



## REASSESSMENT OF THE RESPONSE TO TSB 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.

#### TSB Recommendation M03-07 (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.

**TSB Recommendation M03-07**

**Transport Canada's response to Recommendation M03-07 (February 2004)**

The process of reducing unsafe practices within the fishing community continues to be addressed by Transport Canada (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<sup>1</sup> 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.

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.

<sup>1</sup> <http://www.tc.gc.ca/marinesafety/CES/Small-Commercial-Vessels/Fishing-Vessels/menu.htm>

- 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.

### **TSB assessment of Transport Canada's response to Recommendation M03-07 (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**.

### **TSB reassessment of Transport Canada's response to Recommendation M03-07 (December 2005)**

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

### **Transport Canada's response to Recommendation (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.

### **TSB reassessment of Transport Canada's response to Recommendation 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**.

### **Transport Canada's response to Recommendation 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.

### **TSB reassessment of Transport Canada's response to Recommendation 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 **Satisfactory in Part**.

#### **Transport Canada's response to Recommendation 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.

#### **TSB reassessment of Transport Canada's response to Recommendation 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 **Satisfactory in Part**.

#### **Transport Canada's response to Recommendation 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 the *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 have a guide to operational safety on board.

#### **TSB reassessment of Transport Canada's response to Recommendation 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**.

### **Transport Canada's response to Recommendation 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 the *Canada Gazette*, Part II in the second 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 the Safety Management Regulations, anticipated to be published in the *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.

### **TSB reassessment of Transport Canada's response to Recommendation 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 **Satisfactory Intent**.

## Transport Canada's response to Recommendation M03-07 (December 2012)

Transport Canada, along with the fishing community, has worked to reduce unsafe practices for small fishing vessels (including loading and stability) through legislation and regulations, as well as through awareness and education programs. For example, Transport Canada Marine Safety (TCMS) supported Fish SAFE BC's 2011 SAR NIF (Search and Rescue New Initiatives Fund) application for their program. TCMS is developing SVCP-F for small fishing vessel communities to continue to increase awareness of regulatory requirements. See also actions taken that are relevant to M 94-33.

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.

With the coming into force of the *Marine Personnel Regulations* on 01 July 2007, TC introduced:

- i) For small fishing vessel operators: the "Small Vessel Operator Proficiency Training Course", which contains basic stability awareness;
- ii) For the Fishing Master, Fourth Class, Certificate of Competency: "Ship Construction and Stability"; and
- iii) Through a policy in April 2010, a new certificate of competency at the Watchkeeping Mate level that contains a stability component to obtain it.

In 1989, Transport Canada (then Canadian Coast Guard) issued the Small Fishing Vessel Safety Manual (TP 10038). This publication was updated in 2003 and sent to all fishing licence holders that same year. Once the new Fishing Vessel Safety Regulations come into force, Transport Canada will develop the SVCP-F and will update TP 10038 using the Small Commercial Vessel Safety Guide (TP 14070) as a model.

The proposed new Fishing Vessel Safety Regulations are anticipated to be pre-published in the *Canada Gazette, Part I*, in the 1st quarter of 2014. These regulations will include a number of operational requirements with regard to vessel maintenance, safe loading, and emergency procedures. The regulations will also include the requirement for a maximum recommended load mark and for a stability notice to be posted on board. Elaboration on the regulatory requirements and ways in which compliance can be achieved will be provided in guidelines to the regulations where appropriate.

Transport Canada continues to support industry-led safety education and awareness organizations and programs that promote good practice and assist fishers in developing vessel-specific safety programs. Support is indirect for the most part, for example, providing a forum for discussion of common issues (national and regional CMAcs). Direct support was provided, however, in the case of the Fish SAFE training program where funding was provided over 5 years for the development and pilot of a vessel stability education program through the Memorandum of Understanding with the Worker's Compensation Board (WCB) of British Columbia. Transport Canada notes the recent initiative announced by the Government of Newfoundland and Labrador to establish a Fish Harvesting Safety Association.

Basic instructions on occupational safety are provided in the Small Fishing Vessel Safety Manual, which was distributed to all fishing vessel licence holders. Additional guidance with respect to stability and loading is provided in the Society of Naval Architects and Marine

Engineers' "A Guide to Fishing Vessel Stability", and the FAO Fisheries and Aquaculture Technical Paper No. 517 "Safety practices related to small fishing vessel stability", links to which are on the Marine Safety website.

The Canadian Council of Professional Fish Harvesters has developed a distance learning package to help people prepare for Fishing Master 4 certification, which includes a module on stability. The Council is also developing a stability simulator, using video game principles, which educates the user in stability principles and then allows the user to see the principles applied in the simulation.

The new approach in the Fishing Vessel Safety Regulations will be supported by tools to assist in the implementation and communication of regulatory requirements. Transport Canada will continue to promote the adoption of safety management systems by all commercial vessel operations.

### **TSB reassessment of Transport Canada's response to Recommendation M03-07 (March 2013)**

The risks of unsafe practices in the fishing community will be mitigated through legislation, education, and awareness once a code of best practices for small fishing vessels becomes standard within the Canadian fishing community and once the proposed Fishing Vessel Safety Regulations are published, adopted, and enforced.

Therefore, the assessment of this response remains **Satisfactory Intent**.

### **Transport Canada's response to Recommendation M03-07 (November 2013)**

Transport Canada, along with the fishing community, has worked to reduce unsafe practices for small fishing vessels (including loading and stability) through legislation and regulations, as well as through awareness and education programs. For example, Transport Canada Marine Safety (TCMS) supported Fish SAFE BC's 2011 SAR NIF (Search And Rescue New Initiatives Fund) application for their program. TCMS is developing SVCP-F for small fishing vessel communities to continue to increase awareness of regulatory requirements. See also actions taken that are relevant to M 94-33.

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.

With the coming into force of the *Marine Personnel Regulations* on July 1, 2007, TC introduced:

- i) For small fishing vessels operators: the "Small Vessel Proficiency training" which contains basic stability awareness;
- ii) For the Fishing Master, Class 4 Certificate of Competency: "Ship Construction and stability"; and
- iii) Through a policy in April 2010 a new certificate of competency at the watchkeeping Mate level that contains a stability component to obtain it.

In 1989, Transport Canada (then Canadian Coast Guard) issued TP 10038 - Small Fishing Vessel Safety Manual. This publication was updated in 2003 and sent to all fishing licence holders that

same year. Once the new Fishing Vessel Safety Regulations come into force Transport Canada will develop the SVCP-F and will update TP10038 using the Small Commercial Vessel Safety Guide (TP 14070) as a model.

Phase 1 of the proposed new Fishing Vessel Safety Regulations is anticipated to be pre-published in the *Canada Gazette*, Part I, in the second quarter of 2014. Phase 1 of these regulations will include a number of operational requirements with regard to vessel maintenance, safe loading, and emergency procedures. The regulations will also include the requirement for a maximum recommended load mark and for a stability notice to be posted onboard. Elaboration on the regulatory requirements and ways in which compliance can be achieved will be provided in Guidelines to the regulations where appropriate.

Transport Canada continues to support industry-led safety education and awareness organizations and programs that promote good practice and assist fishers in developing vessel-specific safety programs. Support is indirect for the most part, for example, providing a forum for discussion of common issues (National and Regional CMACs). Direct support was

provided, however, in the case of the Fish Safe training program where funding was provided over five years for the development and pilot of a vessel stability education program through the Memorandum of Understanding with the Worker's Compensation Board (WCB) of British Columbia. Transport Canada notes the recent initiative announced by the Government of Newfoundland and Labrador to establish a Fish Harvesting Safety Association.

Basic instructions on occupational safety are provided in the Small Fishing Vessel Safety Manual, which was distributed to all fishing vessel licence holders. Additional guidance with respect to stability and loading is provided in the links to Society of Naval Architects and Marine Engineers (SNAME) "A Guide to Fishing Vessel Stability" and the FAO FISHERIES AND AQUACULTURE TECHNICAL PAPER No. 517 "Safety practices related to small fishing vessel stability", which are on the Marine Safety website.

The Canadian Council of Professional Fish Harvesters has developed a distance learning package to help people prepare for Fishing Master 4 certification, which includes a module on stability. The Council is also developing a stability simulator, using video game principles, which educates the user in stability principles and then allows the user to see the principles applied in the simulation.

The new approach in the Fishing Vessel Safety Regulations will be supported by tools to assist in the implementation and communication of regulatory requirements. Transport Canada will continue to promote the adoption of Safety Management Systems by all commercial vessel operations.

### **TSB reassessment of Transport Canada's response to Recommendation M03-07 (March 2014)**

TC's response to this recommendation, issued over 10 years ago, provides no new substantive information or rationale for the protracted delay in promulgating these new regulations. However regional fishing communities, supported by government infrastructure and TC initiatives, are making strides towards the adoption of a code of best practices for small fishing vessels, including loading and stability practices. The TSB acknowledges initiatives such as those by the Pacific Prawn Association, the CSST (QC) and the BC Herring Food and Bait participants. These groups have each developed their own "code of best practices" specific to

their region and specific to local fisheries. Fishermen are becoming more aware of the complex nature of their environment and of the risks inherent with their operations. Regional “codes of best practices” have begun to emerge locally but are not yet in place across the country.

The proposed new Fishing Vessel Safety Regulations are now anticipated to be pre-published in the *Canada Gazette*, Part I, in the second quarter of 2014.

The risks of unsafe practices in the fishing community will be mitigated through education and awareness once a code of best practices for small fishing vessels becomes standard within the Canadian fishing community and once the proposed Fishing Vessel Safety Regulations are published, adopted, and enforced.

Therefore, the assessment of this response remains **Satisfactory Intent**.

### **Transport Canada’s response to Recommendation M03-07 (November 2014)**

Transport Canada’s response reiterated the information provided in its response of November 2013, and noted that “TC, from time to time, will sponsor associations that come forward to apply for the Search and Rescue New Initiatives Fund (SAR NIF). One example of an organization that has come forward for SAR NIF (and was successful) is FishSafe BC.”

The response also indicated that the proposed new Fishing Vessel Safety Regulations “will also include the requirement that a portion of the fishing vessel fleet have a stability notice to be posted onboard and voluntary guidelines will be established for the remaining vessels” and that “Transport Canada continues to explore options to support education and awareness activities aimed at improving safety onboard commercial fishing vessels.”

### **TSB reassessment of Transport Canada’s response to Recommendation M03-07 (March 2015)**

TC’s response to this recommendation provides little new substantive information. However, regional fishing communities, supported by government infrastructure and TC initiatives, are making strides towards the adoption of a code of best practices for small fishing vessels, including loading and stability practices. The TSB acknowledges initiatives such as those by the Pacific Prawn Association, the CSST (QC) and the BC Herring Food and Bait participants. These groups have each developed their own code of best practices specific to their region and specific to local fisheries. Fishermen are becoming more aware of the complex nature of their environment and of the risks inherent with their operations. Regional codes of best practices have begun to emerge locally, but are not yet in place across the country.

Between 2010 and 2014, there was an average of 128 fishing vessel accidents per year. Together, this represents 37% of all marine accidents for this 5-year period. Furthermore, the average number of fatalities has remained at about one per month. The risks of unsafe practices in the fishing community will be mitigated through education and awareness once a code of best practices for small fishing vessels becomes standard within the Canadian fishing community, and once the proposed Fishing Vessel Safety Regulations are published, adopted, and enforced.

The TSB made this recommendation over 10 years ago. In 2008, TC indicated that pre-publication of the proposed regulations was expected in the fall/winter of 2009/2010. This date has been continually postponed since then and was planned for the first quarter of 2015. While the proposed measures are reasonable, the protracted delay is not reasonable.

Therefore the assessment rating has been changed to **Unsatisfactory**.

### **Transport Canada's updated response to Recommendation M03-07 (April 2015)**

On 29 April 2015, Transport Canada launched the Commercial Fishing Safety component of the Boating Safety Contribution Program (BSCP). The BSCP will now provide funding for projects that provide fishermen with access to the most current safe boating best practices and tools to improve safety on board fishing vessels.

### **Transport Canada's response to Recommendation M03-07 (December 2015)**

Transport Canada's response indicated that:

Phase 1 of the proposed amendments to regulations governing fishing vessels is expected to address TSB's concerns as it includes the development of guidelines in collaboration with the fishing industry on the topic of vessel stability and major modifications which will reduce unsafe practices by encouraging best practices using an education and awareness approach.

Phase 1 will be published in the Canada Gazette Part 1 as soon as possible. As soon as a definitive date of publication is confirmed, TC will advise the TSB.

Subsequently, TSB was advised that the Regulations amending the *Small Fishing Vessel Inspection Regulations* were published in the *Canada Gazette, Part I* on 06 February 2016. The public, stakeholders, and industry now have until 06 April 2016 to review and comment on the proposed regulations before they are enacted, and then published in the *Canada Gazette, Part II*.

### **TSB reassessment of Transport Canada's response to Recommendation M03-07 (March 2016)**

The TSB is encouraged by the development of many new fishing safety programs in Canada, and by the announcement on 27 January 2016 made by the Minister of Transport regarding funding for Fish Safe BC to support an education and awareness initiative that promotes safe boating practices on board small commercial fishing vessels across the country. With this funding, Fish Safe BC plans to work closely with the commercial fishing community to expand the program into Quebec and the Maritimes.

However, the loss of life on fishing vessels remains high: approximately 10 fatalities per year. Furthermore, the delay in implementing the new *Fishing Vessel Safety Regulations* is putting fishermen, their vessels, and the environment at risk. The Regulations amending the *Small Fishing Vessel Inspection Regulations* were finally published in the *Canada Gazette, Part I* on 06 February 2016. However, TC has not yet developed the guidelines to accompany the proposed *Fishing Vessel Safety Regulations*; it is therefore not possible to evaluate whether or not they will reduce unsafe practices in the fishing community. Until such time as the regulations and accompanying guidelines are finalized, implemented, and assessed, the assessment rating remains **Unsatisfactory**.

### **Transport Canada's response to Recommendation M03-07 (December 2016)**

Phase I of the *Fishing Vessel Safety Regulations* was published in the *Canada Gazette, Part II* on July 13, 2016 and will come into force one year after the publication date. The guidelines on the

topics of vessel stability and major modifications have been developed and will be published no later than winter 2017.

### **TSB reassessment of Transport Canada's response to Recommendation M03-07 (March 2017)**

TC is making progress in issuing regulations; however, regulations alone cannot remedy the safety deficiency that was identified during this investigation. Unsafe work practices persist in the fishing industry despite an overall understanding of safe work practices. Until a code of best practices is developed and implemented by the Canadian fishing industry, the assessment of this recommendation is **Satisfactory in Part**.

### **Transport Canada's response to Recommendation M03-07 (December 2017)**

Phase 1 of the new *Fishing Vessel Safety Regulations* came into force on July 13, 2017.

During the recent December 2017 National CMAC, industry demonstrated that it is taking a positive and pro-active approach regarding compliance with the new regulatory requirements. For example, fishing industry associations on the east and west coast have stated that they are;

- a. promoting written safety procedures;
- b. carrying out wharf safety visits;
- c. developing and providing safety pouches;
- d. purchasing liferafts; conducting man overboard drills, purchasing and providing PFDs, immersion suits and EPIRBs to fishermen; and encouraging the wearing of PFDs.

Guidelines for vessel stability and major modifications have been developed and will be published no later than winter 2017/2018.

### **TSB reassessment of Transport Canada's response to Recommendation M03-07 (March 2018)**

Although Transport Canada has indicated that the industry has demonstrated a positive and proactive approach to compliance, there were issues in getting the message across to fishermen. For example, in its December 2017 presentation to CMAC, the Nova Scotia Fisheries Sector Council stated that industry was able to deliver only 200 safety pouches over a 3 month period in a province with an estimated 13 000 fishermen and 4 500 vessels. These pouches consist of a familiarization and training checklist, occupational health and safety (OHS) checklist, fishing vessel equipment requirement charts, methodology to meet Transport Canada requirements and customized procedures tailored to individual vessels. It is therefore unclear at this time what impact the amendments that have come into force will have on the fishing fleet in Canada.

Moreover, Transport Canada has stated that guidelines for vessel stability and major modifications, though developed, have yet to be published.

The Board considers the response to the recommendation as **Satisfactory in Part**.

### **Transport Canada's response to Recommendation M03-07 (January 2019)**

TC agrees with the Board's recommendation. The *Guidelines for Fishing Vessel Major Modifications or a Change in Activity* (TP 15392) and the *Adequate Stability and Safety Guidelines for Fishing Vessels* (TP 15393), developed jointly with the Canadian Independent Fish Harvesters

Federation (CIFHF), and in consultation with the Canadian Marine Advisory Council (CMAC), were published on the TC Marine Safety Publications webpage and the TC Small Fishing Vessel Safety webpage on October 25, 2018.

At the National Canadian Marine Advisory Council (CMAC) meeting in November 2018, industry representatives agreed to support in distribution of these guidelines to fish harvesters.

TC suggests that this recommendation should be considered Fully Satisfactory.

### **TSB reassessment of Transport Canada's response to Recommendation M03-07 (March 2019)**

The Board is encouraged that the *Guidelines for Fishing Vessel Major Modifications or a Change in Activity* (TP 15392) and the *Adequate Stability and Safety Guidelines for Fishing Vessels* (TP 15393), developed by the Canadian Independent Fish Harvesters Federation (CIFHF), and in consultation with the Canadian Marine Advisory Council (CMAC), were published and are now available to fish harvesters.

The Board acknowledges the progress made by the fishing community in enhancing fishing safety. Most regional fishing communities have developed their own governance capacity, which is fostering a fishing safety culture. A fishing safety culture assists in the identification, adoption, and promotion of safe operating procedures and best practices specific to a fishing community. Given that fishing vessel safety remains on the TSB Watchlist, the Board will continue to monitor changes in the attitude and behaviour among fish harvesters and the development of safe work practices.

Ongoing education and awareness programs, along with the adoption of the guidelines, should, in time, reduce or eliminate unsafe practices in the industry.

The Board considers the response to the recommendation to be **Fully Satisfactory**.

This deficiency file is **Closed**.