



## TSB Recommendation M23-05

### Regulatory oversight of written safety procedures for fishing vessels

The Transportation Safety Board of Canada recommends that the Department of Transport ensure that each inspection of a commercial fishing vessel verifies that each required written safety procedure is available to the crew and that the crew are knowledgeable of these procedures.

Marine transportation safety investigation report	<a href="#">M20A0434</a>
Date the recommendation was issued	22 March 2023
Date of the latest response	12 June 2023
Date of the latest assessment	August 2023
<a href="#">Rating</a> of the latest response	Satisfactory Intent
<a href="#">File status</a>	Active

All responses are those of the stakeholders to the TSB in written communications and are reproduced in full. The TSB corrects typographical errors in the material it reproduces without indication but uses brackets [ ] to show other changes or to show that part of the response was omitted because it was not pertinent.

#### Summary of the occurrence

On 15 December 2020, the fishing vessel *Chief William Saulis* was returning from scallop fishing when the Joint Rescue Coordination Centre in Halifax, Nova Scotia, received a signal from its emergency position-indicating radio beacon (EPIRB), 12 nautical miles NNE of Digby, Nova Scotia. Search and rescue efforts were initiated after the vessel could not be reached via very high frequency (VHF) radio or phone. The body of 1 crew member was recovered; as of December 2022, the other 5 crew members remained missing.

The Board concluded its investigation and released report M20A0434 on 22 March 2023.

#### Rationale for the recommendation

The investigation determined that the vessel departed the fishing grounds with unshucked scallops on deck, and the freeing ports were likely covered either mechanically or by scallops, so that water from the heavy beam sea also accumulated on deck. The resulting free surface

effect from shifting scallops and water and the rolling motion from the heavy beam sea likely caused the vessel to capsize and sink.

Both the *Canada Shipping Act, 2001* and the *Fishing Vessel Safety Regulations* (FVSR) require a vessel's authorized representative (AR) to provide written safety procedures that familiarize persons on board with various operational and emergency activities. Yarmouth Sea Products Limited (YSP), the AR for the *Chief William Saulis*, had provided the *Chief William Saulis* and the other 24 vessels in the YSP fleet with a manual for vessel operations. Most of the safety procedures in the manual were based on templates provided by Transport Canada (TC). However, these templates do not cover all required procedures, and the manual did not include all procedures required by regulation. In particular, the manual did not have any written procedures to guide the use of the freeing ports, or for how scallops should be stowed on deck, 2 elements critical for the stability of the *Chief William Saulis*. The investigation determined that, if guidance provided by TC for written safety procedures required by the *Fishing Vessel Safety Regulations*, including templates, only partially covers regulatory requirements for effective safety procedures, there is a risk that organizations will not develop complete written safety procedures.

For fishing vessels such as the *Chief William Saulis*, TC's certification program is the primary oversight mechanism to ensure compliance with regulations. Although written safety procedures are required by regulation, TC does not require them to be approved, does not verify their content during inspections, and does not determine if the crew are knowledgeable about the procedures.

TC inspection records indicate that from July 2017 to December 2020, 84 separate inspections were conducted on the 25 vessels operated by YSP. None of the records indicated any deficiencies relating to the vessels' safety procedures. The investigation found that, if the vessel certification process does not identify gaps in safety procedures and provide education, there is a risk that masters, owners, and others filling the role of AR will allow vessels to operate without effective safe work practices.

Concentrated Inspection Campaigns (CICs) are one form of TC oversight that is independent of the regular certification program. In these campaigns, TC focuses on a specific area of safety concern for Canadian vessels. In 2021/2022, TC conducted a CIC that focused on fishing vessels and especially on compliance with the FVSR, including regulatory requirements for effective safety procedures. The CIC found deficiencies that had not been identified through TC's certification program and issued deficiency notices to 62% of the 101 vessels inspected. The largest number of deficiencies were related to ensuring the safety of vessel and crew: vessels had deficiencies related to drills and drill records (41%), the completeness and accessibility of safety procedures (30%), and the crews' knowledge of safety procedures (28%).

TC's oversight is not always effective and so the issue of regulatory oversight remains on the TSB Watchlist 2022.

Without TC oversight to validate that the written procedures required by regulation on board fishing vessels have been developed and that crew are knowledgeable of their content, there is a risk that fishing operations will continue without guidance critical to support the safety of the crew and the vessel. The Board therefore recommends that

the Department of Transport ensure that each inspection of a commercial fishing vessel verifies that each required written safety procedure is available to the crew and that the crew are knowledgeable of these procedures.

#### **TSB Recommendation M23-05**

### **Previous responses and assessments**

N/A

### **Latest response and assessment**

#### **June 2023: response from Transport Canada**

Transport Canada (TC) agrees with the safety recommendation M23-05. Familiarity with written safety procedures is a key component of safety on board commercial fishing vessels and helps ensure that all crew members are aware of, and proficient at, measures outlining how to safely operate the vessel and respond to safety incidents on board.

In July 2017, TC's *Fishing Vessel Safety Regulations* (FVSR) entered into force. These regulations require that the owners and operators of small fishing vessels - those that are less than 24.4 metres in length and not more than 150 gross tonnage - develop written safety procedures related to, among other things, fire safety, protection from machinery, rescue and evacuation, and measures to keep the vessel watertight and weathertight. The FVSR also require crew to undergo training in these procedures, so they may be proficient in performing them if necessary.

Fishing vessel inspections by TC verify safety procedures are in place on board the vessel and that they appropriately reflect its operations. Moving forward, TC will update and enhance its inspection procedures to require that inspectors confirm these procedures are available, visible and accessible, according to the needs of the crew, both before and during a voyage. Inspectors will also confirm that the vessel owner has implemented steps to help ensure the crew are not only aware of them, but also knowledgeable of their contents. During the inspection process, TC inspectors will discuss the contents of the required safety procedures with available crew, to confirm they know where they are located on board the vessel and are familiar enough with their contents that they would be able to efficiently execute them in the event of a safety incident. Inspectors will also be required to ensure key safety measures are visible and accessible to the crew on board the vessel so that crew can easily familiarize themselves with them, ensuring they are prepared in the event of an emergency.

Updated inspection procedures will also enhance processes for verifying the vessel owner's record of drills to confirm that drills held on board conform specifically with the vessel's safety

procedures and ensure that the crew is at all times proficient in carrying out these procedures, as required by the FVSR. Confirmation that the crew is knowledgeable of the contents of the vessel’s safety procedures, and that drills have been held to ensure crew familiarity with executing these procedures, will be required for a vessel to pass its inspection. Further, TC will update its inspector work instructions to require inspectors to confirm verification of crew familiarity with safety procedures was conducted during their inspections on board fishing vessels, so that this confirmation can be included in the vessels’ official records of inspection.

Transport Canada will also continue to enhance safety on board fishing vessels through ongoing regulatory initiatives, primarily advancing a three-phase process to update regulations governing fishing vessel safety. The second phase of this work, which will update design and construction requirements for small fishing vessels, is currently underway. Following the completion of this phase, work will focus on the final phase, which will update requirements for large fishing vessels - greater than 24.4 metres in length - to align with international standards.

TC remains committed to increasing the awareness of fish harvesters, vessel owners and industry representatives of the benefits of practicing a culture of safety on board fishing vessels. A Joint National Safety at Sea Committee between TC, Fisheries and Oceans Canada, and the Canadian Coast Guard, established in 2019, will continue to serve as a venue for the departments to collaborate on joint initiatives to enhance the safety of Canadian fish harvesters and promote a culture of safety across the industry. Safety is a shared responsibility, and it is important that all segments of the fishing industry continue to work alongside government to contribute to the implementation and enhancement of a safety culture.

Upon a request for further clarification by the TSB on 04 July 2023, TC provided the following information:

TC Commitment	Proposed Timeline
Work Instructions for verification of safety procedures, recording of findings, enforcement, and follow-up.	To be developed and implemented. <b>Tentative Timeline</b> <ul style="list-style-type: none"> <li>• Summer 2023: Development of guidance documents</li> <li>• Fall 2023: Trial implementation</li> <li>• Winter 2023: Review of results from the trial</li> <li>• Summer 2024: Full implementation</li> </ul>
Fishing Vessel Safety Regulations (Phase II)	Development of Regulations are ongoing. <b>Tentative Timeline</b> <ul style="list-style-type: none"> <li>• Fall 2024: Pre-publication in the <i>Canada Gazette</i>, Part I.</li> </ul>
Collaboration with DFO/CCG to increase safety awareness	Work is ongoing to identify and advance new and existing initiatives. Work to date has included advancing a joint initiative to align Fisheries and Oceans Canada’s fisheries licensing database with Transport Canada’s vessel registry, to provide an updated, accurate situational portrait of the Canadian small fishing vessel fleet to assist with targeted oversight and outreach activities.

### **August 2023: TSB assessment of the response (Satisfactory Intent)**

Transport Canada (TC) agrees with this recommendation and has outlined various initiatives it will undertake to address it. The Department has indicated that it will update and enhance its inspection procedures to ensure that safety procedures are available and accessible to crew. Inspectors will also discuss the contents of the required safety procedures with the crew to confirm they are familiar enough with the contents to use those procedure while operating. The updated inspection procedures, which are planned for full implementation in summer 2024, will also enhance the process for verifying the record of drills to confirm that they cover the safety procedures and that the crew is proficient in executing these procedures. This will be recorded in the vessel's official records of inspection.

The Board is encouraged by the Department's plan to update its inspection procedures to ensure that critical safety information is available to crew and that they are knowledgeable of this information. Once inspection procedures have been updated and TC inspectors are verifying that safety procedures are available to the crew and that the crew are knowledgeable of these procedures, the safety deficiency will be substantially reduced for fishing vessels.

Therefore, the Board considers TC's response to Recommendation M23-05 to show **Satisfactory Intent**.

### **File status**

The TSB will monitor the actions taken by Transport Canada.

This deficiency file is **Active**.