



## TSB Recommendation M22-01

### Requirement for Transport Canada vessel registration prior to Fisheries and Oceans Canada issuance of fishing licence

The Transportation Safety Board of Canada recommends that the Department of Fisheries and Oceans require that any Canadian vessel that is used to commercially harvest marine resources have a current and accurate Transport Canada registration.

Marine transportation safety investigation report	<a href="#">M20A0160</a>
Date the recommendation was issued	18 May 2022
Date of the latest response	November 2023
Date of the latest assessment	February 2024
<a href="#">Rating</a> of the latest response	Satisfactory in Part
<a href="#">File status</a>	Active

#### Summary of the occurrence

On 25 May 2020 shortly after midnight, the fishing vessel *Sarah Anne*, with 4 people on board, departed St. Lawrence, Newfoundland and Labrador, to fish snow crab in Placentia Bay. The Marine Communications and Traffic Services Centre in Placentia, Newfoundland and Labrador, received an overdue report at 1945 that evening. A search was launched using several vessels and aircraft. The bodies of 3 crew members were recovered the following day. The body of the 4th crew member was recovered from the shore on 06 June 2020. The vessel was not found.

The Board concluded its investigation and released report M20A0160 on 18 May 2022.

#### Rationale for the recommendation

There were a number of contributing factors involved in the loss of life: no distress call was received, no life raft was available to the crew, personal flotation devices (PFDs) were not worn, the vessel was not monitored by a third party, the vessel was not equipped with an emergency position indicating radio beacon (EPIRB), and the stability limits of the vessel were not known to the crew.

The investigation also revealed that thousands more commercial fishing vessels were registered with Fisheries and Oceans Canada (DFO) in the Atlantic Region than were registered with TC. That is, DFO was issuing a license to harvest marine resources commercially without verification that the vessel was correctly registered with TC, the department responsible for surveillance of safety requirements.

Commercial vessels must be registered with TC, even those that are not inspected for certification. Vessel registration with TC is not only a legislative requirement of the *Canada Shipping Act, 2001*, but also it gives TC the opportunity to provide safety oversight and guidance to vessel owners regarding their responsibility for compliance. In addition, up-to-date registration data mean accurate information is available to search and rescue authorities, and reliable data are available for safety regulators and other organizations in the marine safety system.

Harvesters are more likely to comply with regulatory requirements related to harvesting resources, partly because DFO upholds its mandate robustly through licence conditions and enforcement measures for non-compliance. In contrast, TC's less robust enforcement regime means that there are no such direct incentives to register with TC, nor to keep registration information up-to-date. In addition, the investigation identified that communication with fish harvesters in regard to the requirement for registration with TC is inconsistent and not always well understood.

Internationally, the importance of current and accurate vessel registration with the safety regulator has also been recognized, and many countries link fishing vessel licenses to vessel registration and inspection. In Canada, the connection between safety considerations and the granting of fishing licenses has long been recognized but has not been adequately addressed. Driven largely by initiatives created by regional staff, efforts are underway within both TC and DFO to address the issue. Nationally, TC and DFO report that they are each changing their database structures to include the other department's unique registration number. However, without any enforceable requirements, these initiatives remain an informal arrangement and are not a permanent solution. DFO can continue to issue licenses to harvest marine resources on vessels that do not have a current and accurate TC registration. Since DFO is a part of the Government of Canada, issuing a licence may give fish harvesters the impression that they have satisfied all government requirements before conducting commercial operations.

In many countries, including Canada, one solution to coordinating service delivery when an issue falls under the responsibility of one or more departments has been a "whole of government" or "horizontal government" approach. This approach was developed in response to situations where issues are interdependent, such as the safety of the fishing industry, and where the government's objectives cannot be achieved unless 2 or more departments begin working together. For the Canadian fishing industry, this means TC and DFO must work together to ensure that fish harvesters meet all requirements before they can operate commercially. Given that fish harvesters have more frequent contact with the Government of Canada through DFO, a key step in advancing commercial fishing safety will be using this relationship to promote regulatory compliance with TC safety requirements.

If fishing vessels are not registered in a TC register, and there are no mechanisms in place to ensure the accuracy of the register information, there is a risk that fish harvesters will not know about, understand, or adhere to regulations intended to increase fishing safety.

Given that current and accurate TC registration is the first step in safety oversight of commercial fishing vessels, the Board recommended that

the Department of Fisheries and Oceans require that any Canadian vessel that is used to commercially harvest marine resources have a current and accurate Transport Canada registration.

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### **Previous responses and assessments**

#### **September 2022: Response from Fisheries and Oceans**

The Department acknowledges recommendation M22-01 contained within the report and continues to advance collaboration with Transport Canada (TC) through monthly data sharing activities between departments, a gap-analysis tool currently being piloted, and proactive outreach with harvesters. The Department is exploring implementing an attestation of awareness of TC registration requirements through the National Online Licensing System by January 1, 2023, and is also exploring other options such as requiring licence holders to register with TC as a condition of their fishing licence, which would be an enforceable requirement.

We are eager to examine these options in order to determine how best the Department can support reducing risk on the water without adding undue cost or complexity to small fishing vessel operations, and how we may further leverage the use and sharing of data in the future in support of fishing safety. These initiatives also provide opportunity for sustained, increased awareness among harvesters and vessel owners on the importance of dual registration and the safety benefits it affords.

#### **November 2022: TSB assessment of the response (Satisfactory in Part)**

The Department of Fisheries and Oceans (DFO) indicates that this safety deficiency is actively being addressed through monthly data sharing activities with Transport Canada (TC), a gap-analysis tool pilot project, and proactive outreach with fish harvesters. The department is also exploring additional options such as implementing a TC registration attestation through its National Online Licensing System, and requiring license holders to register with TC as a license condition. The Board notes DFO's recognition of the safety benefits that can occur when fishing vessels are registered with both departments. However, in recommending safety action following this investigation, the Board emphasized that confirmation of current and accurate TC registration should be a requirement to commercially harvest marine resources.

The Board notes the ongoing work being performed by both DFO and TC to address this safety deficiency. However, initiatives within the Department of Fisheries and Oceans are currently limited to education and awareness.

Therefore, the Board considers the response to Recommendation M22-01 to be **Satisfactory in Part**.

### Latest response and assessment

#### November 2023: Response from Fisheries and Oceans

[Content removed for relevance]<sup>1</sup>

For recommendation M22-01, DFO has and continues to actively exchange data with TC to identify and address registration gaps between both Departments.

DFO continues to lead many outreach initiatives with the fishing industry to communicate the need for harvesters to register vessels with both Departments. In 2022, DFO did a targeted mailout in Newfoundland and Labrador, the DFO regional area with the highest rate of non-compliance with TC vessel registration requirements, to 5200 licence holders informing them of their registration obligations. Since DFO's last update, we have added a notification to our National Online Licencing System (NOLS) in January 2023, advising licence holders of their obligation to register their vessel with TC.

While DFO acknowledges the importance of TC's registration regulatory requirements, it must remain mindful that licencing powers under the *Fisheries Act* must be carefully exercised, only for considerations relevant to its purpose.

To this end, our overall outreach efforts continue, and we are currently drafting a communications plan to utilize social media, in particular X and Facebook, and possibly advertising in fishing industry publications to communicate TC vessel registration requirements, as well as rotating fishing safety messaging on training, stability and life saving equipment. DFO continues to work collaboratively with TC to explore potential solutions to this important issue.

With the information above, we respectfully request that the TSB re-consider DFO's rating in response to this recommendation.

We remain available to discuss either of these and look forward to future collaboration with the TSB.

#### February 2024: TSB assessment of the response (Satisfactory in Part)

The Department of Fisheries and Oceans's (DFO) response indicates that it continues to exchange data with Transport Canada (TC) to address registration gaps and outreach initiatives with fish harvesters. These outreach initiatives have included a targeted mailout in 2022 in

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<sup>1</sup> 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.

Newfoundland and Labrador, the area with the highest rate of non-compliance with vessel registration, and adding a notification to its National Online Licencing System (NOLS) in 2023 to remind license holders of their vessel registration obligation. DFO also plans to further these outreach initiatives with the launch of social media campaigns and possibly advertising in fishing industry publications to communicate TC vessel registration requirements and fishing safety messaging on training, stability, and life saving equipment. Finally, DFO also indicates that it continues to work with TC to explore potential solutions to this safety deficiency.

While the Board is encouraged by the work conducted by DFO and TC, it remains concerned that this work is limited to education and awareness. Without a mechanism to require vessel registration with TC for all commercial fishing vessels, many fish harvesters may unknowingly continue to operate commercially without meeting all safety requirements. The TSB will monitor the current measures to determine whether the safety deficiency identified in this recommendation is being mitigated.

Therefore, the Board considers the response to Recommendation M22-01 to be **Satisfactory in Part**.

#### **File status**

The TSB will monitor the actions taken by the Department of Fisheries and Oceans.

This deficiency file is **Active**.