

Memorandum

To : ALL STANDARDS BOARD MEMBERS

Date: September 15, 2017

From : **Occupational Safety and Health Standards Board**

David Kernazitskas, MSPH, CIH, CSP
Senior Safety Engineer – Standards

Subject: Commercial Diving Operations (Horcher)

At the August 17, 2017 Public Hearing, the Occupational Safety and Standards Board considered revisions to California Code of Regulations, Title 8, General Industry Safety Orders, Sections 6052, 6056, 6056.1 (New), 6057, 6060, and 6062, Commercial Diving Operations (HORCHER). The proposed regulations are substantially the same as those promulgated by Federal OSHA.

Labor Code Section 142.3(a)(3) exempts the Board from providing a comment period when adopting a standard substantially the same as a federal standard. However, as indicated in the Notice (Informative Digest), the Board is accepting limited comments for the following purposes:

1. To identify any clear and compelling reasons for California to deviate from the federal standard; and,
2. To identify any issues unique to California related to this proposal which should be addressed in this rulemaking and/or a subsequent rulemaking.

As a result of public comments, the following proposed amendments were removed from the original proposal. They will be discussed in a future advisory committee meeting and addressed in a follow-up rulemaking, as necessary.

- Subsection 6056(a)(2)(A) will remain as currently written in the California Code of Regulations, Title 8. Previously, the subsection was proposed for modification to require that a standby diver be available at all times that a diver is in the water, as required by federal OSHA commercial diving regulations.
- Proposed subsections 6057(c)(4)(C) and (D) will not be added to Section 6057 in order to allow for further discussion with stakeholders. The subsections require inflation sources for SCUBA equipment, which are separate from the breathing gas supply.

A non-substantive change is also proposed to correct the spelling of the word “buoyancy” in subsection 6057(c)(4)(B).

SUMMARY AND RESPONSE TO WRITTEN AND ORAL COMMENTS

I. Written Comments

Mr. Paul Dimeo, Dive Safety Officer, Aquarium of the Pacific, by letter dated August 17, 2017.
Mr. Christian McDonald, Diving Safety Officer, Scripps Institution of Oceanography, by letter dated August 16, 2017.

Mr. George Z. Peterson, Director of Dive Programs, Monterey Bay Aquarium, by email received August 17, 2017.

Mr. Andrew Solomon, Diving Safety Officer, California Science Center Foundation, by letter dated August 16, 2017.

Comment:

The commenters commented that three elements of the proposal would adversely impact technical divers:

- 1) 6056(a)(2)(A-D) – removal of an in-water buddy as an acceptable means of a standby diver. The commenters asserted that the in-water diver can more efficiently respond to an in-water emergency than a topside standby diver.
- 2) 6057(c)(4)(C) – When used for SCUBA diving, a buoyancy compensator shall have an inflation source separate from the breathing gas supply. The commenters state that the “increase in equipment requirements not only increases the weight the diver has to carry, but it also increases the failure points on the gas system as a whole.” They further state that concerns over a diver running out of air do not exist in aquarium and zoo diving operations.
- 3) 6057(c)(4)(D) – An inflatable flotation device capable of maintaining the diver at the surface in a face-up position, having a manually activated inflation source independent of the breathing supply, and oral inflation device, and an exhaust valve shall be used for SCUBA diving. The commenters state that the flotation devices utilize a CO₂ cartridge that has a high failure rate, may be dangerous to use, and are not readily available from manufacturers due to their being “outdated technology.”

Response:

The Board has removed the disputed language from the proposed amendments so that the concerns can be discussed with stakeholders in a future advisory committee meeting. The commenters and other stakeholders will be notified of the meeting’s time and place and invited to participate.

The Board thanks the commenters for their comments and participation in the Board’s rulemaking process.

II. Oral Comments:

Mr. Paul Dimeo, Dive Safety Officer, Aquarium of the Pacific, in testimony given August 17, 2017.

Comment:

Mr. Dimeo, commented that three elements of the proposal would adversely impact technical divers:

- 1) 6056(a)(2)(A-D) – removal of an in-water buddy as an acceptable means of a standby diver. The commenters asserted that the in-water diver can more efficiently respond to an in-water emergency than a topside standby diver.
- 2) 6057(c)(4)(C) – When used for SCUBA diving, a buoyancy compensator shall have an inflation source separate from the breathing gas supply. The commenters state that the “increase in equipment requirements not only increases the weight the diver has to carry, but it also increases the failure points on the gas system as a whole.” They further state that concerns over a diver running out of air do not exist in aquarium and zoo diving operations.
- 3) 6057(c)(4)(D) – An inflatable flotation device capable of maintaining the diver at the surface in a face-up position, having a manually activated inflation source independent of the breathing supply, and oral inflation device, and an exhaust valve shall be used for SCUBA diving. The commenters state that the flotation devices utilize a CO₂ cartridge that has a high failure rate, may be dangerous to use, and are not readily available from manufacturers due to their being “outdated technology.”

Response:

The Board refers Mr. Dimeo to the response to his written comment above.

The Board thanks Mr. Dimeo for his comment and participation in the Board’s rulemaking process.

DETERMINATION OF MANDATE

These regulations do not impose a mandate on local agencies or school districts.