

Draft Policy on Assistance to Disabled Vessels

PUBLISHED FOR CONSULTATION

1. *Policy Statement*

1.1 It is the policy of the Canadian Coast Guard (CCG) that this directive is to be followed when a request for assistance from a disabled vessel is received by the CCG to determine whether, how, and to what extent assistance shall be given to ensure risks to the CCG, its employees, the people requiring assistance, and to the disabled vessel are fully considered.

2. *Application*

2.1 This directive applies to all CCG employees. This directive will have precedence over all other policies, directives, procedures, and instructions concerning assistance to non-CCG disabled vessels.

2.2 CCG employees will follow the Fleet Safety and Security Manual procedures when a CCG vessel is disabled and requires assistance.

2.3 However, when a CCG SAR resource is on scene and when lives are in immediate danger, i.e., *in extremis*, the Commanding Officer shall take any actions he or she deems necessary to save lives, including towing in open water or in ice with persons onboard. In this event, and when lives are no longer in immediate danger, Commanding Officers must re-evaluate the risks to determine how to evacuate the persons on board.

3. *Definitions*

The following terms, when used in this Directive, shall have the following meaning:

Distress	Means a search and rescue incident where there is a reasonable certainty that one or more individuals are threatened by grave and imminent danger and require immediate assistance. (<i>Détresse</i>)
Disabled	Means a situation wherein a vessel afloat is not in distress or potential distress, has lost all means of propulsion, steering or control to such a degree as to be incapable of proceeding to safety without assistance. (<i>Désemparé</i>)
When ice is present	Means all types ice greater than 10 cm thick (nilas, brash, pancake ice formation) located in the immediate vicinity of the disabled vessel. (<i>En présence de glace</i>)
Place of refuge	Means a place where a ship in need of assistance can take action to enable it to stabilize its condition and reduce the hazards to navigation, and to protect human life and the environment ¹ . (<i>Lieu de refuge</i>)

¹ International Maritime Organization, A.949(23).1.19

4. General

4.1 Historically, and today, assistance at sea is a mutual service between mariners based on need and isolation. Assistance was provided without pause, as the provider knows at sometime in the future it could be them seeking assistance.

4.2 Given the foregoing, it is recognized that the timely provision of technical assistance to, or towing of, disabled vessels can be an effective way of meeting the national search and rescue (SAR) objective of preventing loss of life and injury.

4.3 These statements are not, however, intended to convey to the public that the federal government or its agents are prepared to assist disabled vessels merely on request. The federal government or its agents will not compete with commercial or private interests to provide assistance. Some incidents involving the use of the SAR system or government resources are clearly preventable or unreasonable. The response to these incidents occupies resources that may be needed for more serious incidents and may place responders in unnecessary danger.

4.4 Resources of the federal government or its agents shall not be tasked nor provide a tow to disabled vessels for the sole purpose of getting from one place of refuge to another.

4.5 If a disabled vessel requesting assistance refuses commercial or private assistance when available, this shall be considered as a cancellation of the initial request for assistance. The master of the disabled vessel is to be notified accordingly.

4.6 If a disabled vessel refuses to evacuate when the Commanding Officer of a CCG resource requires the personnel to evacuate, this shall be considered as a cancellation of the initial request for assistance. The master of the disabled vessel is to be notified accordingly.

4.7 Employees should also keep in mind that CCG Environmental Response officers and Pollution Response Officers have broad powers when a vessel has discharged or is likely to discharge a pollutant. In some cases, salvaging an abandoned vessel could be a means to prevent pollutant discharges from subsequent allisions or groundings.

4.8 CCG employees involved in the provision of assistance are not personally liable for any death, injury or material damage that could occur as a result of the assistance operation given they acted on good faith; within the responsibilities attached to their position; and within the mandate of CCG. In such conditions, they could be assisted under the Treasury Board Policy on Legal Assistance and Indemnification in the event they are personally subject to a legal action.

5. Assistance to a Vessel in Distress or Status in Doubt

5.1 For vessels in distress, potential distress, capsized vessels or situations in doubt, normal distress or potential distress procedures shall apply. The first consideration shall always be to save the lives in danger including measures to evacuate people from the distressed vessel and recover people from the water.

5.2 In all other situations if time and the circumstances allow, the Commanding Officer should consider providing technical assistance before deciding to tow. From time-to-time the CCG will have to tow distressed vessels. In the ordinary practice of seamen towing involves fewer risks to the towed vessel if the towing vessel is smaller or the same size as the towed vessel. Should towing be necessary the Commanding Officer shall follow detailed instructions in “Canadian Coast Guard Fleet Towing Procedures.”

5.3 In general, the Commanding Officer shall provide a copy and formally explain to the master or person in charge of the distressed vessel written towing conditions (see Annex 1). The Commanding Officer shall also discuss the risks of towing and CCG expectations during the tow.

5.4 When the situation is stabilized, or if additional information is available to determine that the vessel is no longer in distress, any requirements for further assistance shall follow the directives in Section 6 as appropriate.

6. *Assistance to a Disabled Vessel not in Distress*

6.1 IN OPEN WATER

6.1.1 No waiting period should delay the tasking of any mobile facility to any situation where there is an uncertainty as to the safety of the persons at sea.

6.1.2 When the master of a disabled vessel requesting assistance (non-distress or non-potential distress) is in direct communication with a Marine Communications and Traffic Services (MCTS) Centre, Regional Operations Centre, or Ice Office and has advised that persons aboard are in no immediate danger, the centre/office shall ensure that the Maritime SAR Mission Co-ordinator (at the Joint Rescue Co-ordination Centre or Maritime Rescue Sub-centre (JRCC/MRSC)) for the area in which the disabled vessel is located is informed and pass all pertinent information to the Maritime SAR Mission Co-ordinator to take the lead. As the vessel is not in distress, sufficient time will be taken to evaluate the request before deciding on a course of action. CCG will not compete with commercial salvage or towing interests and therefore will not tow disabled vessels unless all efforts to obtain commercial or private assistance have been carried-out and have failed to resolve the situation. In general (refer to Annex 2 for decision guidance):

.1 the Maritime SAR Mission Co-ordinator, normally through the appropriate MCTS Centre, shall advise the owner/operator to make their own arrangements for assistance;

.2 if the owner/operator is unable or unwilling to secure arrangements for assistance, the Maritime SAR Mission Co-ordinator shall request that the MCTS Centre issue a Maritime Assistance Request Broadcast (MARB) alerting all private, commercial and vessels of opportunity in the area of the need for assistance and thus giving them the opportunity to provide this assistance;

.3 if there is no response to the MARB, in special circumstances, the Maritime SAR Mission Co-ordinator may attempt to contact other mobile facilities that could, if willing, provide an expeditious response;

.4 the Maritime SAR Co-ordinator will consult with the Regional Operations Centre if it is determined that assistance will be needed from a CCG vessel not on primary SAR as the tasking may impact on other programs. In all cases, when the Maritime SAR Co-ordinator tasks CCG resources he/she shall avoid explicitly tasking a CCG resource to tow, but rather shall use the phrase “provide technical and other assistance as required” in the tasking message; and,

.5 the Maritime SAR Mission Co-ordinator through their regional alert network must advise the appropriate enforcement authorities of the details of the incident to support actions preventing similar incidents from occurring in the future. Special emphasis should be placed on situations when the SAR Mission Co-ordinator and/or the Commanding Officer of the assisting vessel reasonably believe that the disabled vessel had to be assisted because it is un-seaworthy or otherwise in violation of *Canada Shipping Act, 2001*, and/or the regulations made there under.

6.1.3 Although the Maritime SAR Mission Co-ordinator should not routinely engage itself in obtaining third party assistance for a disabled vessel, in exceptional circumstances and in complete consultation with the owner/operator of the disabled vessel, the Maritime SAR Mission Co-ordinator may aid in co-ordinating commercial or private assistance. The owner/operator will always remain responsible for any and all costs incurred. It must be made clear to the supplier and the end user of the assisting service that the CCG or the Crown has no contractual or other obligation whatsoever in this arrangement.

6.1.4 Regions are to ensure that CCG Environmental Response and partner agencies, such as Transport Canada Marine Safety and the Transportation Safety Board are informed of the details of requests for assistance according to established protocols. Any requests received in the Regions for CCG resources to assist disabled vessels on behalf of partner agencies shall be forwarded to the Assistant Commissioner. The Assistant Commissioner’s approval will be required before any CCG resource is tasked to tow disabled vessels of 33 metres or more in length.

6.1.5 For disabled vessels in open water, in order to prevent more serious safety risks from developing, technical assistance may be provided on an as available basis by the federal government or its agents only after efforts to obtain commercial or private assistance have been carried out and have failed to resolve the situation.

6.1.6 In all other situations if time and the circumstances allow, the Commanding Officer should consider providing technical assistance before deciding to tow. Any technical assistance, such as fuel or provisions transferred to the disabled vessel, will be strictly on account of the owner/operator of that vessel. From time-to-time the CCG will have to tow disabled vessels. In the ordinary practice of seamen towing involves fewer risks to the towed vessel if the towing vessel is smaller or the same size as the towed vessel. Should towing be necessary, Commanding Officers shall follow detailed instructions in “Canadian Coast Guard Fleet Towing Procedures.” In general, the Commanding Officer shall provide a copy and formally explain to the master or person in charge of the disabled vessel written towing conditions (see Annex 1). The Commanding Officer shall also discuss the risks of towing and CCG expectations during the tow.

6.1.7 When any CCG resource has a disabled vessel under tow and commercial or private assistance arrives on-scene, the Commanding Officer shall hand over the tow to the commercial/private vessel provided it appears capable and the transfer can be conducted safely.

6.1.8 Requests to use a CCG resource to engage in salvage operations of vessels with no persons on board shall be carefully assessed prior to authorization by the Assistant Commissioner. Since salvage is normally the responsibility of the vessel owner, the status of the owner must be determined to be unknown, unwilling or unable. Salvage of an abandoned vessel including towing to a place of refuge should be made under the CCG Environmental Response mandate.

6.1.9 Should a disabled vessel be towed by a CCG resource the towing operation should always be to the nearest place of refuge or to a rendez-vous position where the tow can be safely transferred to commercial or private mobile facilities. In all cases, the Commanding Officer shall record the date and time when the SAR operation ended i.e., when the persons aboard the disabled vessel have been transferred to a safe place and the time when they started the salvage operation under CCG Environmental Response mandate in the log book.

6.1.10 On arrival at the place of refuge, it is not the responsibility of the CCG resource to secure the disabled vessel. However, the Commanding Officer may take such action as is necessary, having due regard for the circumstances of the case, to ensure that the disabled vessel is safely secured or anchored.

6.1.11 Commanding Officers may have to cast off the tow in order to respond to a distress situation or incident of more serious nature. In instances when the persons onboard the disabled vessel consider themselves to be in potential danger and wish to abandon, the Commanding Officer of the CCG resource should consider the risks and if prudent to do so, evacuate these persons and continue on with the more serious incident with the knowledge that these persons may have to remain onboard the CCG resource for an extended period. The Commanding Officer shall notify the JRCC/MRSC of the action taken.

6.2 *When ice is present*

6.2.1 The provisions of this paragraph 6.2 apply in addition to the provisions of paragraph 6.1.

6.2.2 From time-to-time the CCG will have to tow disabled vessels. In the ordinary practice of seamen towing involves fewer risks to the towed vessel if the towing vessel is smaller or the same size as the towed vessel. When ice is present CCG resources are generally much larger than the disabled vessel, thus due care and attention must be exercised. Tasking smaller vessels to tow a disabled fishing vessel of similar size is an option preferable to tasking a larger CCG ship. Additional consideration should be given to the possibility of using a larger CCG ship to escort the towing vessel and its tow through the ice.

6.2.3 Therefore, given the considerations in paragraph 6.2.2 for disabled vessels when ice is present, the CCG will not tow small vessels of less than 33 metres in length with persons aboard. Instead, other options to be considered to render assistance include, but are not limited to the following:

- .1 provide assistance to find alternate towing arrangements and standby to provide icebreaker escort for the tow if required;

- .2 standby until ice conditions improve;
- .3 render onboard technical assistance;
- .4 assist crew to transfer to a safe place and tow with no persons onboard; or,
- .5 as a last resort, assist crew to abandon vessel, transfer them to a safe place, leave the unoccupied vessel and depart the area.

7. *Enquiries*

General enquiries to this policy shall be directed to the Manager, Search and Rescue, Maritime Services, at Kristen.Bond@dfo-mpo.gc.ca or by telephone at 613-990-3119.

8. *Approval*

George Da Pont
Commissioner

ANNEX 1

TOWING ASSISTANCE AGREEMENT AND WAIVER OF LIABILITY

I, the undersigned _____ declare being the owner/operator of the _____, registered under the official number or registration or license number _____ do hereby request that the Canadian Coast Guard Ship or the Canadian Coast Guard Auxiliary Unit, as the case may be, _____ (hereinafter: the “Search and Rescue Unit or SAR Unit”) provides my disabled vessel with towing assistance. In doing so, I declare being of sound body and mind and perfectly aware of the dangers and risks of a towing operation, for myself, for all persons on board the vessel, and for the vessel and its equipment.

I confirm that the Search and Rescue Unit has informed me of the details of the intended towing operation and the SAR Unit expectations from my vessel during the operation, including the requirement not to undertake any manoeuvre or apply the engine or rudder unless it is ordered by the SAR Unit or the SAR Unit has been informed and agreed to the manoeuvre.

In addition, I have been informed of, and agree to the following:

- the towing operation will be to the nearest place of refuge, or to a rendezvous position where the tow can be safely transferred;
- if there is a more serious situation elsewhere, the towline will be released or transferred and the towing operation will be ended immediately;
- the SAR Unit may release the towline and end the towing operation if such operation poses risks to its safety of the safety of its crew;
- if adequate commercial assistance reaches the scene, the SAR Unit may hand over the tow. I will be liable to any charges from that commercial resource;
- upon arrival at the nearest place of refuge, the SAR Unit will release the towline and depart and it will be my responsibility to secure my own vessel; and,
- the Canadian Coast Guard or Canadian Coast Guard Auxiliary, the Department of Fisheries and Oceans Canada, the Government of Canada, Her Majesty the Queen in right of Canada and any of their employees or servants are not liable for damages suffered by my vessel, any of its equipment, its owner, master, operator, person in charge, crew or passengers, if the towing operation has to be abandoned, or if damages occurred

TOWING ASSISTANCE AGREEMENT AND WAIVER OF LIABILITY (CONTINUED)

despite due diligence and good seamanship practices of the master and crew of the Search and Rescue Unit.

Print Name: _____

Signature: _____

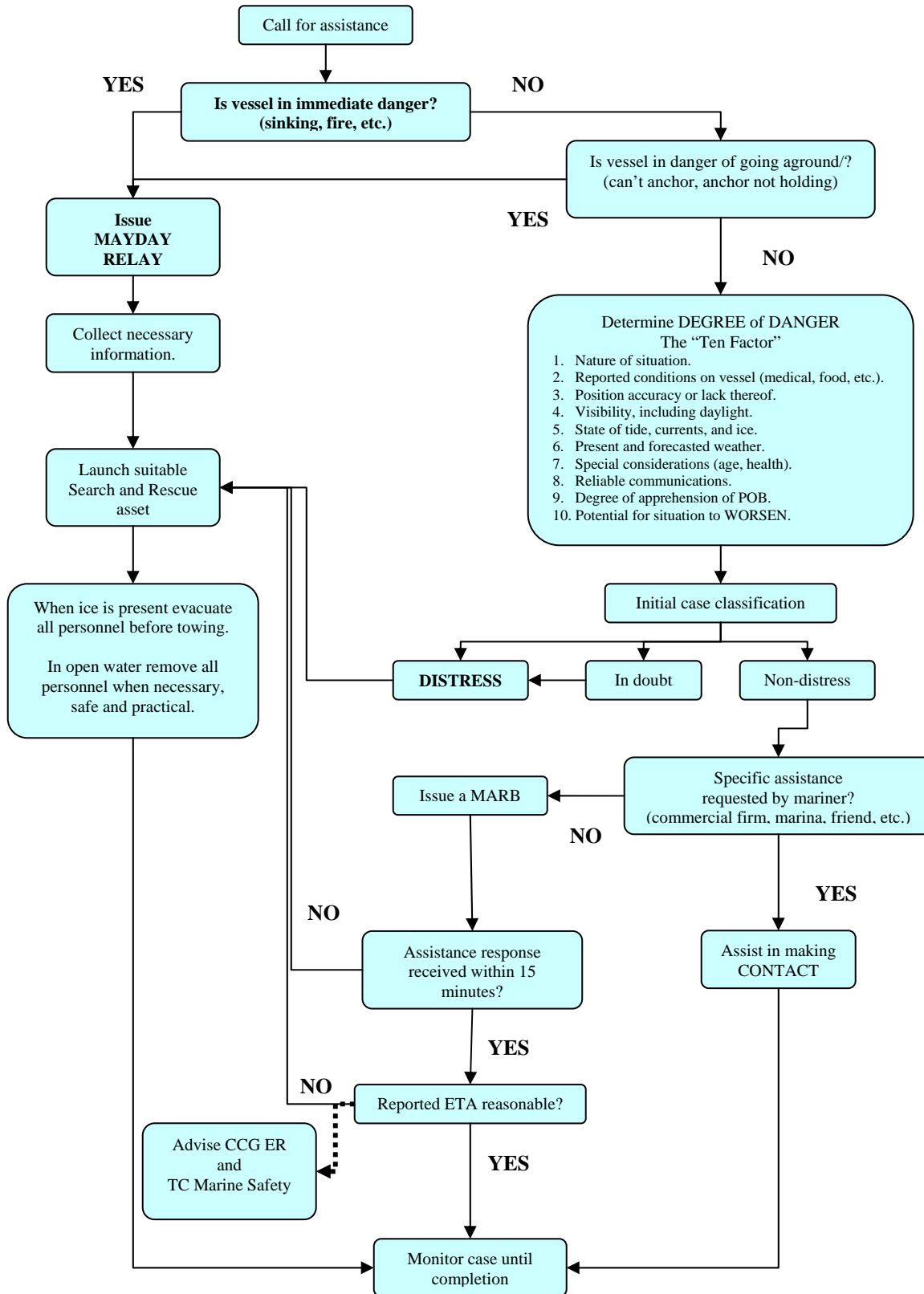
Date: _____

Witness (if any): _____

Note to the Commanding Officer of the SAR Unit:

If the circumstances do not allow the signature of this document, it should be read to the master or person in charge of the disabled vessel by radio, and their verbal acceptance of this agreement and waiver should be noted in the SAR Unit's logbook. Any electronic recordings of the conversation and agreement shall be retained and safeguarded according to established policy and procedures. In some circumstances it may be preferable to have MCTS communicate with the disabled vessel. Commanding Officers should discuss the circumstances with the MCTS Officer as appropriate.

ANNEX 2 TOWING ASSISTANCE DECISION FLOW CHART



ANNEX 3

REFERENCES

Canadian Coast Guard Report on events related to the capsizing & sinking of *L'Acadien II* off the coast of Cape Breton 28//29 March 2008.

Transportation Safety Board Marine Investigation Report M08M0010: Capsizing while under tow - Small Fishing Vessel *L'Acadien II*, 18nm Southeast of Cape North, Cape Breton Island, Nova Scotia 29 March 2008.

Department of National Defence Search and Rescue Operation Report: *F/V L'Acadien II* - Case H2008-00319 March 28th/29th, 2008.

Transportation Safety Board Marine Investigation Report M05L0036: Ice damage and subsequent sinking - Fishing Vessel *Justin Moff*, The Magdelan Islands, Quebec, 29 March 2005.

Transportation Safety Board Marine Investigation Report M97L0021: Sinking of the Fishing Vessel *Gilbert D* off Îles de la Madeleine, Quebec on 16 March 1997.

Canadian Coast Guard Report Investigation on the Loss of the F/V *Angela and Brothers*.

Canadian Coast Guard Fleet Safety and Security Manual DFO 5737

Canadian Coast Guard Fleet Towing Procedures.

National SAR Manual B-GA-209-001/DFO 5449: 7.14 (soon to be replaced by: IAMSAR Manual, Volume IV, Canadian SAR Manual)

Canadian Coast Guard Ice Navigation in Canadian Waters

Transport Canada National Place of Refuge Contingency Plan (PORCP) TP 14707 (07/2007)

Transport Canada Safety of Towed Ships and Other Floating Objects, SSB 13/88

Transport Canada Towboats - Dangers Associated with Girding, SSB 13/94

Transport Canada DRAFT, Arctic Waters Towing Guidelines, TCMS, P&N, April 2000

International Maritime Organization Guidelines for Safe Ocean Towing MSC/Circ 884 Dec 1998

International Maritime Organization Guidelines on the Safety of Towed Ships & other Floating Objects, including Installations, Structures, & Platforms at Sea Res A.765(18) Nov 1993

International Maritime Organization, International Convention for the Safety of Lives at Sea (SOLAS), Chapter V, Regulation 12

International Maritime Organization, International Aeronautical and Maritime Search and Rescue Manual, Volume III

The Canadian Towing Industry: Tugs, Barges and Their Relationships, TP 11173, Jan 1992

U.S. Coast Guard Addendum to the United States National SAR Supplement Chapter 4 - General SAR Policies.

Marine Towing in Ice Covered Waters, Peter E. Dunderdale (English only)

Websites (note: some sites may only be available in one language):

<http://ice-glaces.ec.gc.ca/>

<http://laws.justice.gc.ca/en/home>

<http://www.ccg-gcc.gc.ca>

<http://www.dfo-mpo.gc.ca>

<http://www.ec.gc.ca>

<http://www.imo.org>

<http://www.marisec.org/>

<http://www.martechpolar.com/Polar%20Ship%20Operations/Martech%20Polar%20-%20Ship%20Operations%20in%20Ice.htm>

<http://www.nts.gov>

<http://www.tc.gc.ca/marinesafety/>

<http://www.tc.gc.ca/marinesafety/tp/tp14707-atlantic/menu.htm>

<http://www.tsb.gc.ca>

<http://www.uscg.mil>