



STAFF REASSESSMENT OF THE RESPONSES TO MARINE SAFETY RECOMMENDATION M03-07

PROMOTING SAFE PRACTICES ON BOARD SMALL FISHING VESSELS

Background

At approximately 0700, on 13 August 2002, the small fishing vessel *Cap Rouge II*, after having picked up two children, departed for the north arm of the Fraser River. The vessel was loaded with fish, the quantity of which was about half of the vessel's cargo capacity.

At approximately four miles from Sand Heads, the mate on board a sailing vessel observed that the *Cap Rouge II* was trimmed heavily by the stern and seawater was washing onto its main deck. On board the *Cap Rouge II*, one of the crew members woke the skipper to inform him that the seiner had a starboard list. As the skipper took action to correct the list, the vessel suddenly heeled to starboard. The skipper made his way out of the vessel with the intention of boarding and releasing the seine skiff, so that it might be used as a rescue craft for those on board the vessel. The skipper boarded the skiff and, while attempting to release it, the *Cap Rouge II* capsized. Only one other crew member successfully abandoned the vessel.

The Board concluded its investigation and released report M02W0147 on 20 November 2003.

Board Recommendation M03-07 (20 November 2003)

Many fishers are unaware of shipboard practices which adversely affect vessel stability and the profound risks those practices create. The capsizing of the *Cap Rouge II* was brought about by such an increase in risk involving a reduction of stability due to the weight of additional equipment, deterioration of watertight seals on lazarette and manhole covers, and operation with the deck awash.

Since 1993, 493 Canadian fishing vessels have been lost, and 76 fishers lost their lives. In many of these occurrences, unsafe practices, which served to compromise the vessel's watertight integrity and stability, have contributed to the occurrences. These occurrences are typical of situations where the level of risk during fishing operation rises gradually over time.

In general, people tend to underestimate risk. In order to assess the level of risk associated with an activity, there is a need to be aware of the severity and probability of negative outcomes. Unfortunately, existing efforts to promote adoption of safe practices within the fishing industry, through education and awareness programs, have shown limited success.

Increasing an individual's motivation to adopt safe practices will best be achieved through a concerted effort to change actual behaviour in conjunction with a program to educate fishers with respect to the risks involved in their operation. In this way, the justification for adopting safe practices will change from one which is externally imposed to one stemming from internal

acceptance. Therefore, given that there is a need to initiate a change in attitude among fishers as demonstrated by this occurrence, the Board recommended that:

The Department of Transport, in collaboration with the fishing community, reduce unsafe practices by means of a code of best practices for small fishing vessels, including loading and stability, and that its adoption be encouraged through effective education and awareness programs.

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Response to M03-07 (16 February 2004)

The process of reducing unsafe practices within the fishing community continues to be addressed by TC, Marine Safety. TC and stakeholders are actively pursuing improved education and awareness of the hazards associated with small fishing vessels.

Some of the present actions the department has taken are outlined below:

In collaboration with fishing industry groups, such as the Canadian Council of Professional Fish Harvesters (CCPFH), TC has developed new requirements for mandatory safety training for all operators and crews of fishing vessels and other small commercial craft. These courses, entitled Marine Emergency Duties (MED), have been designed specifically for fish harvesters and operators of small commercial vessels previously exempt from mandatory training. Information on MED training requirements is attached.

In addition, TC has consulted with the Department of Fisheries and Oceans (DFO), Canadian Coast Guard, Search and Rescue, CCPFH, provincial training institutes and educational institutions with regard to information or programs involving safety culture for fishing vessels.

CCPFH, a national industry sector council which represents approximately 70% of the fishing industry in Canada, plans and implements training and adjustment programs for the fish harvesting industry. CCPFH has recently commenced a safety and health study of the fishing industry. This study is scheduled to be completed in the spring of 2004. The results of this study will be used jointly by CCPFH and TC in an effort to reduce unsafe practices.

TC has created a website specific to fishing vessel safety as part of the TC and Canadian Marine Advisory Council (CMAC) Standing Committee on Fishing Vessel Safety. The site provides users with information on regulatory amendments, standards and references, which concern the small commercial/fishing vessel industry. This site is located at <http://www.tc.gc.ca/marinesafety/CES/Small-Commercial-Vessels/Fishing-Vessels/menu.htm>.

As part of keeping the fishing informed on initiatives taken by TC, several publications have been issued:

- TC has developed and distributed the Small Fishing Vessel Safety Manual to over 20,000 licensed fishing vessels owners using the DFO fishing licensed database, as well as 3,000 copies were sent to fishing vessel fleet owners. Copies of the manual have also been sent to training institutions and to TC regional offices. A copy of this manual is available on the TC website.

- TC has developed and distributed a pamphlet entitled *We're Fishing For Your Involvement* to fish harvesters across the country which hold a DFO fishing vessel licence. A copy is attached for your information.
- TC and DFO have produced a booklet entitled *Alerting, Detection and Response*, dealing with search and rescue incidents at sea. The booklet was distributed to over 20,000 commercial fishing licence holders in December. Distribution to vessels licensed provincially is being pursued. A copy of the booklet is attached for your information.

In partnership with DFO, TC is discussing with stakeholders more efficient means of communication between government and fish harvesters, including the possibility of mail-out of safety related material, such as Ship Safety Bulletins and other documentation to fish harvesters, across the country, who hold a DFO fishing vessel licence.

TC has taken several steps to increase small vessel safety awareness and a safety culture that supports it. With the coming into force of the new Fishing Vessel Safety Regulations expected in 2006, this knowledge and understanding in the fishing community will be further improved.

Board Assessment to the Response to M03-07 (8 June 2004)

The response by TC outlined a number of initiatives that the department has taken to address safety within the fishing community, including: new requirements for mandatory safety training designed specifically for fish harvesters previously exempt from mandatory training; consultation with training institutes and educational institutions with regard to information or programs involving safety culture for fishing vessels; creation of a TC website specific to fishing vessel safety; and the issuance of several publications (*Small Fishing Safety Manual*, *We're Fishing for your Involvement*; *Alerting, Detection and Response*). Reference was made of the Canadian Council of Professional Fish Harvesters' safety and health study of the fishing industry, the results of which TC will use in an effort to reduce unsafe practice; however, the study has not yet begun.

The response also indicates that TC, in partnership with the Department of Fisheries and Oceans, is discussing with stakeholders more efficient means of communication between government and fish harvesters. TC also noted the coming into force of the new *Fishing Vessel Safety Regulations* is expected in 2006.

The response provides no indication of any initiative to develop of a "code of best practices" for small fishing vessels.

The response by TC illustrates a perpetuation of the types of previous efforts to promote adoption of safe practices within the fishing industry, all of which have shown limited success. Furthermore, given the lack of specific action to develop a "code of best practices" for the fishing industry, it is unlikely that a change in attitude/behaviour among fishers to adopt safe practices will substantially reduce or eliminate unsafe practices on board small fishing vessels.

For these reasons, the staff therefore considers the response by TC **Unsatisfactory**.

Board Reassessment of the Response to M03-07 (7 December 2005)

No substantial change to address the safety deficiency since the last assessment

Response to M03-07 (November 2006)

TC's update, dated November 2006, indicated that TC and DFO have signed an MOU between both departments. The purpose of this MOU is to provide a framework for cooperation between DFO and TC with regards to promoting the safety at sea of fishers.

Board Reassessment of the Response to M03-07 (November 2006)

The MOU between TC and DFO is directed at promoting safety at sea of both commercial fishers and DFO licence holders. More specifically, the departments will be working cooperatively on issues including: fishing vessel modifications and replacement rules, data sharing, professionalization of fishers, and safety implications of fisheries management plans. The MOU effectively provides a mechanism for coordinating the development of a number of strategies to promote safety within the fishing industry. The action taken will substantially reduce the risks associated with certain aspects of the industry that affect safety. However, until such time that there is a change in attitude and behaviour, and an acceptance among fishers to adopt safe practice, it remains unlikely that unsafe practices in the industry will be substantially reduced or eliminated.

Therefore, the assessment is assigned **Satisfactory in Part**.

Response to M03-07 (June 2008)

TC's update, dated June 2008, indicated that the coming into force of the *Canada Shipping Act, 2001*, places emphasis on the responsibility of the owner and master of the vessel (authorized representative) for safety.

Work continues on the proposed *Fishing Vessel Safety Regulations*.

Board Reassessment of the Response to M03-07 (September 2008)

The emphasis on the responsibility of the owner and master of the vessel for safety is noted, as is TC's update of November 2006. The MOU between TC and DFO is directed at promoting safety at sea of both commercial fishers and DFO licence holders. More specifically, the departments will be working cooperatively on issues including: fishing vessel modifications and replacement rules, data sharing, professionalization of fishers, and safety implications of fisheries management plans. The MOU effectively provides a mechanism for coordinating the development of a number of strategies to promote safety within the fishing industry. The action taken will substantially reduce the risks associated with certain aspects of the industry that affect safety. However, there is no indication of any initiative to develop a code of best practices for small fishing vessels. Until such time that there is a change in attitude and behaviour, and an acceptance among fishers to adopt safe practice, it remains unlikely that unsafe practices in the industry will be substantially reduced or eliminated. Follow-up information indicated that the

regulations are expected to be pre-published in Part I of the Canada Gazette in the fall/winter 2009/2010.

Therefore, the assessment of the response remains at **Satisfactory in Part**.

Response to M03-07 (March 2010)

TC's update, dated March 2010, indicated that the coming into force of the *Canada Shipping Act, 2001* placed increased emphasis on the responsibility of the owner and master of the vessel (authorized representative) for safety. Work continues on the proposed new *Fishing Vessel Safety Regulations*. The proposed new *Fishing Vessel Safety Regulations* are anticipated to be pre-published in Part I of the Canada Gazette in the fourth quarter of 2011.

Board Reassessment of the Response to M03-07 (March 2010)

The emphasis on the responsibility of the owner and master of the vessel for safety is noted, as is TC's update of November 2006. The MOU between TC and DFO is directed at promoting safety at sea of both commercial fishers and DFO licence holders and the departments are working cooperatively on issues to promote safety within the fishing industry. The action taken will substantially reduce the risks associated with certain aspects of the industry that affect safety. However, there is no indication of any initiative to develop a code of best practices for small fishing vessels. Until such time that there is a change in attitude and behaviour, and an acceptance among fishers to adopt safe practice, it remains unlikely that unsafe practices in the industry will be substantially reduced or eliminated. The proposed new *Fishing Vessel Safety Regulations* are anticipated to be pre-published in Part I of the Canada Gazette in the fourth quarter of 2011.

Therefore, the assessment of the response remains at **Satisfactory in Part**.

Response to M03-07 (December 2010)

TC's update of December 2010 indicated that the coming into force of the *Canada Shipping Act, 2001* placed increased emphasis on the responsibility of the owner and master of the vessel (authorized representative) for safety. Work also continues on the proposed new *Fishing Vessel Safety Regulations*. The proposed new Fishing Vessel Safety Regulations are anticipated to be pre-published in Canada Gazette, Part I in the second quarter of 2012.

TC has begun consultations to develop *Safety Management Regulations*. A three-tier approach is being proposed for safety management of domestic vessels based on their size, type and/or number of passengers. Under safety management, the Authorized Representatives/owners are to develop procedures to ensure that the company and vessel's crew are adequately prepared operationally. Tier 3 of this program will require that fishing vessels of any length to have on board a guide to operational safety.

Board Reassessment of the Response to M03-07 (March 2011)

The emphasis on the responsibility of the owner and master of the vessel for safety is noted. The MOU between TC and DFO is directed at promoting safety at sea of both commercial fishers and DFO licence holders and the departments are working cooperatively on issues to promote

safety within the fishing industry. An onboard guide to operational safety pursuant to the introduction of safety management regulations for fishing vessels, if effectively implemented may represent a code of best practices and will reduce unsafe practices and substantially reduce risk.

Therefore, the assessment of the response is changed to **Satisfactory Intent**.

Response to M03-07 (December 2011)

TC's update of December 2011 reiterated that the *Canada Shipping Act, 2001* places increased emphasis on the responsibility of the vessel owner, master and/or authorized representative for safety. Work also continues on the proposed new *Fishing Vessel Safety Regulations*, anticipated to be published in Canada Gazette, Part II in the 2nd quarter of 2013.

TC, along with the fishing community, has worked to reduce unsafe practices for small fishing vessels through legislation and regulations, as well as through awareness and education programs. TC is developing SVCP-F for small fishing vessels in order to increase awareness and compliance with regulatory requirements.

Basic instructions on occupational safety are provided in the Small Fishing Vessel Safety Manual (TP 10038), which was distributed to all fishing vessel licence holders in 2003.

TC has begun consultations to develop *Safety Management Regulations*, anticipated to be published in Canada Gazette, Part II in the 4th quarter of 2014. Under a safety management system, fishing vessel owners and operators will develop procedures to ensure that the company and vessel's crew are able to identify and assess risks and that they are operationally prepared for routine and emergency situations.

Board Reassessment of the Response to M03-07 (March 2012)

Over eight years ago, the recommendation that TC collaborate with the fishing community to reduce unsafe practices was issued. Together, TC and the fishing community can improve safety awareness. The protracted delay in implementing these regulatory amendments continues to place fishermen, their vessels and the environment at risk.

Progress is being made in enhancing fishing safety culture through the engagement of the entire fishing community. As regional fishing communities develop their own governance capacity, a fishing safety culture will emerge through the identification, adoption and promotion of safe operating procedures and best practices specific to their own community.

Despite earlier indications that the *Safety Management Regulations* will be published in 2014, the status of the proposed amendments is unknown. Should Transport Canada require domestic commercial vessels under 24 m or carrying fewer than 50 passengers to have an SMS, this has the potential to address the risk identified in the Board recommendation.

Once fully implemented, the actions planned will contribute to the adoption of safe practices. Therefore, the assessment of this response remains as **Satisfactory Intent**.

Next TSB Action (March 2012)

TSB will monitor the proposed actions and follow-up with Transport Canada regarding the adoption of SMS for domestic operators. The deficiency file is assigned an **Active** status.