

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**INITIAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Sections 6050, 6051, 6052, 6054 and 6056 of the General Industry Safety Orders

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

The Occupational Safety and Health Standards Board (Board) staff is initiating a rulemaking in response to discussions with the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) regarding deficiencies in California requirements for divers, which are not as protective as corresponding federal requirements. The rulemaking is necessary to render California regulations at least as effective as (ALAEA) federal requirements found in 29 CFR 1910.401 through 29 CFR 1910.422 in accordance with Labor Code section 142.3.

Specifically, the changes are as follows:

Subsection 6050(a). Scope.

Because the scope of the regulation states that the regulation applies to all diving operations in California, listing the specific types of operations (e.g. commercial, scientific, technical and agricultural) is unnecessary and as such are proposed for deletion. The amendment is necessary to clarify that the diving regulations apply to all diving operations and not only those that are specifically listed.

Section 6051. Definitions.

A new definition for "controlled environment" is proposed to be added to the definitions section as well as a modification to the definition for "film and TV diving." The definition for "technical diving" is proposed for deletion because the dive mode is not recognized by federal regulations. The amendments are necessary to clarify certain requirements in the diving regulations and conform to requests from OSHA that will make the state regulations ALAEA the corresponding federal regulations.

Subsection 6052(c)(1)(C)3. Pre-Dive Inspection.

The subsection is proposed to be modified to include specific equipment that must be inspected prior to a dive in order for the regulation to be ALAEA federal requirements found in 1910.421(g). The amendment is necessary to make the California requirements ALAEA the corresponding federal requirements.

A non-substantive change is also proposed to replace “his or her” with “their.”

Subsection 6054(a)(3). Emergency Evacuation and Emergency Medical Treatment Procedures.

The subsection is proposed to be modified to include a requirement for a telephone or other contact number for an operational recompression chamber if one is not available at the dive location. The amendment is necessary to make the California requirements ALAEA the corresponding federal requirements found in 1910.421(b)(1-5).

Section 6056. Basic Operation Procedures.

Subsection 6056(a)(1)(A) is proposed for modification to remove the unnecessary words “compressed air” before the word “SCUBA.” The exception to the subsection is also proposed for deletion because scientific diving is exempted from the subject regulation and technical diving is no longer recognized as a diving mode in California. The amendments are necessary to clarify that SCUBA diving at depths greater than 130 feet of sea water (fsw) is prohibited in accordance with federal requirements found in 1910.424(b)(1).

Subsection 6056(a)(1)(B) is proposed to be replaced with the corresponding federal language found in 1910.424(b)(2), which requires a decompression chamber to be present for dives deeper than 100 fsw or outside the no-decompression limits. The amendment is necessary to make the California requirements ALAEA the corresponding federal requirements.

Exception to section 6056(a)(1)(C)

The exception is proposed to be modified by removing the word “technical” from the term “technical divers.” A clarification that dive teams performing film and TV diving in currents above one knot need to be trained and available to initiate an emergency response will also be added. The amendments are necessary to make the California requirements ALAEA the corresponding federal requirements found in 1910.424(b)(3).

Exception to section 6056(a)(1)(D)

The exception is proposed to be modified to explicitly require current industry practices for dive teams working in controlled environments performing film and TV diving operations where line-tending is unnecessary. The amendment is necessary to ensure that film and TV divers are

protected while working in enclosed or physically confining spaces and to ensure that California requirements are ALAEA federal requirements found in 1910.424(b)(4).

The term “physically confined spaces” is proposed to be changed to “physically confining spaces” to match the corresponding federal language and avoid confusion with confined spaces which are not intended to be regulated in the present section. The exception is also proposed to be modified by removing the word “technical” from the term “technical divers.” The amendments are necessary to make the California requirements ALAEA the corresponding federal requirements.

Exception to section 6056(a)(2)(A)

The exception is proposed to be modified by removing the word “technical” from the term “technical divers.” The proposed change will also limit the exception to divers performing zoo and aquarium exhibit diving operations. Finally, the exception will be amended to require that the designated person-in-charge not have other duties that could interfere with responding to a diving emergency. The amendments are necessary to limit the scope of the exception and to make the California requirements ALAEA the corresponding federal requirements.

Subsection 6056(a)(2)(C)

Subsection 6056(a)(2)(C) is proposed to be modified to remove the option for an orientation line and more exactly match federal requirements found in 1910.424(c)(3). The amendment is necessary to make the California requirement ALAEA the corresponding federal requirement.

Subsection 6056(a)(5) Hookah.

Subsection 6056(a)(5) is proposed to be amended to allow hookah diving only for divers performing zoo and aquarium exhibit diving and film and TV diving operations. An exception to subsections 6056(a)(5)(D) and (a)(5)(E) is proposed for film and TV divers when specific requirements are met. The amendments are necessary to ensure that only zoo and aquarium exhibit and film and TV divers are authorized to employ the hookah diving mode and to ensure that film and TV divers can work safely in a controlled environment using the hookah diving mode.

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

1. Word document entitled “20240109 SXS Technical Diving.”

This document is available for review 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 or by calling (916) 274-5721.

PETITION

This proposal was not the result of a petition.

ADVISORY COMMITTEE

This proposal was developed without the assistance of an advisory committee.

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

This proposal will not mandate the use of specific technologies or equipment.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The proposed regulation will not affect the: (1) creation or elimination of California jobs, (2) creation of new businesses or elimination of existing California businesses, or (3) expansion of existing California businesses, because the amendments are intended to satisfy federal OSHA concerns regarding a lack of specific details in California's performance oriented diving regulations. The amendments make California regulations more closely mirror corresponding federal requirements, but are based on existing California diving practices that do not impose new requirements on affected businesses.

Divers are employed at a variety of California workplaces, including marinas, golf courses, film studios, zoos, aquariums, construction firms and schools. Dive employers are not expected to incur costs from the proposed amendments because the changes only describe existing practices in a possibly clearer and more streamlined manner. However, if an employer determined that it was not already in compliance with the proposed regulation and decided to train employees on the need to inspect the diving equipment specifically called out in section 6052(c)(1)(C)3 and update listings of nearby recompression chambers with contact numbers, as proposed in section 6054(a)(3)(A), the Board expects an initial cost impact of up to \$19,536 statewide. Annual ongoing costs are not expected because the proposal does not require new practices, employees or equipment.

BENEFITS OF THE PROPOSED ACTION

The proposal promotes worker safety by adding minor details to California diving regulations so that they more completely reflect the corresponding federal requirements. No significant environmental impact is anticipated from the proposed action.

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. Although the proposal contains many clarifying amendments to the existing language, the practices of the affected stakeholders are not expected to change as a result of the amendments.

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. The current proposal is deemed to be the most reasonable means for maintaining existing workplace protections, meeting federal requirements and imposing no additional costs on the affected employers.