



ASSESSMENT OF THE RESPONSE TO TSB RECOMMENDATION M16-04

Wearing of suitable PFDs at all times while on the deck of a fishing vessel

Background

On 5 September 2015, the fishing vessel *Caledonian* capsized 20 nautical miles west of Nootka Sound, British Columbia. At the time, the vessel was trawling for hake with 4 crew members on board. Following the capsizing, the master and mate climbed onto the overturned hull and remained there for several hours. When the vessel eventually sank, the master and mate abandoned it, and the mate swam toward and boarded the life raft. The Canadian Coast Guard subsequently rescued the mate and recovered the bodies of the master and the 2 other crew members.

The Board concluded its investigation and released report M15P0286 on 12 December 2016.

TSB Recommendation M16-04 (December 2016)

Fishermen often operate in harsh physical and environmental conditions. They harvest, load, transfer, and store their catch while the vessel is in various sea conditions, and the risk of going overboard is high. If a fisherman ends up in the water, the consequences can be fatal. The SII identified falling overboard as the second highest cause of death in the fishing industry. In British Columbia, since 2006, the TSB has determined that approximately 70% of all fishing-related fatalities result from not using a personal flotation device (PFD).

TSB investigations have shown that wearing a PFD increases the chance of surviving a man overboard situation, and this occurrence is yet another example, where the mate who was the only one wearing a PFD survived.

In February 2012, the Commission de la santé et de la sécurité du travail (CSST) made it compulsory for lobster fishermen to wear PFDs at all times. Recently, the CSST has sent letters to all masters on lobster fishing vessels explaining the regulation as it pertains to the mandatory use of lifejackets or PFDs on board fishing vessels and the CSST has conducted 150 vessel visits to ensure compliance.

Apart from the CSST, neither TC nor any other provincial workplace safety regulator has requirements to ensure that fishermen wear PFDs at all times. Those requirements that do exist place the onus on fishing vessel masters to determine whether or not a risk is present and to decide if PFDs should be worn. Not only is this assessment of risk subjective, but it also

assumes that crew members are in a position to recognize when risk is present and have the time available to don a PFD or other flotation device.

Despite risk-based regulations and industry initiatives to change behaviours and create awareness about the importance of wearing PFDs, as well as design improvements by PFD manufacturers to address fishermen's concerns about comfort and constant wear, there has not been a significant change in the behaviour of fishermen and many continue to work on deck without wearing a PFD.

The TSB believes that the implementation of explicit requirements for fishermen to wear PFDs, along with appropriate education and enforcement measures, will significantly reduce the loss of life associated with going overboard. The TSB therefore recommended that:

WorkSafeBC require persons to wear suitable personal flotation devices at all times when on the deck of a commercial fishing vessel or when on board a commercial fishing vessel without a deck or deck structure and that WorkSafeBC ensure programs are developed to confirm compliance.

TSB Recommendation M16-04

WorkSafeBC's response to Recommendation M16-04 (April 2017)

We have reviewed the recommendation and offer the following comments.

Occupational health and safety regulations, including those related to fishing safety, are made and enforced by WorkSafeBC. Part 8 of the *Occupational Health and Safety Regulations (OHSR)* contains regulations related to the general applicability of buoyancy equipment and Part 24 of the *OHSR* contains regulations related to fishing operations. The regulations under Part 24 apply to all owners, masters, and crew members of licensed commercial fishing vessels.

Section 8.26(1) of the *OHSR* requires workers working under conditions which involve a risk of drowning to wear a personal flotation device (PFD) or lifejacket. The section is one of general application applying to all workplaces. Commercial fishing vessels are different from fixed or onshore workplaces as they can pitch, heave, roll over or sink with little or no notice.

As part of its 2017 regulatory amendment process, WorkSafeBC is proposing a new provision in Part 24 of the *OHSR* that would require crewmembers of commercial fishing vessels to wear PFDs or lifejackets when they are working on deck. This amendment would be in addition to the requirement under Part 8 and would be tailored specifically to work aboard commercial fishing vessels.

In addition to the proposed amendment, workplace inspections by specially trained Marine based Prevention Officers taking place while vessels are tied to the dock and while actively participating in fishing operations at sea include a continued focus on the use of PFDs in all marine sectors where there is a risk of drowning.

In March of 2017, WorkSafeBC also launched a strategic marketing campaign to get the message out to skippers and fishermen that PFDs save lives. The initiative utilizes Municipal Harbour Authorities as a conduit for the placement of key messages and awareness materials.

The campaign features geo-targeted mobile ads and signage at marinas up and down the west coast.

The focus of all this initiative is to raise awareness with skippers that they have a responsibility for their crews' health and safety. The key campaign messages are:

- On deck? Put it on. Because if it's your crew, it's your responsibility.
- As the skipper, it's your responsibility to make sure everyone on deck wears a PFD – including you.

Skippers and other fishermen are encouraged to visit worksafebc.com for resources on PFDs to help with safety planning.

We trust the information provided supports a better understanding of WorkSafeBC's current and proposed actions taken in response to the TSB's recommendation M16-04.

TSB assessment of WorkSafeBC's response to Recommendation M16-04 (June 2017)

If WorkSafeBC fully implements the proposed regulatory amendments, vessel inspections and marketing campaigns, then awareness of the importance of wearing a PFD will be raised, increasing usage, and reducing the loss of life associated with going overboard.

Therefore, the response to the recommendation is considered to be **Satisfactory Intent**.

WorkSafeBC's response to Recommendation M16-04 (October 2018, January 2019 and February 2019)

In October 2018, WorkSafeBC provided the following update:

As we outlined in our April 2017 letter, occupational health and safety regulations, including those relating to fishing safety, are made and enforced by WorkSafeBC. Part 8 of the Occupational Health and Safety Regulation (OHSR) contains regulations relating to the general applicability of buoyancy equipment and Part 24 of the OHSR contains regulations related to fishing operations. The regulations under Part 24 apply to all owners, masters, and crew members of licensed commercial fishing vessels.

WorkSafeBC is proposing new provisions in Part 24 of the OHSR that would require crewmembers of commercial fishing vessels to wear personal flotation devices (PFDs) or lifejackets when they are working on a fishing vessel. The new provisions in Part 24 would ensure consistency with federal regulations on lifejackets and PFD standards.

WorkSafeBC released these proposed amendments to the general public for feedback in the spring of 2018, and held public hearings for these and other proposed amendments this past month. It is anticipated these amendments will be referred to WorkSafeBC's Board of Directors for a decision in early 2019. If approved, these amendments would likely come into force in the spring of 2019.

In addition to the proposed amendments, WorkSafeBC's Marine based Prevention Officers continue to emphasize the use of PFDs while inspecting fishing operations at sea and those vessels tied to the dock. WorkSafeBC's Marine Initiatives for 2018-2020 also include the leasing of a vessel in order to help facilitate these inspections and increase WorkSafeBC's presence in this industry.

On January 28, 2019, WorkSafeBC provided another update as follows:

Further to our letter dated October 29, 2018, we write to advise you that, on January 23, 2019, WorkSafeBC's Board of Directors approved amendments to Part 24 of our *Occupational Health and Safety Regulation*. These new amendments will require crewmembers of commercial fishing vessels to wear personal flotation devices (PFDs) or lifejackets when they are working on a fishing vessel.

The new amendments will have an effective date of June 3, 2019. This date will meet the requirements of section 227 of the *Workers Compensation Act* which requires the regulation's effective date to be at least 90 days after its deposit under the *Regulations Act*.

In the interim, WorkSafeBC's Marine based Prevention Officers will continue to emphasize the use of PFDs while inspecting fishing operations at sea and those vessels tied to the dock.

On 05 February 2019, WorkSafeBC provided additional information as follows:

Further to our letter dated January 28, 2019, we write to provide you with information on WorkSafeBC's enforcement strategy with respect to the new amendments to Part 24 of our *Occupational Health and Safety Regulation*.

As previously mentioned, the new amendments will have an effective date of June 3, 2019 and will require crew members of commercial fishing vessels to wear personal floatation devices or lifejackets while working on a fishing vessel. The June 3, 2019 date will meet the requirements of section 227 of the *Workers Compensation Act* which requires the regulation's effective date to be at least 90 days after its deposit under the *Regulations Act*.

WorkSafeBC's enforcement strategy for these new amendments will include:

- Ensuring all marine inspections contain an educational component outlining the new requirements and expectations for compliance;
- Continuing enforcement through at-sea inspections focusing on those high risk fishing sectors such as trawl, longline and trap, and seine; and
- Ensuring officers are at-sea conducting inspections a minimum of 15 business days every month.

In addition, employers found in non-compliance with the new provisions will be issued corrective orders, and administrative sanctions will be considered for those employers who put workers in high risk situations, have repeated orders, or are found in continued non-compliance with the new regulations.

TSB assessment of WorkSafeBC's response to Recommendation M16-04 (February 2019)

The Board is pleased that WorkSafeBC's Board of Directors has approved the regulatory amendments that will require crewmembers of commercial fishing vessels to wear personal flotation devices (PFDs) or lifejackets when they are working on a fishing vessel.

The Board acknowledges the progress made by WorkSafeBC on this recommendation and believes that full implementation of the regulatory amendments, in conjunction with education and enforcement during vessel inspections, will increase awareness of the importance of wearing a PFD, increasing its usage, and reducing the loss of life associated with going overboard.

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

Next TSB action

This deficiency file is **Closed**.