



May 31, 2021

**Re: Responses to Diving Comments on the Draft Canada-Newfoundland and Labrador Offshore Occupational Health and Safety Regulations**

Thank you for taking the time to review and submit comments on the draft *Canada-Newfoundland and Labrador Offshore Occupational Health and Safety (OHS) Regulations*. This type of feedback from industry expertise is what will help to ensure that these new OHS regulations are effective in setting requirements that address the unique characteristics and hazards in remote marine workplace settings, providing optimal protection for the health and safety of offshore workers.

Attached is a summary of the comments and responses which include some changes that were made to the draft and clarifications that pertain to diving. Recognizing that the draft provided for this review was sent concurrently to revisors and jurilinguists, comments that were more editorial in nature can be considered addressed, and are not included in the attachment.

The formal public review and opportunity to provide written feedback on the draft regulations is expected to occur in summer 2021, when they are pre-published in [Canada Gazette Part I](#).

We will also be posting all comments received on the draft and updated information on this initiative on the Natural Resources Canada website for the Atlantic Occupational Health and Safety Initiative: <https://www.nrcan.gc.ca/energy/offshore-oil-gas/18883>

Thank you again for your feedback.

Sincerely,

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*Attachment: [Summary of Diving Comments and Responses]*

# Summary of Diving Comments and Responses

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Summaries of the comments received from diving stakeholders are below, each followed by a response from Natural Resources Canada (NRCan) that includes clarifications and outcomes from discussions with the Governments of Newfoundland and Labrador and Nova Scotia, as well as technical advisors at the C-NLOPB and CNSOPB. References below to particular sections in the regulations correspond to the consultation draft Canada-Newfoundland and Labrador Offshore Occupational Health and Safety Regulations that was provided for review on March 8, 2021.

## 1. International Industry Diving Guidance

### Stakeholders:

Multiple stakeholders suggested that international industry (IMCA) guidance should be considered in the regulatory regime. Stakeholders noted that referencing IMCA documents is one way to ensure minimums are in place and that IMCA guidance is industry developed from close to a thousand industry members and is updated every 5 year providing a measure future proofing.

### NRCan response

Incorporating standards and other documents by reference in regulation is an effective regulatory tool, and in accordance with modern regulatory practice for designing effective regulations. There are a number of benefits of incorporating standards in regulations, the most important being that it sets a clear expectation for minimum requirements. Dynamic/ambulatory incorporation by reference of standards in the regulations allows the regulations to remain current and evolve through successive updates of the standard.

The practice of incorporating standards and other documents by reference requires a thorough review of each of those standards and other documents to ensure that the content in those documents:

- a) address the topic at hand in a manner consistent with governments' intent and which provides clear expectations for the minimum levels of safety necessary to adequately protect the health and safety of employees;
- b) is written in language that enables enforcement; and,
- c) does not sub-delegate authority to an outside party.

As noted above in (b), not all standards or other documents are suitable for incorporation by reference into regulation because they are not designed to be enforceable instruments. Some standards or other documents are written only with the intention to be used as guidance, and requirements within them may not be written as mandatory requirements.

We have reviewed the relevant IMCA documents and although we agree they provide value, they are not appropriate for incorporation by reference into regulations given they were written for the purpose of guidance and do not use mandatory, enforceable language.

It is likely that the C-NLOPB and CNSOPB will develop guidelines on various topical matters, including diving. Additionally, the Chief Safety Officer has power to require codes of practice be developed or adopted by operators and/or employers. Both codes of practice and board developed guidelines are instruments used within the Accord area regulatory regime that serve to guide/direct how offshore activities are undertaken. The regulations set the minimum standard that must be met and are aligned with international best practices. The Boards may choose to establish guidelines, or the CSOs may choose to require a Code of Practice, to help further supplement the regulatory regime.

## 2. IMO A.831(19) Code of Safety for Dive Systems

### Stakeholders:

The conformance to IMO 831(19) *Code of safety for diving systems* does not provide sufficient level of safety for dive equipment and does little for dive plant integrity. IMO standard is outdated and incompetent when compared to IMCA standards

### NRCan response

The IMO A.831(19) *Code of safety for diving systems* is currently under revision and the end result is expected to be more modern and robust than the current version. The C-NLOPB is participating in the development of the revised edition. Once published, the new version will be automatically incorporated by reference (see s.2(1) of the draft Canada-Newfoundland and Labrador Offshore Occupational Health and Safety Regulations).

As noted above, we have reviewed the relevant IMCA documents and although we believe they provide value, they are not appropriate for incorporation by reference into regulations. The Boards may choose to establish guidelines, or the CSOs may choose to require a Code of Practice, to help further supplement the regulatory regime.

## 3. Dive Safety Specialists

### Stakeholders:

Stakeholders noted that there are two types of 'dive safety specialists' (DSS) contemplated by CSA Z275.2 *Competency standard for diving, hyperbaric chamber, and remotely operated vehicle operations*, and suggested that the use of term 'dive safety specialist' in the regulations should be clarified as 'offshore dive safety specialist'. Further, it was suggested that the role of the DSS be re-considered concerning who can fulfil it.

Multiple stakeholders expressed concern over the perceived lack of offshore representation at the CSA diving standard committees, and suggested that some mechanism be considered that would protect against the competency requirements for offshore personnel from being diluted.

**NRCan response**

The term 'dive safety specialist' has been retained, however, the qualifications that the dive safety specialist must meet has been clarified in the regulations to be the competencies laid out for 'offshore dive safety specialists' in CSA Z275.2. The proposed regulation was further refined to provide clarity that a DSS must not be assigned any other duties that will interfere with their ability to provide prompt advice.

NRCan, Nova Scotia Labour and Advanced Education, and both offshore Boards hold seats at the CSA diving technical committees and continue to monitor the potential changes to the diving standards, particularly as they pertain to offshore diver competencies. CSA Z275.4 is currently under revision and the provisions related to offshore diving personnel are being closely monitored to ensure they continue to reflect the minimum standard desired.

**4. Dive Team Competencies****Stakeholders:**

One stakeholder noted that there is no guidance on how the dive contractor will prove to the regulator that each member of the dive team conforms to the applicable competencies of CSA standard Z275.4.

**NRCan response**

The employer (dive contractor) is obligated to ensure compliance with the specific competencies in the regulations and others in the Act. They need to be able to demonstrate that compliance to the regulator upon request. This is the same for all the competencies of all offshore personnel. Competency of personnel can be demonstrated in various ways, including through proof of certification.

**5. Diving Physician Specialist****Stakeholders:**

Stakeholders noted the value in the future Diploma in Hyperbaric Medicine (Diving Medicine Stream), but raised concern that it is not yet fully approved/established and, as such, there are no physicians in Canada currently in possession of this diploma/qualification. Furthermore, it is unlikely the program will be established and physicians granted the diploma by the end of 2021, when the proposed offshore OHS regulations come into force.

**NRCan response**

Although NRCan and its provincial partners see value in recognizing the diploma program, the proposed Regulations cannot point to a program that does not currently exist. The definition of Dive Physician Specialist has been revised to mean a physician who is licensed to practice medicine in Canada who meets the competencies of a Level 3 physician set out in CSA Z275.2 *Occupational Safety*

*Code for Diving Operations*. Additionally, the regulations require that a diving physician specialist is readily available at all times to provide remote medical advice from location within the province where the dive activity is taking place, and to be transported to the dive site, if necessary.

## 6. Medical Fitness

### Stakeholders:

Most DSVs entering Canadian waters have some foreign divers who have obtained their medicals within other global jurisdictions. Suggestion that a means for accepting alternative qualifications be included.

One stakeholder suggested that medical fitness to dive examinations should be limited to dive physician specialists only.

### NRCan response

The draft regulations that were shared with stakeholders included this flexibility. Every diver must be certified as being medically fit by a Canadian dive physician or, where they received their medical fitness certification in a foreign jurisdiction, a Dive Physician Specialist has reviewed the foreign certification and confirmed medical fitness.

The practice for the past 30 years of offshore diving is to accept medical fitness to dive examinations/certification by a Canadian dive physician that meets the competencies set out in a level 1 physician in CSA Z275.2. Limiting dive medicals to be performed only by a dive physician specialist would serve to reduce the number of qualified physicians to a very small number (approximately two, at this point in time). The suggested approach would also be inconsistent with other federal and provincial diving regulations.

## 7. Saturation Time Limits

### Stakeholders:

Stakeholders noted that the CSA requirement does not use mandatory language for time limits respecting saturation diving.

### NRCan response

Upon review of the language in CSA Z275.2 respecting saturation time limits, it was agreed that the requirements, as written, are not enforceable. This provision was removed from the Dive Project Plan, and instead, established as a dive contractor obligation to ensure that saturation dives are not scheduled to last more than 28 days.

## 8. Other feedback and clarifications on interpretations and expectations

Applicable Section	Summary of Feedback/recommendation	NRCan response
163(1)(m)	Depending on how the 'primary thermal control system' is defined the requirement may be overly onerous. Would like to see clarification on the intent of this clause	This provision requires procedures be developed to address the maintenance of diver's thermal balance and comfort.
163(1)(n)	If the intent is effectively compliance to lock-out tag-out procedures then no concern with clause. If broadened to include divers working subsea then not reasonable or practical (e.g. when working with crane lifts a barrier cannot be placed between diver and crane load)	This provision requires procedures be developed to address the installation of isolations and barriers required to protect divers from contact with hazards. It is not prescribing when/how isolations or barriers must be used, although these are aspects that should be considered in the procedures.
163(1)(o)	No definition of 'vicinity'. Specify specific distance that would trigger requirement to notify.	Boards can provide clarity in guidance, if it is needed.
164(a)	SCUBA diving is infrequent but may be necessary (environmental, scientific) and would require CSO approval.	SCUBA is not presently permitted by the Boards in the Can-NS or Can-NL offshore areas, as it is deemed to not provide a high enough level of safety given offshore conditions. It will remain expressly prohibited in the proposed regulations.
164(b)	Stakeholders suggested a number of variations on 'helium-oxygen breathing mixture'.	Revised to prohibit surface-supplied diving using a breathing mixture that contains helium.
167(1) and 169(1)	Word "or" in the chapeau allows choice between parties to be consulted.	the 'or' only applies to the OIM (which is on a D&P installation) or the OCM and vessel master (on a vessel)
167(1)(a)	Emergency planning must include vessel and diving teams to work together, and the use of 'or'	Confirmed that interpretation is that all emergencies (vessel or dive system) must be addressed by the procedures, not one or the other.
167(1)(c)	A dive should be terminated if there is any loss in communication.	Revised accordingly
167(1)(i)	The reference to thrusters should be replaced with the ships propulsion system	Revised accordingly

	components and other hazards which pose a hazard to the diver and the umbilical.	
167(2)	Suggestion that 'all emergency scenarios' may be challenging, and that the clause should be restated to 'all reasonably foreseeable emergency scenarios'	Revised accordingly
168(1)(b)	Drills involving medical emergencies should involve communication with the Diving Physician Specialist. This is necessary to ensure that the drills and the outcomes are effective.	Revised accordingly
170(1)(f)	Lack of redundant communication with the diving physician.	Revised to ensure redundancy in all communications
170(1)(g)	Medical equipment and supplies not mentioned.	The requirement for first aid and medical supplies in Part 6 has been revised to ensure that for dive projects, the diving physician specialist is consulted. consultation with the dive doc under 32(1)(c)
170(1)(k)	Defined value is not applicable to most situations without calculating specific depth. Value at surface is too high for a single diver. Word "supplied" indicates it must go to the diver at all times.	Revised 'supplied' to 'available'
170(1)(r)	Current wording is vague	Boards can provide clarity in guidance, if it is needed.
170(1)(w)	When an emergency occurs it is not possible to predict the exact location of the diving physician specialist or access to printed records. There are also practical issues of access to printed records depending on when the diver joins the Dive Support Vessel and when or whether the dive physician undertakes an onsite visit to the vessel. These records need to be electronic.	Intent that was discussed and agreed upon was that a diver could carry their in-depth medical on them, to be opened in the event of an emergency by the DMT, who could then convey the necessary info to the DPS.
170(2)(a)	At least one member of the dive team at the dive site at all times holds a valid diving medical technician certificate; Problem occurs if injured diver is the DMT.	Revised to require at least one member of the dive team holding DMT certification to be on the surface at the dive site at all times during a surface supplied dive, and who is not on a mandatory rest period.  For saturation programs, all dive team members must hold DMT certification.
170(2)(e)	Fails to define a minimum standard	Revised to require a minimum inside diameter of 1.524 m.

170(3)(b)	During a typical offshore dive campaign, the dedicated medic will perform the pre/post medicals. This medic typically does not have a DMT certification.	Revised to allow medical checks in surface supplied programs to be carried out by a member of the dive team who holds a diving medical technician certificate, or by a medic under the direction of the diving physician specialist
170(3)(c)	The Canadian offshore is relatively remote. The requirements for twin bell systems would provide for an increased safety margin and the ability for self-rescue.	Revised to require that at least two bells are available
170(3)(e)	The wording defines that only the Life Support Package meets the requirements of IMCA D 052. Rephrase such that Reception facility is also required to meet IMCA D 052	<p>For reasons noted in in (6), we have removed the reference to IMCA D052; however, still require a HES that includes a HRF and SPHLs that are equipped with life support package sufficient to sustain the lives of divers. Additionally, a mating trial of the SPHLs and HRF must be conducted.</p> <p>The Act requires all facilities, equipment, machines, devices, etc. are safe for their intended use, and it is expected that this equipment will be verified by a certifying authority as safe.</p>