

United States Coast Guard
2100 Second Street SW Stop 7126
Washington D.C. 20593-7126

Reference: Docket ID USCG 1998-3786

Attention: R.C. Proctor, Captain, United States Coast Guard

December 17, 2010

Dear Captain Proctor;

On June 26, 1998 the United States Coast Guard published a notice in the Federal Register that they would be seeking comments regarding the need to update the commercial diving operations regulations. The request goes on to state that “the regulations are over 20 years old and do not include current safety and technology standards and industry practices.” That request for comment garnered ninety two public submissions in addition to submissions from the Commercial Dive School Educators and other industry groups.

On September 29, 1998 a second notice was published extending the time persons and organizations would have to submit comments on the need revisions for 45 days.

On June 22, 1999 the United States Coast Guard held a formal Investigation which in part was focused on the need to reform and re-write the commercial diving regulations.

(See or refer to the Investigation into the events aboard the Cliffs 12.)

In April of 2001 the then Commandant of the United States Coast Guard, Admiral James M.

Loy, released the “findings in fact” that were an outgrowth of that formal investigation. That “finding in fact” included twenty six recommendations for major revisions to the existing Federal Regulations as they pertain to commercial diving.

In November of 2008 the United States Coast Guard posted those same “findings in fact” as part of the proposed rulemaking procedure.

On January 6, 2009 the United States Coast Guard once again opened a public comment period as part of the proposed rulemaking by posting a notice in the Federal Register. That notice was essentially the same as the notice published on June 26, 1998, which was more than 10 years prior, with the exception of the reference to the formal investigation held in June of 1999. (The Cliffs 12 Report.)

On May 19, 2010 your office notified Representative Jim McDermott that there would be an opportunity for additional comment and that there would be “at least one public hearing prior to finalizing” the proposed rulemaking.

This proposed Rulemaking into the need to reform the Federal Regulations as they pertain to Commercial Diving has now been ongoing for 12 years. According to the notice in the 1998 Federal Register the regulations at that time were out dated, for over 20 years, and did not reflect industry standards or practice. That condition has not changed. Since 1998 there have been 273 deaths from diving accidents according to USCG records under USCG jurisdiction. Most of these fatalities occurred during commercial diving activities.

Commercial divers continue to be adversely effected by the lack of proper, enforceable and responsible regulations.

It is an ongoing practice for many commercial diving companies to reduce the size of the dive crew to the dangerous levels currently allowed by ADCI Consensus Standards. This loophole permits them to undercut more responsible contractors. The Coast Guard needs to adopt minimum safe crew size, minimum standards for divers, minimum standards for diving supervisors, assuring that the men and women for the commercial diving industry can perform their appointed tasks in a safe as well as a competitive manner to assure safe diving operations.

The current Coast Guard regulations state that a minimum commercial diving crew consists of; a diving supervisor, a diver, a standby diver, and a tender for each diver. This means that a five man crew is required. But unscrupulous diving contractors are interpreting the regulation to mean that tasks can be combined reducing the size of the crew to 3 men. This works until there is an emergency requiring the standby diver to assist or recover a diver in distress. In that scenario the supervisor has to change roles to become the standby diver and enter the water. Now you have two divers in the water with no supervisor to man the radio to direct the rescue operation and one tender who cannot tend two divers. This situation has led to numerous unnecessary fatalities such as the one described in the Cliffs 12 report. In addition the current regulations do not provide for any minimum standards of skill, knowledge or ability for the dive supervisor, the diver or the tenders to perform a rescue operation.

On January 14, 2009 the USCG, National Offshore Safety Committee released a report, written in April 2008 regarding their recommendations for revisions to the current 46CFR. A report formulated without any input from actual working divers. Those recommendations did not include any of the 26 recommendations addressed in Admiral Loy’s “Findings in Fact”, did not include the requirements

for minimum training, skills, knowledge, and made no recommendation for minimum crew sizes other than the one that already exists.

We are writing today to request that a timetable be established outlining when we might reasonably expect to have an opportunity to review the proposed 46 CFR Part 197. Further we would request that a date and location be established where concerned citizens will have the opportunity to review and comment in a public arena the proposed revisions.

In advance I would like to thank you for your assistance in this matter and if there is any information or assistance we can offer please do not hesitate to contact me or any of those concerned parties listed below.

Respectfully,

Peter J Pilkington

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I have owned and managed commercial diving companies since 1962 (48 years). The commercial diving industry is in critical need of establishing minimum crew sizes and equipment standards for the different types of diving operations. These standards must be clear, concise and not open to interpretation.

John Carl Roat

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We concur - This would reduce accidents,
personal tragedy, costs, and litigation.

We represent injured divers and their families.

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