

MST Maui Comments on the Advance Notice of Proposed Rule Making for Commercial Diving Operations

Docket # USCG-1998-3786

precious coral in the Hawaiian Islands. The USCG Commercial Diving Regulations contained in Title 46 Code of Federal Regulations, Part 197 do not apply to this operation.

Goal: Improve the level of safety on vessels engaging in commercial operations involving diving.

Overview/Background: The harvesting of precious coral occurs from vessels utilizing divers and scuba equipment. The coral grows at depths greater than 100 feet with divers descending to depths greater than 140 feet. Current operations in Hawaii occur beyond 3 nautical miles. There are OSHA regulations on commercial diving operations contained in Title 29 Code of Federal Regulations, Part 1910 Subpart T. However the jurisdiction is limited to within 3 nautical miles and authority limited to an employer - employee relationship. An OSHA audit of a commercial diving operation in Hawaii was performed after a diving incident occurred from a vessel engaged in the harvesting of precious coral. The preliminary finding was: the divers are considered independent contractors and the operation occurs outside 3 nautical miles. OSHA lacks jurisdiction and authority over the operation.

Discussion: MST Maui is currently investigating the matters pertaining to a missing diver incident which occurred on December 9, 2008 from a vessel engaged in the harvesting of precious coral. Contributing factors to the latent unsafe operation is the lack of existing regulations or standards.

Summary: The current practice of harvesting precious coral in the Hawaiian Islands is occurring while unregulated and with equipment and operations that would not even meet an acceptable recreational standard. The divers are not trained nor does the operation follow an acceptable/documented procedure. The Coast Guard in Hawaii lacks regulatory backing in order to bring this operation to an acceptable level of safety. Without regulations on this inherently dangerous operation, the chances of another incident occurring is greatly increased.

Recommendation: Extend the applicability of the Coast Guard commercial diving regulations to include diving operations from vessels engaged in the commercial harvesting of resources.

