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# Association of Diving Contractors, Inc.

COMMUNICATION • EDUCATION • SAFETY  
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Docket Management Facility [USCG-1998-37861 -67]  
U.S. Department of Transportation, Room PL-401  
400 Seventh Street, SW  
Washington, D.C. 20590-00 1

Information available at dms.dot.gov furnishes stakeholders associated with assigned dockets a valuable mechanism to review and comment on Advanced Notices of Proposed Rulemaking. The Department of Transportation is to be commended for its foresight in offering this valuable tool, one that serves to evaluate comments submitted from the concerned community to which a Proposed Rule is addressed.

As a prelude to comments that follow, ADC has, since its' inception in 1968 been well recognized as an organization committed to promoting Safety, Communications, and Education throughout the commercial diving and underwater industry of our nation. In accomplishing its' mission, ADC works through a consensus style of representation of its' members interests. Those interests have been continually evident in four editions of the ADC Consensus Standards for Commercial Diving and, in fact, by the ADC response to Docket 3786 now being considered. It is with firm conviction that ADC believes its' efforts by and on behalf of its' membership have served the U.S. commercial diving industry well. Since its' inception, the ADC has noted a continued decrease in the number of accidents and fatalities amongst commercial divers; even those not employed by ADC member companies.

The American commercial diving industry is a mature, generally well managed, and safety sensitive industry of great importance to the economic security of our nation. It is the view of ADC that practices and procedures of an industry segment that has both a demonstrated and proven commitment to safety, should-not change, merely for change sake. It is the further the view of ADC that when good and sufficient reason necessitates change, that the action be carefully considered, and that it be evaluated by members of the industry in question. With that philosophy in mind, the ADC, working with members of the United States Coast Guard, and with other organizations, addressed the subject of change to 46 CFR, Part 197. The ADC Safety, Medical, and Education Committee, the membership, and the Board of Directors were all requested to comment and approve the recommended changes generated. Only after completion of such actions was the proposed change document submitted for consideration.

At the very least it would appear that a number of comments now being submitted to the Docket Management Facility are motivated more by self-serving interest than by an understanding of the U.S. commercial diving industry. It is evident that some of the comments submitted are from sources with an agenda and credentials that appear questionable. In other cases it would appear that comments submitted are intended to restrict fair trade and deny market entry to competition. Some comments appear to acknowledge that the source has, and may continue to violate federal regulations now in place with respect to the conduct of commercial diving operations by evading the issue of what factually is commercial diving. In other instances comments submitted appear to derive from sources that factually have no stake in the commercial diving industry of the United States.

As a supplement to our prior submission, the Association of Diving Contractors wishes to make the following observations and comments.

1. Commercial diving activities in the United States take place in a variety of locations; are conducted by a fairly diverse group of companies and persons, and entail operations that take place in very shallow depths to in excess of 1000 feet. Likewise, commercial diving

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Ross Saxon, Ph.D.

operations take place in different areas of jurisdiction however all falling under either 46 CFR or 29 CFR. Accordingly, when considering change to a regulation it is appropriate that the stakeholders who actually engage in commercial diving operations are well represented, with their comments being properly respected and considered.

2. From appearances, it seems evident that the Advanced Notice of Proposed Rulemaking [Docket 3786] has generated a reasonably diverse and appropriate response. However, it is also readily evident that certain parties have seized the opportunity to malign others and to suggest actions that do not correlate to either industry practice or demonstrated need. This is unfortunate and should be recognized and accepted for its' self serving purpose rather than to delay or defer action by Coast Guard that has long been sought by both industry and regulatory authorities.
3. Comments submitted from the Association of Commercial Diving Educators (ACDE) urge Coast Guard to accept training standards developed by a closed group of vocational training organizations. Those Standards fail to reflect the general commercial diving industry consensus regarding need. The position of ADC is that acceptance of the ANSI Standards are urged for the primary purpose of limiting market entry of alternate commercial diver training organizations. ADC will not, and can not restrict its' membership to only a select group of vocational training schools. Approval of only the ANSI Standards within the change to 46 CFR, Part 197 would require that ADC refuse membership admission to schools accredited in their respective area of jurisdiction. It would also prohibit both ADC member and non-companies from hiring the graduates of any school save those who are members of a particular organization. Any requirement set forth in federal regulations that would only "approve" schools with course hours in excess of those required by industry would prohibit industry from free choice in its' hiring practices, Questions might also arise as to whether such actions would constitute restraint of trade,
4. The National Association of Commercial Divers claiming to represent a broad spectrum of the U.S. commercial diving industry working divers has requested, and been granted an extension of the comment period of Docket 3786. Separate efforts by ADC have failed to determine just whom that organization purports to represent, and whether that organization is a registered business with the Secretary of State where they are apparently domiciled. Granting of an extension by Coast Guard was an appropriate response to the request of NAOCD in the absence of additional specific information. However, ADC questions whether NAOCD represents a broad spectrum of the commercial diving industry or only a selected few persons with an agenda more relating to wages, fringe benefits and employment rather than safety; the subject of the Advanced Notice of Proposed Rulemaking.
5. The Commercial Diving Safety Organization has suggested extensive revisions to the ADC proposal as referenced in Docket 3786. A thorough review of comments submitted serves to indicate that whenever a reference to ADC appears that this is stricken. The revision, submitted as a comment to reference Docket, essentially refutes all recommendations and suggestions of the ADC. A careful reading of the submitted comments serve to lead one to the opinion that CDSO seeks highly prescriptive regulations with a high degree of oversight and supervisory authority left in the hands of Coast Guard. It appears evident that the writer does not appreciate, nor presumably, care for the improvements in safety statistics brought about by ADC over the past three decades. ADC efforts to determine the scope of the organization have failed to determine any persons, other than the principal, that are members.

The principal of CDSO is a gentleman who has experienced the tragic loss of his son as the result of a commercial diving accident. It unfortunately appears that this gentlemen continues to believe that in some manner ADC may have failed its' responsibilities to investigate the

accident or, to take some form of enforcement action that may have prevented the death of his son. In the first instance, ADC did take all appropriate action as authorized by the by-laws of the organization and by the Board of Directors. In the second instance, ADC is not an enforcement organization nor, in the absence of specific authority granted by federal authority, can or should we be. ADC could certainly execute against a contract with federal authority to conduct on-site investigations of accidents or circumstances that may lead to an accident. However, without such an instrument the ADC has no authority to take such action.

Other comments made in the submission from this organization would suggest that they expect Coast Guard to assume a substantially larger burden than manpower, training, and perhaps budgetary limitations would permit. That urging is made with no consideration of the great improvements made over the past decades by industry and Coast Guard mutually working to improve safety throughout the commercial diving industry. The actions suggested by comments submitted by CDSO do not appear to coincide with U.S. Government moves to decrease government control and to more effectively partner with industry.

6. Submission of comments by the International Marine Contractors Association domiciled in England suggests that the comments made have the approval of the IMCA members. However, several major IMCA members are also members of ADC and do not support adoption of the IMCA position. It is the opinion of ADC that the IMCA submission is intended to introduce a mechanism to directly interfere with the practices and procedures used in U.S. waters; practices and procedures that show no evidence of being lacking or, unsafe. It is further; the opinion of ADC that the IMCA submission is intended to establish a global system for certification of divers and life support technicians that require training under practices and procedures that are not considered necessary within the U.S. commercial diving industry. Action such as this has been taken by IMCA in several foreign nations to the effect that national commercial diving companies and personnel have been effectively prevented from carrying out operations in their own nation. In fact, IMCA has published the IMCA International Code of Practice for Offshore Diving; a document that essentially refuses to recognize the U.S. trained diver and likewise many of the operating and equipment procedures and practices of U.S. industry. Simultaneously, IMCA is using that vehicle to convince European based oil companies who require services outside of Europe to refuse to hire local diving companies, personnel, or to use equipment common to their practices. The view of the Association of Diving Contractors is that the motivating force behind IMCA activities is to export European commercial influence into other nations to the direct detriment of American divers and the American diving community. It is likewise the view of the Association of Diving Contractors that IMCA is not a legitimate stakeholder and comments received from that organization are invalid.
7. Comments from a variety of sources argue that their operations take place exclusively in shallow waters or, are of a nature where thorough commercial diving training is not necessary. Some of those comments object to the cost of properly equipping the organization to carry out the tasks of a commercial diver. Some opine that the operations conducted are more of a scientific nature than being of a commercial diving nature. It is the opinion of ADC that regulations governing commercial diving operations can and should not differentiate between one sphere of activity and another. The safety of any diver requires appropriate training; the use of equipment developed to ensure that safety and operational procedures that proven through many millions of bottom-time hours. If other sectors engaged in commercial diving tasks desire to support development of regulations that differ from those in place; then, those sectors should be separated, and maintained separate, from the commercial diving regulations. However, any procedure established should not permit an individual lacking the tools to engage in commercial diving to “cross the line” and engage in activity that requires a higher level of expertise, without additional formal training. Recreational certification such

as PADI, NAUI, YMCA, SSI, etc. should not be permitted to be placed in evidence as appropriate credentials for an individual to engage in commercial diving. In fact all of those organizations have specifically stated in writing that recreational training does not prepare an individual for the conduct of commercial diving operations in the absence of more formal training such as would be available from a commercial diving training school.

8. Several comments note that the ADC Consensus Standards requires that a deck decompression chamber be on site when diving beyond 80 feet or where decompression will be encountered. The ADC recognizes that requirement to differ from the current regulation that the chamber be on site for any dive outside the no-decompression limit, deeper than 130 feet, or using mixed-gas as a breathing medium. Although ADC does consider that the 50-foot restriction is one both appropriate and safer, we also realize that such a requirement may well introduce significant cost were it applied to all companies engaged in commercial diving activity. ADC would consider that the 80 foot restriction be modified to 100 feet; a depth established in Federal OSHA regulations, and one representing compromise while still supporting enhanced safety.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ross Saxon". The signature is fluid and cursive, with a large initial "R" and "S".

Ross Saxon, Ph.D.