medical products such as aspirin—provided the employer does not administer the medication.
- In Section 3400(c), the Petitioner proposes striking the word "*frequent*" from the sentence "*A frequent regular inspection shall be made of all first aid materials, which shall be replenished as necessary.*"

The advisory committee would have to consider these issues carefully, considering the Petitioner's recommendations for potential standards modifications to the extent that such modifications would not eliminate protective measures currently in place for California workers.

STAFF'S EVALUATION

The Petitioner is proposing the following revisions to Sections 3400 and 1512, as indicated in strike-out text for proposed deletions and underline text for proposed additions.

§3400. Medical Services and First Aid.

- (a) Employer shall ensure the ready availability of medical personnel for advice and consultation on matters of industrial health or injury.
- (b) In the absence of an infirmary, clinic, or hospital, in near proximity to the workplace, which is used for the treatment of all injured employees, a person or persons shall be adequately trained to render first aid. Training shall be equal to that of the American Red Cross or the ~~Mining Enforcement and Safety Administration~~ Mine Safety and Health Administration.
- (c) There shall be adequate first-aid materials, ~~approved by the consulting physician~~, readily available for ~~workmen~~ employees on every job. Such materials shall be kept in a sanitary and usable condition. A ~~frequent~~ regular inspection shall be made of all first-aid materials, which shall be replenished as necessary. First aid materials must be compliant with the most recent ANSI (American National Standards Institute) standard such as Z308.1-2003 or approved by the consulting physician.

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§1512. Emergency Medical Services.

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- (c) First-Aid Kit.
 - (1) Every employer working on or furnishing personnel on a construction project, on line crews and on other short duration or transient jobs shall provide at least one first-aid kit in a weatherproof container. The contents of the first-aid kit shall be inspected regularly to ensure that the expended items are promptly replaced. The contents of the first-aid kit shall be arranged to be quickly found and remain sanitary. First-aid dressings shall be sterile in individually sealed packages for each item.
 - (2) The minimum first-aid supplies shall be determined by an employer-authorized, licensed physician or in accordance with ~~the following Table~~ compliant with the most recent ANSI (American National Standards Institute) standard such as Z308.1-2003.

Supplies for First Aid	Type of Supply Required by						
	Number of Employees						
Dressings in adequate quantities consisting of:	1	5	6	15	16	200	Over 200
1. Adhesive dressings	X		X		X		X
2. Adhesive tape rolls, 1 inch wide	X		X		X		X
3. Eye dressing packet	X		X		X		X

4. 1 inch gauze bandage roll or compress		X	X	X
5. 2 inch gauze bandage roll or compress	X	X	X	X
6. 4 inch gauze bandage roll or compress		X	X	X
7. Sterile gauze pads, 2-inch square	X	X	X	X
8. Sterile gauze pads, 4-inch square	X	X	X	X
9. Sterile surgical pads suitable for pressure dressings			X	X
10. Triangular bandages	X	X	X	X
11. Safety pins	X	X	X	X
12. Tweezers and scissors	X	X	X	X
*Additional equipment in adequate quantities				
Consisting of:				
13. Cotton-tipped applicators			X	X
14. Forceps			X	X
15. Emesis basin			X	X
16. Flashlight			X	X
17. Magnifying glass			X	X
18. Portable oxygen and its breathing equipment				X
19. Tongue depressors				X
Appropriate record forms	X	X	X	X
Up-to-date 'standard' or 'advanced' first-aid textbook, manual or equivalent	X	X	X	X

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

(23) 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.

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

(5) Single use packages of over the counter products such as aspirin or acetaminophen are permitted if the employer does not administer any medication.

(d) Informing Employees of Emergency Procedures. Each employer shall inform ~~all of his~~ their employees of the procedure to follow in case of injury or illness.

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There are different opinions amongst persons in the first aid and medical fields regarding physician approval of first aid materials and the types of medications that should be contained in first aid kits, if any. In 1975, in response to Board hearings concerning proposed new Section 1512, Dr. Irma West, from the Occupational Health Section of the California Department of Health Services (DHS), provided a letter supporting the existing provisions in Section 1512

regarding physician approval of first aid supplies and non-prescription medications. The following items summarize her comments that are relevant to the current petition.

1. In regards to the assertion that it is difficult to obtain physician approval, Dr West states: *“Obtaining medical consultation is not that difficult. All employers already have or should have a medical consultant. The employer is required by Workmen’s Compensation laws to provide adequate care for all occupational injuries and illnesses. He cannot comply without consulting a physician in making initial and continuing arrangements. The physician whom he is already utilizing for Workmen’s Compensation may be a logical source of help in planning for the best kind of emergency medical care which that particular construction job can provide. (Employers should be prepared to pay for the physician’s time for consultation. Some physicians complain that employers don’t expect to pay which may be one of the reasons these services are looked upon as burdensome.)”*
2. In regards to the list of first aid supplies contained in Section 1512, which was taken from a DHS publication entitled “First Aid In Industry,” Dr West states: *“For over a decade the Occupational Health Section has published several editions of First Aid in Industry. Thousands of copies have been distributed in California industry and its employees. The recommendations herein have been accepted as a Statewide standard including the approval by the consulting physician of all supplies beyond a minimum list and physician approval for all proprietary preparations, antiseptics, ointments, eye solutions and the like.”*
3. In regards to prohibiting non-prescription drugs in first aid kits without physician approval, Dr. West cites several examples of over-the-counter medications that have been used for first aid treatment despite evidence that their use can be unsafe, including: antiseptics such as merthiolate (organisms can grow in it - and soap and water is effective), ammonia inhalants (have caused death), aspirin (inhibits blood clotting and can cause injury to pregnant women and persons with ulcers), cold remedies (can cause drowsiness), and neutralizing eye wash solutions (can damage eyes and deter from proper flushing with water for 15 minutes). Dr West goes on to say, *“Over-the-counter” proprietary items are now, for the first time, under examination by the Food and Drug Administration. ...In addition to fostering liability for adverse reactions to medications, an employer may be in violation of the State’s medical practice and pharmacy laws when he dispenses to employees drugs or medications. It makes no difference whether they are prescription items or not. The key words are diagnosis and treatment. If he diagnoses and treats illnesses or injuries of other persons such as employees he must have a license to practice medicine. Treatment implies diagnosis.”*

The first aid provisions in Sections 3400 and 1512 were adopted more than 30 years ago and since that time there have been significant changes regarding first aid, such as: revised first aid practices, improved oversight of the safety and efficacy of non-prescription medications, publication of ANSI Z308.1, availability of ANSI approved first aid kits, and revised federal OSHA first aid standards. The Petitioner’s proposal to require employers provide first aid materials that comply with ANSI Z308.1 or are approved by a physician has merit. However, past experience has shown that stakeholders have differing opinions in regards to specific minimum requirements for first aid supplies, physician approval of first aid supplies, and the inclusion of prescription and non-prescription medications in first aid kits. A variety of conflicting opinions are evident from a review of the rulemaking files, petition files, and the

minutes of seven advisory committee meetings chaired by the Division in 1994 -1995, which included a comprehensive review of Title 8 first aid standards but did not reach a consensus on proposed amendments. Therefore, no rulemaking proposal was submitted to the Board for consideration.

Board staff concludes 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, first aid kit manufacturers, and experts in the fields of occupational medicine, emergency medical services, and/or first aid.

CONCLUSION AND ORDER

The Occupational Safety and Health Standards Board has considered the petition of Mr. Dave K. Smith representing Dave Smith & Company, Inc., to make recommended changes to Section 3400 of the General Industry Safety Orders and Section 1512(c) of the Construction Safety Orders concerning first aid materials. The Board has also considered the recommendations of the Division and Board staff. **The Petition is hereby granted to the extent that the Division staff convene an advisory committee specific to this petition and Petitions 481 and 482. The Petitioner should be extended an invitation to participate in the advisory committee.**