



4 May 2015

Ms. Cheryl Collins, Program Manager
Docket Management Facility (M-30)
U.S. Department of Transportation
West Building Ground Floor, Room W12-140
1200 New Jersey Avenue SE, Washington DC 20590-0001

RE: Comments on USCG NPRM for Commercial Diving Operations [Docket No. USCG-1998-3786]

Dear Ms. Collins,

The Engineer-Diver Task Committee is part of the American Society of Civil Engineers (ASCE)/ Coastal, Ocean, Rivers, and Ports Institute (COPRI) – Ports & Harbors Committee. During our meeting in April, the Committee expressed concerns about the USCG Notice of Proposed Rule Making (NPRM), and asked that a comment letter be submitted. While there was not sufficient time for the committee to perform a detailed review this document and references, this letter lists ten very obvious concerns to our industry. The Committee appreciates the USCG's attempt to update the current regulations and ensure commercial diving safety, but here are the top ten concerns that we have heard from the engineer-diving industry about the USCG NPRM:

- 1) First page summary of the NPRM doesn't match the Applicability Section on Page 78. The text contained in the NPRM may be appropriate for offshore diving, but is overreaching in scope for inland and coastal diving.
- 2) Applicability (Page 78) has been expanded from existing USCG regulations. The NPRM proposes to include all vessels on all navigable waterways. The current regulations apply to inland operations only if diving from a vessel with a USCG Certificate of Inspection (COI). OSHA Regulations already cover inland diving operations, so it may be worthwhile to focus this NPRM strictly on offshore diving or only inland when diving from COI vessel.
- 3) Incorrect Number of Diving Companies / Organizations in USA and Cost Ramifications (Pages 56-72) – the NPRM does not appear to have accounted for all commercial diving firms, any engineering/technical firms, nor any government organizations with divers, which totals several hundred to our knowledge. The industry classification of civil engineering firms is blank (zero); and we currently know of over a hundred engineering firms conducting underwater inspections in the USA. Furthermore, the

number of inland construction diving firms is also incorrect. Additionally, many other organizations (e.g., unions, local/state/federal government divers on lakes and rivers throughout the nation) will be affected by this proposed rulemaking).

- 4) Safety Drills (Page 94/95) – Required on a monthly basis, as well as performed at every site. It is not clear, but it appears multiple drills would be required if a dive team visited multiple sites within one day, as the term “site” is not well defined. Several sites (e.g. bridges or different piers within a marine terminal) can be visited within one day for underwater inspections on shallow inland waters. Performing safety drills is important, but the requirement of every site (especially if they are similar sites) within one day or even one week may be excessive.
- 5) Incorporation by Reference (Page 85) – Numerous documents are incorporated by reference; allowing those “documents” to have the power of “law”. Further clarification is needed to understand the applicable scope under these references. The exact portions of ISO 9001, USN Manual, IMO, etc. need to be specified.
- 6) Written Appointment of DPIC (Page 96) – The NPRM requires a written appointment of the DPIC by the vessel owner, and it is mentioned that the Dive Supervisor is not considered the DPIC. Why could the Dive Supervisor not be the DPIC for shallow inland dives? We feel that clarification is also needed on the written appointment, since it is unclear if a letter is required for every site (could be several inland sites per day), or if appointment could be made by the person’s job title/assigned work plan duties, etc.
- 7) Audit (Page 79) – The NPRM requires internal audits to be performed annually. On Page 15, USCG specifically requests feedback on the topic of audits. This provision seems reasonable in our opinion. It is noticed that the term audit is not defined, but that seems appropriate for the company or organization to conduct the audit in a level suitable for their operations.
- 8) Required 3rd Party Audits (Page 90) – The NPRM states that external audits must be provided by an outside third-party at a frequency of at least two external audits within any five-year period. This provision is not necessary, and it would create a significant cost burden, as well as possible conflicts of interest. Who will qualify as an approved auditor service provider, and what will the costs be associated with an outside auditor every two years? Many firms already have their dive operations audited on site by clients (e.g. U.S. Navy, oil company safety representatives, etc.). Will those “dive team site audits” count, or does this provision require “companywide dive program audit”?
- 9) Qualifications of 3rd Party Auditors (Page 91) – Auditors must meet various qualifications including at least 500 commercial dives overseen. Unclear if those “overseen dives” need to be as a part of dive team, or DPIC, or Dive Supervisor, or Auditor. Will firms be allowed to audit each other, or only through the Association of Diving Contractors International (ADCI)?
- 10) Staffing Requirements (Page 106/122) – Minimum size dive crew would be 4-person for SCUBA and 5-person for Surface Supplied Air. Any dives would have to be staffed with an ADCI qualified dive crew (including tenders). There are many companies in

the USA that strictly focus on “low-risk” shallow-water underwater inspections. Some infrastructure submerged in water at sites which might only be 5 to 10 feet deep, and can only be accessed with a small, shallow draft boat. These vessels are often too small to support a 4-person or 5-person crew.

Thank you for the opportunity to express our concerns and comment on the NPRM. Please contact me if you have any questions regarding these comments. You may reach me via email at bryan.n.jones@hdrinc.com or phone at (617) 357-7779.

Sincerely,



Bryan N. Jones, P.E., D.PE, D.CE

COPRI Ports & Harbors Committee
Engineer-Diver Task Committee Chairperson

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cc: Office of Information and Regulatory Affairs (OIRA) in the White House Office of Management and Budget. (Emailed to oira_submission@omb.eop.gov with the docket number and “Attention: Desk Officer for Coast Guard, DHS” in the subject line of the e-mail).