

MEMORANDUM OF UNDERSTANDING

BETWEEN:

TRANSPORT CANADA

AND

FISHERIES & OCEANS

RESPECTING

**MARINE TRANSPORTATION SAFETY
& ENVIRONMENTAL PROTECTION**

Date: April 1996

A. PURPOSE

1. The purpose of this memorandum of understanding is to provide an administrative framework which ensures a coherent and consistent approach to all aspects of marine transportation safety and environmental protection.
2. Transport Canada and Fisheries & Oceans recognize that each department has distinct but interrelated responsibilities for the management of marine transportation safety and environmental protection.

B. PRINCIPLES & COMMITMENTS

1. This memorandum of understanding is purely an administrative arrangement intended as a convenience to public servants to better serve the public and industry clientele. This memorandum does not preclude or excuse departmental personnel from taking the measures necessary to fully meet the needs of the public and our industry clients.
2. The first obligation of both departments is to maintain the high level of marine safety and environmental protection the public has come to expect of the Federal Government.
3. Effective interdepartmental co-operation leads to certainty and predictability of government actions, and promotes public confidence and sound economic planning.
4. Beyond the terms specified in this memorandum, the departments commit to co-operate and communicate openly and continuously with each other at appropriate

official levels on any and all matters relating to the administration of marine transportation safety and environmental protection.

5. Both departments commit to the responsible and effective administration of their shared responsibilities. Both departments undertake to provide timely notification and appropriate consultation whenever the activities of one department directly affect the activities and responsibilities of the other.

C. LEGISLATION & REGULATIONS

1. The statutes which impinge directly on this memorandum are:

Statute	Lead Department(s)
<i>Canada Shipping Act</i>	Transport Canada
<i>Arctic Waters Pollution Prevention Act¹</i>	Transport Canada, Indian Affairs & Northern Development, Natural Resources
<i>Navigable Waters Protection Act²</i>	Fisheries & Oceans (Transfer through the Fisheries Act³)
<i>International Rapids Power Development Act²</i>	Fisheries & Oceans (Transfer through the Fisheries Act³)

1. The departmental legislative and regulatory responsibilities for the *Arctic Waters Pollution Prevention Act* are addressed in Annex H.
2. The departmental legislative and regulatory responsibilities for the *Navigable Waters Protection Act* and the *International Rapids Power Development Act* are addressed in Annex C.
3. These transfers are contingent upon the passing of amendments to the *Fisheries Act* through Parliament. Transfer of these authorities has the concurrence of both Fisheries & Oceans and Transport Canada.
3. The Minister of Transport is the minister responsible for the *Canada Shipping Act*. The Minister of Fisheries & Oceans, however, has responsibilities under the following specific sections of this Act as transferred in accordance with the *Public Service Rearrangement and Transfer of Duties Act* which may be superseded by the *Oceans Act*:

Section	Description	Note
385	Designate Rescue Coordinators	Fisheries & Oceans is responsible for the provision of Marine Search & Rescue Services.
405	Regulations affecting pleasure yachts	Fisheries & Oceans is responsible for pleasure craft regulation.
422-475	Wrecks and Receivers of Wrecks	Unless otherwise stated, all references to Minister in these sections are to the
517-525	Lighthouses, Buoys and Beacons, and Sable Island	Fisheries & Oceans is responsible for the provision of marine navigation services.
562(4)	Restriction of navigation	Applies only to vessels less than 15 gross tonnage.
562.15 - 562.20	Vessel Traffic Services	Fisheries & Oceans is responsible for the provision of marine navigation services.
660.1 - 660.11	International Convention on Oil Pollution Preparedness, Response & Co-operation	Fisheries & Oceans is responsible for Response Organizations, Regional Advisory Councils, and Oil-Handling Facilities.
677(1)(b) (i), & (1)(c)	Liability of the ship owner for costs and expenses incurred in a pollution response	Fisheries & Oceans is responsible for ensuring the provision of pollution cleanup services.
678(1)	Minister may take necessary measures	Authority for the Minister of Fisheries & Oceans to take actions to mitigate or prevent

D. RESPONSIBILITIES The Minister of Transport is the Minister responsible for the *Canada Shipping Act*, and for promulgating statutory amendments to the Act which arise from time to time.

1. Regulatory amendments made pursuant to the *Canada Shipping Act* are the responsibility of each department consistent with the prescribed delineation of responsibilities contained in this memorandum. This includes the legal drafting work, consultation, regulatory impact analysis, and sign-off by the respective Ministers. In the instance of regulations administered by Fisheries & Oceans only, the amendment package is first signed by the Minister of Fisheries & Oceans, and is then forwarded to the Minister of Transport for concurrence and submission to the Governor in Council. The Interdepartmental Affairs Committee (described in Part G, below) is responsible for ensuring the co-ordination of this effort. Each department is to bear its own costs for publication of regulatory amendments in the Canada Gazette.
2. A guide to the delineation of responsibilities between the two departments in regard to environmental protection and marine transportation safety is that Transport Canada is responsible for regulation, inspection and enforcement of those elements on the ship (that is the vessel, its equipment, crew, and procedures), while Fisheries & Oceans is responsible for those elements off the ship, including the regulation of the waterway, provision of enroute safety, and environmental protection services. Annex B, Waterway & Routing Safety, provides greater clarification on this issue.
3. One exception to the above guiding principle is pleasure craft, where the responsibility for regulation, inspection and enforcement is also with the department of Fisheries & Oceans. Annex A, Small Vessel Safety & Licensing, provides greater clarification on this issue.
4. Responsibility for all fishing vessel regulation, inspection and enforcement as pertains to the *Canada Shipping Act* is that of Transport Canada. Transport Canada acknowledges that Fisheries & Oceans has a legitimate interest in fishing vessels and is to be consulted in the development of standards and regulations for these vessels. Transport Canada is to seek the concurrence of the Department of Fisheries & Oceans before revoking or promulgating regulations for these vessels.
5. While Transport Canada is fully responsible for the *Canada Shipping Act* regulations for fishing vessels less than 15 gross tons, Fisheries & Oceans may become more involved in safety examinations of these vessels.

E. CANADIAN MARINE ADVISORY COUNCILS

1. The Coast Guard Marine Advisory Councils are to be renamed the Canadian Marine Advisory Councils. The Councils are open for a and function as the principal bodies by which Transport Canada and Fisheries

- & Oceans consult with stakeholders on issues of marine transportation safety and environmental protection. The Councils advise the departments on such matters as: development and acceptance of international conventions, regulations, codes, standards and recommendations; development and implementation of national statutes, regulations, codes, standards, recommendations and procedures; and the provision of operations and services.
2. The National Canadian Marine Advisory Council is co-chaired by the Commissioner, Canadian Coast Guard, and the Assistant Deputy Minister, Safety & Security, or their designates.
 3. National Council meetings will be undertaken in segments. Each department has an opportunity to focus on issues specific to its responsibilities, with the one responsible Chairperson guiding the proceedings. There is also a plenary session addressing issues of joint responsibility at which both Chairpersons attend and guide the proceedings.
 4. The Secretariat function is shared by the two departments, balancing the responsibility between the National and the Regional Councils. Secretariat support for the National Council is provided by Fisheries & Oceans, while Secretariat support for Regional Councils is provided by Transport Canada.
 5. Associated Secretariat costs (e.g., meeting accommodation, session voice translation services, and hospitality) are borne by the respective Secretariats. Costs for distribution of National Canadian Marine Advisory Council-related materials is also borne by the Secretariats..Transport Canada.
 6. Maintenance of the Canadian Marine Advisory Council mailing list is the responsibility of Transport Canada.
 7. For the plenary segment of the National CMAC, the development of the agenda, the production of meeting minutes, and the costs of translation and reproduction of materials for distribution are the responsibility of the Secretariat. The concurrence of both Chairpersons is required to finalize these documents.
 8. Each department is responsible for setting the agenda, production of meeting minutes, and for the cost of translation and reproduction of materials for distribution for their respective segments of the National CMAC.
 9. There are six Regional Canadian Marine Advisory Councils, which have primary interest in specific geographical areas as portrayed in the accompanying figure.
 10. The Regional Canadian Marine Advisory Councils are to be co-chaired by the Regional Director Coast Guard and the Regional Director Marine Safety (or equivalent),



or their designates. Regional annexes to this memorandum address the Regional Councils and the provisions for their administration.

11. Cost reimbursement by the Canadian Government to non- industry, non- government persons who require financial assistance to attend Council meetings is to be supported by both departments with the relative sharing of these costs to be determined on a case-by-case basis.
12. Nothing in this memorandum precludes either department from establishing consultative bodies apart from the Councils to address areas under its own direct responsibility.

F. INTERNATIONAL RELATIONS

1. Transport Canada is responsible for international matters concerning shipping policy, vessel safety and ship-source pollution prevention, and is the national administration to which many international maritime conventions refer.
2. Transport Canada is the lead department, providing overall co-ordination for Canada's relations with the International Maritime Organization. Transport Canada is the designated Canadian authority serving as the national focal point for communications with the International Maritime Organization. Transport Canada's Assistant Deputy Minister, Safety & Security, or designate, is the Canadian Head of Delegation to the International Maritime Organization Assembly and Council sessions, and signs its conventions on behalf of the government of Canada. (The instruments of accession are drafted and deposited by the Department of Foreign Affairs).
3. It is understood that Fisheries & Oceans has interests in areas addressed by the International Maritime Organization, such as those related to marine environmental response, and search & rescue. Transport Canada will continue to co-ordinate Canada's representation at the International
4. Notwithstanding the understanding that Transport Canada is the focal point with regard to relations with the IMO, nothing in this memorandum of understanding limits or alters other international relations by either department that are entered into within the authority of that department to do so. Both departments agree to inform the other of any matters that may have an impact on the other department, and agree to co-operate on issues of joint interest.
5. Fisheries & Oceans, Canadian Coast Guard, is responsible for representing Canada on international bodies addressing environmental response, operational and technical concerns, such as:
 - International Association of Lighthouse Authorities,
 - International Marine Satellite System,

- International Joint Commission.

It is understood that Transport Canada also has interests in these fora and is to be kept apprised by Fisheries & Oceans on relevant matters.

G. INTERDEPARTMENTAL AFFAIRS COMMITTEE

1. The Transport Canada - Fisheries & Oceans Interdepartmental Affairs Committee is established to provide the following functions:

- Oversight of this memorandum of understanding, including its periodic review and interdepartmental issue resolution.
- Development of consensus between the two departments on a unified approach to marine legislative matters and international conventions of mutual concern.
- Review, approval and prioritizing of regulatory initiatives of mutual concern with respect to the *Canada Shipping Act*, the *Oceans Act*, the *Navigable Waters Protection Act*, and the *Arctic Waters Pollution Prevention Act*.
- Any other issues related to the relationship between the two departments respecting marine transportation safety and environmental protection.

2. The Interdepartmental Affairs Committee is co-chaired by the Commissioner, Canadian Coast Guard, and the Assistant Deputy Minister, Safety & Security, or their designates.

3. Membership of this Committee is to include:

- Fisheries & Oceans, Office of the Deputy Commissioner, Canadian Coast Guard
- Transport Canada, Marine Safety
- Department of Justice, Admiralty & Maritime Law
- Transport Canada, Legal Services
- Fisheries & Oceans, Legal Services
- Transport Canada, Policy
- Fisheries & Oceans, Policy
- Headquarters and Regional Directors General when determined by the Co-Chairs as appropriate.

4. The Secretariat function for this committee is provided by the Canadian Coast Guard.

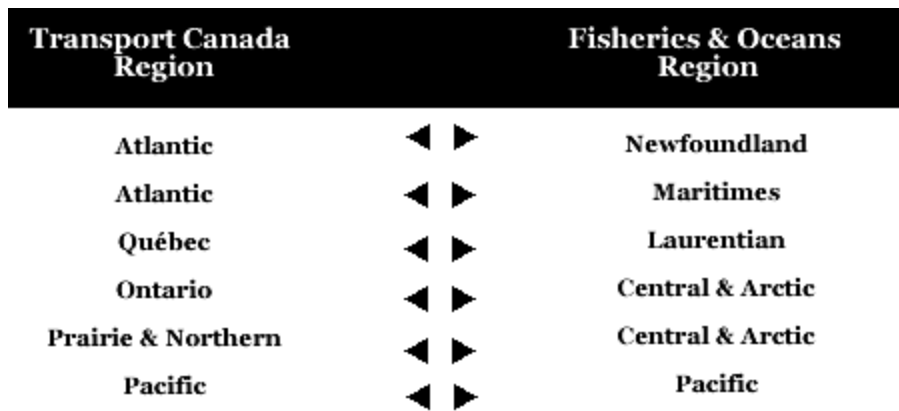
5. The development and periodic review of specific terms of reference for this Committee is the responsibility of the Co-Chairs.

H. REVIEW The Interdepartmental Affairs Committee is responsible for undertaking a review of this memorandum at least biennially. The objective of the review is to assess the effectiveness of the mechanisms provided in this memorandum towards ensuring a coherent and consistent management of all aspects of marine transportation safety and environmental protection.

1. It is the responsibility of the Interdepartmental Affairs Committee to ensure that measurable criteria are established against which the effectiveness of the memorandum can be assessed.
2. Any recommendations requiring amendments to this memorandum will be addressed through the amendment procedure defined in Part J, below.

I. ISSUE RESOLUTION MECHANISM

1. Issues which arise which are strictly intra-Regional are to be brought to the attention of the respective Regional Directors General, or designate, for their resolution.



2. Any issue arising from the terms or application of the functional annexes of this memorandum, and which are not exclusive to one Region, are to be resolved by consultation between the appropriate departmental representatives identified in that annex.

3. If resolution is not achieved through either of the above processes, and for all other issues related to the terms or application of this memorandum of understanding, the Interdepartmental Affairs Committee is responsible for coming to resolution.

J. TERM & AMEN DMENTS

1. This memorandum of understanding will become effective upon signing (Part M) and shall remain in effect until revoked, in writing, by either Transport Canada or Fisheries & Oceans.
2. Amendments include the update, revision, addition or deletion to the memorandum or its annexes.

3. The main body of memorandum may be amended at any time with the mutual written consent of the Deputy Ministers. The Interdepartmental Affairs Committee is responsible for the consideration of proposed amendments and for putting forward to the Deputy Ministers recommendations for amendments.
4. Proposals for amendments to the functional annexes may be made to either of the Co-Chairs of the Interdepartmental Affairs Committee, for the Committee's consideration.
5. Proposals for amendments to the Regional Annexes to this memorandum may be made to either of the Regional Directors General responsible for their joint consideration.

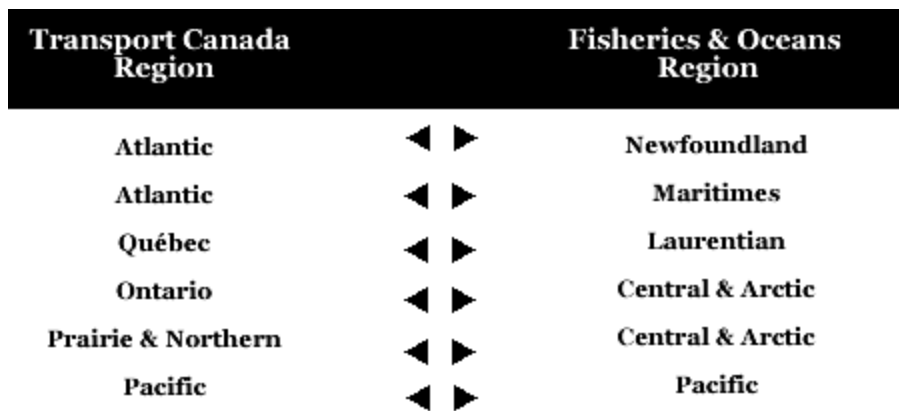
K. FUNCTIONAL ANNEXES

1. Appended to this memorandum are annexes which address discrete functions of common concern, as identified below.

- A. Small Vessel Safety & Licensing.
- B. Waterway & Routing Safety.
- C. *Navigable Waters Protection Act*, TERMPOL Code, *International Rapids Power Development Act*, and *Canada Shipping Act*, Part VI.
- D. Direction & Control of Commercial Shipping.
- E. Pollution Deterrence.
- F. Pollution Surveillance, Incident Investigation & Enforcement.
- G. Pollution Prevention Officer Appointments.
- H. *Arctic Waters Pollution Prevention Act*.
- I. Pollution Occurrence Reporting.
- J. Research & Development.
- K. Information Exchange/ Database Sharing.

L REGIONAL ANNEXES

1. Regions are to develop annexes to address day-to-day operational coordination between the departments. These annexes are to be consistent with the arrangements set forth in this memorandum, and are to be tailored to meet the specific needs of the Region.



Regional Annexes are signed by the Regional Directors General for the respective departments. Once signed, the annexes are to be submitted to the Interdepartmental Affairs Committee who will append the document to this memorandum.

M. SIGNING AUTHORITIES

W.A.. Rowat
Deputy Minister
Fisheries & Oceans

N. Mulder
Deputy Minister
Transport Canada

Date

Date

Annex A

Small Vessel Safety & Licensing

A. PURPOSE

The purpose of this annex is to outline the specific responsibilities of Transport Canada and Fisheries & Oceans regarding small vessel safety.

B. DEFINITION

Recreational Craft Consistent with the definition of Pleasure Yacht as defined by the Canada Shipping Act, but further defined as a boat, vessel or any other description of water craft that is used exclusively for pleasure and does not carry passengers or goods for hire, reward, remuneration or any object of profit. This includes a vessel hired from a commercial entity and used strictly for recreational purposes.

C. OFFICES OF PRIMARY INTEREST

For the purpose of this annex, inquiries may be addressed to, and issues of concern may be raised with either of these offices: **Transport Canada: Director General, Marine Safety**

Fisheries & Oceans: Director General, Rescue & Environmental Response

D. REGULATIONS

1. It is the underlying intent of this Annex that regulatory responsibility related to commercial shipping matters is to remain with Transport Canada while Fisheries & Oceans is responsible for regulatory matters pertaining specifically to pleasure craft and boating activities.
2. The following regulations are those for which Fisheries & Oceans have responsibility in so far as they apply to pleasure craft.
 - the Boating Restriction Regulations § the Small Vessel Regulations
 - the Pleasure Craft Sewage Pollution Prevention Regulations

E. RESPONSIBILITIES & AUTHORITIES

1. In addition to the responsibility for safety non-regulatory programs, the responsibility for the administration of safety programs for recreational vessels (pleasure craft) is with the Office of Boating Safety, Fisheries & Oceans. The responsibility for commercial vessels is retained in Transport Canada.
2. The Departments recognise that the administration of small vessel programs incorporates both pleasure craft and small commercial vessels and that the major areas of interest include:
 - i. the licensing / registration of vessels
 - ii. the equipment carriage and navigating appliances requirements
 - iii. the approval of equipment
 - iv. the operation and restriction of operation under the Boating Restriction Regulations
 - v. the construction of small vessels
 - vi. the enforcement of the above regulations
 - vii. the potential for the licensing of operators or the introduction of operator proficiency requirements

F. GENERAL

1. The Departments agree that the subject areas above are in most cases common or shared by both recreational and commercial vessels. It is therefore agreed that in the short term, it will not be possible to segregate the statutory or regulatory provisions of the relevant legislation. It will be necessary to "share" responsibility for the administration of the regulations as the authority for *Small Vessel Regulations* currently resides with Transport Canada, and ministerial delegation for the remaining regulations also resides with Transport Canada.
2. The Departments agree that co-operation between the Director General, Marine Safety and the Director General, Rescue and Environmental Response in the drafting and consultation is an essential part in the delivery of their respective programs. The Departments also recognize that, although responsibility for the

- administration of programs respecting recreational vessels will be that of Fisheries & Oceans, there will in the short term, until separate regulations are promulgated, continue to be references to Transport Canada in areas such as the approval of personal flotation devices.
3. The Departments further agree to minimize administrative burden and to avoid inconvenience to clients. Similarly the Departments recognize that Transport Canada may continue to make regulatory reference to programs that are transferred to Fisheries & Oceans such as the compliance plate program.
 4. The Departments agree that ultimately, to the extent possible, there should be two sets of regulatory regimes, one for recreational craft and one for commercial craft. In the longer term, the Departments agree to develop the necessary legislative frameworks whereby the two regimes can be supported separately by each Department.
 5. The Departments agree that the statutory basis for small vessel regulation is for the most part shared within common sections of the *Canada Shipping Act* such as sections 108, 562(3) and 562(4), and that the regulations are made under the authority of the Governor in Council. Therefore, it is possible to use, in the short term the existing statutory authorities as applied to recreational programmes (Fisheries & Oceans) and for commercial programmes (Transport Canada). During the transition period, until the development of separate regulations respecting pleasure craft and commercial vessels, it is agreed that, if an issue arises which requires a decision of the Board of Steamship Inspection concerning exemptions or equivalencies pertaining to pleasure craft, a representative of Rescue and Environmental Response may make appropriate application to the Board, and may be called upon by the Board to act as an advisor concerning that issue.
 6. The Departments recognize that the current discussions taking place between the Provinces and the Department of Fisheries and Oceans, under the auspices of the Federal Provincial Partnerships Project, may result in a new framework, particularly for the delivery of services to the recreational boating community. Fisheries & Oceans may develop recreational vessel programmes in conjunction with other Partners.
 7. It is the responsibility of Transport Canada and Fisheries & Oceans to ensure the harmonisation of vessel licensing/registration, and operator proficiency/certification requirements. The objective is to ensure that a balance exists in the requirements imposed on recreational and on commercial vessels of comparable size. It is also to ensure that duplication of requirements is not imposed on the public.

G. SPECIFIC PROVISIONS

1. The Departments agree that the general responsibility for recreational vessels is with the Department of Fisheries and Oceans in respect of:

- i. Small Vessel Regulations
- ii. Licensing of pleasure craft, except that owners of pleasure craft will continue to be permitted to voluntarily register their pleasure craft under Part I of the *Canada Shipping Act*
- iii. Equipment carriage requirements for pleasure craft
- iv. The approval of equipment that is intended solely for use on pleasure craft (Personal Flotation Devices)
- v. Construction standards and compliance plates for pleasure craft
- vi. Enforcement (Offences & Penalties)
- vii. Boating Restriction Regulations as applied to pleasure craft including associated administrative powers such as ministerial exemptions, except for the provisions related to commercial river rafting, which will be administered by Transport Canada
- viii. The Pleasure Craft Sewage Pollution Prevention Regulations
- ix. The licensing of operators of pleasure craft, or the introduction of operator proficiency requirements for pleasure craft.

2. The Departments agree that where the regulations make reference to approvals by the Department of Transport or under the authority of an officer of the Department of Transport (such as a Steamship Inspector) and where the administration of the approval program is herein determined to reside within Fisheries & Oceans (such as in the approval of personal flotation devices or equipment intended solely for use on pleasure craft), the Departments agree that approvals or amendments to standards will be administered and processed by Fisheries & Oceans under the appropriate approval authority of Transport Canada, and that Transport Canada will facilitate any such approvals and amendments until the necessary regulatory amendments have been promulgated regarding pleasure craft and their equipment.

3. During the period of transition, until separate regulations are promulgated for recreational craft and for small commercial craft, it is recognized that some of the authorities currently residing with Transport Canada are required in order to administer recreational vessel regulations. It is therefore agreed that Transport Canada will appoint suitably qualified officers of the Office of Boating Safety as a Steamship Inspector in order to facilitate the approvals of equipment specifically intended for use on pleasure craft (such as personal floatation devices), compliance plates, and construction standards. The appointed individual will be directly responsible to the Chairman of the Board of Steamship Inspection for the performance of these duties.

4. Transport Canada agrees that employees of the Department of Fisheries and Oceans who, by virtue of their former responsibilities within Transport Canada hold certificates as steamship inspectors, will continue to hold their certificates until such time as the

Department of Fisheries and Oceans promulgates regulations for the construction and operation of recreational vessels.

5. Transport Canada agrees to recommend to the Minister of Transport that the delegation of power for permits and authorizations made under the provisions of the *Boating Restriction Regulations* which remain the responsibility of Transport Canada be transferred to the Director General, Rescue and Environmental Response, Canadian Coast Guard.

6. The Departments recognize that regulations which are intended to apply to all vessels and which are not specifically identified in this Annex (such as the Collision Regulations) will continue to apply to pleasure craft and will remain the responsibility of Transport Canada.

7. The Departments agree that the mandatory registration of pleasure craft over 20 tons will remain in effect, and that pleasure craft of less than 20 tons may continue to be voluntarily registered under regulations administered by Transport Canada.

8. The Departments agree that the responsibility and authority for small vessel licensing, except for small commercial vessels, is with Fisheries & Oceans while the responsibility and authority for Ship Registration is with Transport Canada.

9. The Departments agree that the certification of personnel for **all** vessels requiring such pursuant to the *Ship's Deck Watch Regulations* (intended to be replaced by the Crewing Regulations and Certification Regulations) remains the responsibility of Transport Canada.

10. The Departments agree that the inspection of boilers and pressure vessels of pleasure craft under the *Canada Shipping Act* will remain the responsibility of Transport Canada

11. The Departments agree that the general responsibility for all small commercial vessels, including passenger vessels, cargo vessels and all other types of commercial vessels is with Transport Canada

12. The Departments agree that where regulatory requirements normally associated with larger vessels (such as hull construction, marine machinery, load lines rules regulations and standards) are made applicable to pleasure craft, these regulations will continue to be administered by Transport Canada for pleasure craft to which these requirements apply.

H. PROCEDURES AND CONSULTATION

1. The Departments agree to conduct joint consultation through the Canadian Marine Advisory Council on matters that may effect both recreational and commercial vessels.

2. The Departments agree to establish an interdepartmental Small Vessel Committee from within the Office of Boating Safety and the Marine Regulatory Branch in order to

proceed as rapidly as possible with the separation of legislative regimes. Representatives will be designated by the Directors General, Marine Safety and Rescue & Environmental Response. Matters that cannot be resolved by the Committee will be referred to, at the outset, the Directors General of the Marine Safety Directorate of Transport Canada and Rescue and Environmental Response Directorate of Fisheries & Oceans. Further review, if necessary, will be made by the Interdepartmental Affairs Committee. i.e., following the procedure set forth in Part I of the memorandum.

3. Where amendment of regulations referred to in this Annex, under the administration of one department may affect the policies or operations of the other department, or the clients served by the other Department, or where the legislative control of the relevant statutory or regulatory instruments has not yet been transferred, the Departments agree that joint sign-off by both Ministers will be necessary. Recommendation for joint sign-off is made by the Small Vessel Committee to the Interdepartmental Affairs Committee.

4. The Departments will maintain ongoing working relationships where there are matters of mutual interest such as standards, construction of small vessels and equipment carriage requirements, approvals, testing and certification of flotation devices.

5. The Departments agree to notify one another in the event that one suspects irregularities or non-compliance with requirements for which the other Department is known to have responsibility.

I. SIGNING AUTHORITIES

J. Thomas
Commissioner,
Canadian Coast Guard
Fisheries & Oceans

M. Turner R. Jackson
Assistant Deputy Minister,
Safety & Security
Transport Canada

Date

Date

Annex B

Waterway & Routing Safety

A. PURPOSE

To delineate the working relationship between Transport Canada and the Department of Fisheries and Oceans with respect to the overall safety of navigation of ships in waters under Canadian jurisdiction and Canadian ships in any waters.

B. DEFINITIONS

Ship Routing System Any system of one or more routes or routing measures which systems may include traffic separation schemes, two-way routes, recommended tracks, areas to be avoided, controlled and/or prohibited areas, inshore traffic zones, roundabouts, precautionary areas and deep water routes.

Vessel Traffic Service (VTS) A service implemented by a Competent Authority, designed to improve the safety and efficiency of vessel traffic and to protect the environment. The service should have the capability to interact with the traffic and to respond to traffic situations developing in the VTS area.

C. OFFICES OF PRIMARY INTEREST

For the purpose of this annex, inquiries may be addressed to, and issues of concern may be raised with either of these offices:

Transport Canada: Director General, Marine Safety

Fisheries & Oceans: Director General, Marine Navigation Services

D. LEGAL BACKGROUND

1. International Conventions

- i. The International Convention for the Safety of Life at Sea, 1974 (SOLAS 74) Chapters IV and V.
- ii. The Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 72).

2. The Canada Shipping Act

i) Part V:

- Inspections/Detentions
- Navigating Appliances & Equipment
- Steering Appliances & Equipment
- Radio Equipment

ii) Part VII:

- Lighthouses, buoys and beacons

iii) Part IX:

- Collision Regulations
- Ship Routing
- Charts & Nautical Publications
- Watchkeeping Nautical Procedures & Practices
- Navigational Limitations and Restrictions
- Vessel Traffic Services.

3. The Arctic Waters Pollution Prevention Act

- Navigation in Shipping Safety Control Zones (various regulations and initiatives)

4. The Department of Transport Act

- Management of Canals

E. REGULATIONS

1. Transport Canada

- i. Collision Regulations
- ii. Navigating Appliances and Equipment Regulations
- iii. Steering Appliances and Equipment Regulations
- iv. Charts and Nautical Publications Regulations 1995
- v. Ship Station Radio Regulations
- vi. Ship Station Technical Regulations
- vii. VHF Practices and Procedures Regulations
- viii. Anchorage Regulations
- ix. Burlington Canal Regulations
- x. Canal Regulations
- xi. St. Clair & Detroit River Navigation Safety Regulations
- xii. Arctic Shipping Pollution Prevention Regulations
- xiii. Arctic Waters Pollution Prevention Regulations
- xiv. Shipping Safety Control Zones Order
- xv. Various Standards and Codes incorporated by reference into many of the above regulations

2. Fisheries and Oceans

- i. Aids to Navigation Protection Regulations
- ii. Private Buoy Regulations
- iii. Eastern Canada Vessel Traffic Services Zone Regulations
- iv. Vessel Traffic Services Zones Regulations

F. RESPONSIBILITIES AND AUTHORITIES

1. Joint: The implementation of programmes to ensure the compatibility of operational systems with Transport Canada and Fisheries and Oceans programmes such as ships' routing, Vessel Traffic Services (VTS) and marine communications.

2. Transport Canada

- i. The initiation, development, implementation, maintenance, monitoring and enforcement of regulations, standards and codes respecting the safe navigational conduct, equipping, and manning of ships.
- ii. The development, design, regulation, maintenance, and enforcement of systems for the routing of ships.

- iii. The development of onboard ship operation systems respecting safe communications and nautical procedures and practices.
- iv. The establishment and implementation of approval procedures for navigational, nautical and radio equipment and for equipment required by the Collision Regulations in conjunction with standards organisations, test laboratories, and other national and international government agencies.
- v. Representation, as lead Canadian agency, of Canadian policies and positions in the discussions and decisions of Committees and SubCommittees of the International Maritime Organization on matters concerning safety of navigation and radio communications including matters addressing ships' routing. The Canadian position pertaining to ships' routing in and around Canadian waters must have the concurrence of Fisheries & Oceans.
- vi. The co-ordination of regulatory, procedural and approval systems with international conventions and guidelines.
- vii. Participation in technical groups developing national and international standards and guidelines respecting the safe navigation and operation of ships and their radio communications.

3. Fisheries and Oceans

- i. Provision of systems of fixed/floating aids to navigation.
- ii. The development, implementation, regulation, maintenance, and enforcement of Vessel Traffic Services and ship reporting systems.
- iii. Provision of shore-based infrastructure for marine terrestrial and satellite navigational systems.
- iv. Co-ordination and provision of published safety information for mariners and for the marine industry in general (e.g., Notices to Mariners).
- v. Provision of shore-based marine radio communications services.
- vi. Participation in technical groups developing national and international standards for the delivery of marine navigation and radio communications systems.

G. PROCEDURES AND CONSULTATION

- 1. The Departments will consult with one another on the development of regulations, standards and guidelines respecting ship routing systems, Vessel Traffic Services and ship reporting systems; on the status of existing ship routing and ship reporting arrangements, the need for changes and the need for new initiatives.
- 2. The Departments will consult with one another on the status of proposed regulatory, operational, and technical initiatives and developments with respect to ship-borne navigational and communications systems and their complementary shore-based infrastructures.
- 3. The Departments will consult with one another, when appropriate, on the dissemination of navigational safety information through such channels as

Notices to Mariners, Notices to Shipping, and Ship Safety Bulletins.

4. Transport Canada will consult with Fisheries and Oceans, other government agencies, the marine and fishing industries and other interested parties, both regionally and nationally, in its customary procedures for the modification or revocation of existing routing systems and in any proposals for the planning, design and establishment of new systems.
5. Transport Canada in co-ordination with the marine industry, will be responsible for the development and maintenance of the "Joint Industry-Coast Guard Guidelines for the Control of Oil Tankers and Bulk Chemical Carriers in Ice Control Zones of Eastern Canada" (JIGS Guidelines). Consultation and advice will be sought from Fisheries and Oceans, other government agencies, and any other interested parties prior to any revisions or amendments to the Guidelines.
6. Fisheries and Oceans will provide advice to the Canadian delegations to the appropriate International Maritime Organization Sub-Committees on matters concerning vessel traffic services, ship reporting systems, and shore-based navigational and radio communications systems. Guidance may be provided on performance standards for technical ship-borne electronic navigation equipment and radio equipment.
7. Fisheries and Oceans will be responsible for the development and maintenance of the document entitled "Ice Navigation in Canadian Waters". Transport Canada will be consulted when any revisions or amendments are to be made to the document.

H. SIGNING AUTHORITIES

M. Turner
Commissioner,
Canadian Coast Guard
Fisheries & Oceans

R. Jackson
Assistant Deputy Minister,
Safety & Security
Transport Canada

Date

Date

Annex C
Navigable Waters Protection Act, TERMPOL Code,
International
Rapids Power Development Act, and Canada Shipping Act, Part VI

A. PURPOSE

The purpose of this annex is to delineate the responsibilities and working relationship of the Department of Fisheries and Oceans and Transport Canada regarding the *Navigable Waters Protection Act* (NWPA), the TERMPOL Code, the *International Rapids Power Development Act* (IRPDA) and the *Canada Shipping Act, Part VI*

B. DEFINITION

TERMPOL Code: The "Code of Recommended Standards for the safety and prevention of pollution for marine transportation Systems and related assessment procedures". TP 743

C. OFFICES OF PRIMARY INTEREST

For the purpose of this annex, inquiries may be addressed to, and issues of concern may be raised with either of these offices:

Transport Canada: Director General, Marine Safety

Fisheries & Oceans: Director General, Marine Navigation Services

D. LEGISLATION

International Rapids Power Development Act: An Act respecting Construction of works for the Generation of Electrical Power in the International rapids section of the St. Lawrence River. (1951)

Navigable Waters Protection Act

Part I Construction of Works in Navigable Waters

Part II Obstacles and Obstructions

Part III Ferry Cables, Swing or Draw Bridges

3. National Energy Board Act

s108: Construction of inter-provincial pipelines crossing navigable waters

4. Canada Shipping Act

Part VI: Receiver of Wreck

E. REGULATIONS

- Fisheries and Oceans
- Navigable Waters Works Regulations
- Navigable Waters Bridges Regulations
- Ferry Cable Regulations

F. RESPONSIBILITIES AND AUTHORITIES

1. Joint: Transport Canada and Fisheries & Oceans will liaise and co-operate to ensure the efficient administration of the NWPA and the TERMPOL Code, where they apply, and that any changes proposed to the construction of works for power generation on the

St. Lawrence River (henceforth referred to as the *power project*) will not have a detrimental impact on commercial vessel navigation.

2. Consistent with Transport Canada's ongoing responsibility to ensure a safe and efficient environment for commercial shipping, Transport Canada is responsible for:

- i. Provision of advice and guidance to Fisheries & Oceans with respect to applications (described in Section F, below) administered under the NWPA which might affect commercial vessel navigation.
- ii. Ongoing maintenance of the TERMPOL Code and for cooperation with Fisheries and Oceans and others in any application of the Code.
- iii. Provision of advice and guidance to Fisheries & Oceans with respect to any aspects of the power project that may adversely impact commercial vessel navigation or the viability of the St. Lawrence ports.
- iv. Provision of advice and guidance to Fisheries and Oceans with respect to Part VI of the Canada Shipping Act (Receiver of Wreck).

3. Fisheries and Oceans:

- i. Authority for approval of the construction of works affecting navigable waterways.
- ii. Removal of obstructions to navigation including unauthorized works or other obstructions such as sunken or wrecked vessels.
- iii. Regulating the provision and maintenance of precautions required for safe navigation as related to the construction of certain works.
- iv. Assessing and minimizing environmental impacts that may be caused by the construction of certain works in navigable waters.
- v. Assessing the navigability status of waterways and exempting works, as appropriate, from the application of the Act.
- vi. Act as Receivers of Wreck in respect of custody and disposal of wrecks salvaged in Canadian waters.
- vii. Develop legislation, policy and procedural directives for Navigable Waters Protection Act and Receiver of Wreck activity.
- viii. Ensure that navigation interests on the St. Lawrence river are addressed.
- ix. Liaison with all navigation interests, including the St. Lawrence ports, and all other agencies that have involvement in the power project operation.

G. PROCEDURES AND CONSULTATION

1. Navigable Waters Protection Act

- i. In administering the *Navigable Waters Protection Act*, proposed works are assessed to determine the degree to which the work may interfere with navigation. Once it is determined that a work may interfere substantially with navigation, the *Canadian Environmental Assessment Act* is also then triggered, necessitating a determination of the environmental impacts of the project. Substantial interferences with navigation are processed under sections 5(1) and 6(4) of the

- Navigable Waters Protection Act*. All such applications will be referred to Transport Canada Marine Safety. Modifications and repairs are dealt with under sections 10(1) and 10(2). These will also include consultation with Transport Canada. In addition where sections 16 and 20 of the *Navigable Waters Protection Act* are applied relating to the removal of obstructions to navigation or abandoned vessels, referrals will be made as required.
- ii. Regarding any amendments or changes to the Act, Transport Canada will be consulted as a normal interested party through the Memorandum to Cabinet process.

2. TERMPOL Code:

- i. TERMPOL is a technical review process which applies to ship operations, terminal systems, transshipment sites and their waterways. It is a team assessment process composed of representatives from Fisheries & Oceans, Transport Canada, Environment Canada and other agencies.
- ii. In most circumstances the TERMPOL review process is initiated as a result of an application under the *Navigable Waters Protection Act*. Consequently, the Department of Fisheries and Oceans is responsible for the TERMPOL process. There are other occasions where the review process may be beneficial and could be initiated by Transport Canada, outside of an application under the NWPA. This arrangement will not prevent TERMPOL being initiated by Transport Canada.
- iii. Transport Canada and Fisheries & Oceans will co-operate as full working partners in any application of the TERMPOL process.
- iv. It is also recognized that Transport Canada has the required expertise to maintain the TERMPOL code and therefore this responsibility will remain with Transport Canada.

3. *International Rapids Power Development Act* / International St. Lawrence River Board of Control: Fisheries & Oceans will consult with Transport Canada as per the normal Memorandum to Cabinet process, if any changes or amendments to the Act are proposed.

4. *Canada Shipping Act*, Part VI: In administering Part VI of the *Canada Shipping Act*, Receivers of Wreck consult with Transport Canada where salvage of wreck from commercial waterways may be involved.

H. SIGNING AUTHORITIES

M. Turner
Commissioner,
Canadian Coast Guard
Fisheries & Oceans

R. Jackson
Assistant Deputy Minister,
Safety & Security
Transport Canada

Date

Date

Annex D

Direction & Control of Commercial Shipping

A. PURPOSE

To delineate the working relationship between Transport Canada and Fisheries & Oceans with respect to direction and control of defective, deficient, damaged or hazardous vessels which are in, or intend to enter Canadian waters without attracting liabilities to the Crown but ensure operational safety and protection of the marine environment.

B. DEFINITIONS

Defective Ship:

Means a ship that complies with Part XV of the *Canada Shipping Act* or the AWPPA and regulations made thereunder, except that an item or items of the compulsorily fitted pollution prevention or navigational equipment are defective and there has been no opportunity to make repairs, or a chart or charts appropriate to the voyage could not be obtained despite all reasonable effort, or the ship has been involved in an incident that has affected its seaworthiness. **Deficient Ship:** Means a ship that does not comply with Part XV of the *Canada Shipping Act* or the *Arctic Waters Pollution Prevention Act*, or a regulation made thereunder.

Marine Casualty:

Is a reportable marine incident as defined by in the Canadian *Transportation Accident Investigation Board Act*.

C. OFFICES OF PRIMARY INTEREST

For the purpose of this annex, inquiries may be addressed to, and issues of concern may be raised with either of these offices:

Transport Canada: Director General, Marine Safety

Fisheries & Oceans: Director, Marine Communication & Traffic Services

D. INTERNATIONAL CONVENTIONS, LEGISLATION & REGULATIONS

1. Canada Shipping Act, Parts XV & XVI
2. The Oil Pollution Prevention Regulations
3. The MARPOL Code

4. Port State Control Agreement
5. Arctic Shipping Pollution Prevention Regulations

E. RESPONSIBILITIES AND AUTHORITIES

1. Marine Communication & Traffic Services (MCTS) Centres are the recognised communication hubs and are responsible for issuance of clearances to all ships transiting or intending to transit Canadian waters. No vessel, which has identified problems (defective, deficient or a casualty), shall be cleared without the approval of Transport Canada
2. In the case of serious or potentially serious problems (defective, deficient or a casualty), the clearance will be discussed by the regional heads of the Canadian Coast Guard and Transport Canada Marine Safety.
3. To meet the needs of the marine industry, Transport Canada Marine Safety will maintain a 24-hour, year-round emergency duty officer, with whom MCTS operations will communicate. Transport Canada will provide professionally qualified personnel to direct and control defective, deficient and damaged or hazardous vessels as required under emergency conditions.
4. When necessary, Transport Canada and Fisheries & Oceans will jointly determine, together with the appropriate port authority, access of the foregoing vessels to ports of refuge. Transport Canada will determine whether the vessel is seaworthy for the transit to the specified port.
5. Transport Canada and Fisheries & Oceans will jointly approve salvage operations, emergency lightering or discharge of cargo.
6. Fisheries & Oceans, when practical, will make its resources (ships and aircraft) available to Transport Canada to carry out its functions with respect to the direction and control of defective, deficient, damaged or hazardous vessels.

F. PROCEDURES AND CONSULTATIONS

1. Fisheries & Oceans, MCTS will normally provide the communication link to vessels and issue clearance to defective, deficient, damaged or hazardous ships only after consultation with Transport Canada, Marine Safety. When there is a potential threat to the environment, Marine Safety will consult with the Canadian Coast Guard.
2. Transport Canada, Marine Safety will maintain a 24- hour, year-round response capability to respond to routine and emergency situations as outlined above (Section D: Responsibilities & Authorities).

3. For serious incidents, Transport Canada will set up an independent team of marine surveyors (Ship Rapid Assessment Team) in each region to correlate and evaluate shipboard data and plans to provide rapid technical guidance with respect to a ship's residual damaged stability and longitudinal strength. The Transport Canada representative on the Coast Guard emergency response team will liaise with this team and provide advice.
4. Jointly investigate the sharing of a common database and content thereof to ensure reciprocal access to information and adequate implementation of joint department objectives subject to *Transport Canada Security Manual, TP789*.

G. SIGNING AUTHORITIES

M. Turner
Commissioner,
Canadian Coast Guard
Fisheries & Oceans

R. Jackson
Assistant Deputy Minister,
Safety & Security
Transport Canada

Date

Date

Annex E

Pollution Deterrence

A. PURPOSE

To identify the delineation of responsibilities with respect to pollution prevention and deterrence, including pollution emergency plans such as (SOPEP), pollution prevention plans, the International Safety Management (ISM) Code, on board Declarations, and ballast water control and inspection

B. DEFINITIONS

Pollution Prevention The prevention of pollution refers to safe shipboard operational procedures or safe navigation practices. Prevention does not refer to procedures or contingency plans for a response to pollution occurrences.

Harmful substance Any substances that, if released into the environment, would degrade the quality of that environment to the extent that it may, endanger the health, safety or welfare of persons, endanger the health of animal life, cause damage to plant life or property, or interfere with normal enjoyment of life or property, and, without limiting the generality of the foregoing, includes deleterious substances as defined under the Fisheries Act, and other substances regulated under the Canada Shipping Act by either the Dangerous Goods Regulations, the Pollutant Substances Regulations, the Dangerous Chemicals and Noxious Liquid Substances Regulations, and the Dangerous Bulk Materials Regulations as amended from time to time.

Pollutant Includes oil and harmful substances.

Occurrence Release, or an imminent threat of release of a pollutant.

C. OFFICES OF PRIMARY INTEREST

For the purpose of this annex, inquiries may be addressed to, and issues of concern may be raised with either of these offices:

Transport Canada: Director General, Marine Safety

Fisheries & Oceans: Director General, Rescue & Environmental Response

D. APPLICABLE CONVENTIONS AND REGULATIONS

1. International Convention for the Prevention of Pollution from ships, 1973 as modified by the Protocol of 1978 (MARPOL).
2. International Convention on Oil Preparedness Response and Co-operation, 1990 (OPRC).
3. International Convention on Civil Liability for Oil Pollution Damage Civil Liability Convention.
4. International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage.
5. Safety of Life at Sea Convention (SOLAS), Chapter V11
6. International Maritime Dangerous Goods (IMDG)Code (Res A,434(XI)).
7. Oil Pollution Prevention Regulations.
8. Dangerous Chemicals and Noxious Liquid Substances Regulations.
9. Garbage Pollution Prevention Regulations.
10. Great Lake Sewage Pollution Prevention Regulations.
11. Air Pollution Regulations.
12. Pollutant Substances Regulations.
13. Pollutant Discharge Reporting Regulations.

E. CONSULTATION

1. **Shipboard Oil Pollution Emergency Plans** are subject to the provisions of Regulation 26 Annex 1 of MARPOL 73/78 and form part of the International Oil Pollution Prevention Certificate (IOPP), Canadian Oil Pollution Prevention (COPP), and Certificate of Compliance (COC) issued to ships by Transport Canada. Transport Canada is the lead agency with respect to all issues and regulations governed by MARPOL which also includes proposed changes governing Shipboard Oil Pollution Emergency Plans (SOPEP) and respective amendments to the Oil Pollution Prevention Regulations and will consult with the Canadian Coast Guard on matters of mutual concern. Marine Safety reviews, stamps, and approves SOPEPs, and issues COPP and IOPP certificates subject to satisfactory inspection.

2. The requirements for a ship that is in Canadian waters south of sixty degrees north parallel to have a **Declaration** on board identified by Schedule 1 of the Canadian Oil Pollution Prevention Regulations is enforced by Transport Canada through the Port State Control and Flag State regimes.
3. For requirements made under the *Canada Shipping Act* pertaining to Oil Handling Facilities or facilities handling harmful substances and for Response Organisations Fisheries & Oceans, Canadian Coast Guard is the lead agency.
4. Transport Canada has lead responsibilities for Shipboard Pollution Prevention Plans, the development of regulations, and for ongoing monitoring of the program.
5. Fisheries & Oceans is the lead agency with respect to all issues and regulations relating to pollution occurrence preparedness, response and cooperation including the OPRC 1990 Convention, related activities and amendments.
6. The enforcement and administration of the International Safety Management (ISM) Code, under SOLAS, is the responsibility of Transport Canada. Fisheries & Oceans, Canadian Coast Guard, interface where any elements of the Code refer to the ship's responsibility to respond to pollution "occurrences into the environment".
7. Fisheries and Oceans has lead responsibilities for **Ballast Water Control Guidelines**; scientific and environmental compliance and standard development; and the development of future regulations and for ongoing monitoring of the Ballast Water Control program. Transport Canada provides regulatory input related to the shipboard safety implications of ballast water management and is responsible for compliance monitoring.
8. Cargo sweepings and washings represent an environmental problem and Transport is the lead agency to address this matter in consultation with Fisheries and Oceans and other agencies having a legitimate interest.

F. SIGNING AUTHORITIES

M. Turner
Commissioner,
Canadian Coast Guard
Fisheries & Oceans

R. Jackson
Assistant Deputy Minister,
Safety & Security
Transport Canada

Date

Date

Annex F

Pollution Surveillance, Incident Investigation & Enforcement

A. PURPOSE

To identify respective responsibilities with respect to aerial surveillance of marine pollution occurrences, investigation, and enforcement .

B. OFFICES OF PRIMARY INTEREST

For the purpose of this annex, inquiries may be addressed to, and issues of concern may be raised with either of these offices:

Transport Canada: Director General, Marine Safety

Fisheries & Oceans: Director General, Rescue & Environmental Response

C. APPLICABLE CONVENTIONS & REGULATIONS

1. International Convention for the Prevention of Pollution from Ships (MARPOL 73/78)
2. International Convention on Oil Pollution Preparedness Response and Cooperation (OPRC), 1990
3. *Canada Shipping Act*, Parts XV & XVI
4. Oil Pollution Prevention Regulations
5. Garbage Pollution Prevention Regulations
6. Dangerous Chemicals and Noxious Liquid Substances Regulations
7. Pollutant Discharge Reporting Regulations
8. Pollutant Substances Regulations
9. Air Pollution Regulations
10. Response Organisations and Oil Handling Facilities Regulations
11. Pleasure Craft Sewage Pollution Regulations
12. Non Pleasure Craft Sewage Pollution Regulations
13. Great Lakes Sewage Pollution Prevention Regulations

D. RESPONSIBILITIES & AUTHORITIES

1. Investigation of ship source pollution occurrences (excluding pollution from government owned or operated vessels and warships) is the responsibility of Transport Canada. For the purposes of investigations associated with cost recovery actions for pollution clean-up by Fisheries & Oceans, Transport Canada

will split samples obtained for their investigation with Fisheries & Oceans.

2. Transport Canada will be responsible for occurrences as follows:
3. Transfer using shore based loading arms or hoses: inboard of ship loading manifold. Transfer using ship hoses: sea-side of shore manifold flange.
4. A qualified Fisheries and Oceans Canada pollution prevention officer may conduct the investigation of a pollution occurrence from a Coast Guard vessel, or in the event that Transport Canada is not able or chooses not to investigate a ship source pollution occurrence. All ship source investigations will be conducted in accordance with the procedures outlined in Transport Canada document titled "Pollution Prevention Officer Manual" (TP525) as amended from time to time.
5. Fisheries & Oceans, Canadian Coast Guard, is responsible for the management and co-ordination of the national aerial pollution surveillance program over Canadian waters.

E. PROCEDURES & CONSULTATION

1. Consistent with MARPOL Article 3 Sec 3, Coast Guard will establish an internal infringement/disciplinary process to address pollution involving Canadian Coast Guard ships. A joint regional Transport Canada -Fisheries & Oceans committee will be established to review the facts and recommendations in the report, and cause appropriate corrective measures to be taken. Fisheries & Oceans will advise Transport Canada of the results of such action.
2. Fisheries & Oceans, Canadian Coast Guard will provide to Transport Canada all relevant information gathered in the course of aerial surveillance/detection of actual or suspected ship related discharges. Conversely, in instances where Transport Canada is not able or chooses not to investigate a ship source pollution occurrence, Transport Canada will provide all pertinent information to Fisheries & Oceans to enable their pursuit of a prosecution.
3. Upon conclusion of an investigation undertaken by either party, the other party is to be informed of the outcome and is to be consulted with respect to the laying of an information with the Attorney General.

F. SIGNING AUTHORITIES

M. Turner
Commissioner,
Canadian Coast Guard
Fisheries & Oceans

R. Jackson
Assistant Deputy Minister,
Safety & Security
Transport Canada

Date

Date

Annex G Pollution Prevention Officer Appointments

A. PURPOSE

This annex defines the policies and procedures associated with the appointment of pollution prevention officers.

B. DEFINITIONS

Training

Refers to training that covers the powers delegated to a pollution prevention officer and may include the National Pollution Prevention Officer Training Course, the Atlantic Regional Pollution Prevention Officer Course, the National MTR Certification Training Program (Module 2 - Pollution Prevention) and the Aerial Surveillance PPO Training Course.

C. OFFICES OF PRIMARY INTEREST

For the purpose of this annex, inquiries may be addressed to, and issues of concern may be raised with either of these offices:

Transport Canada: Director General, Marine Safety

Fisheries & Oceans: Director General, Rescue & Environmental Response

D. INTERNATIONAL CONVENTION, LEGISLATION & REGULATIONS

1. Under section 661 of the *Canada Shipping Act (CSA)*, The Minister of Transport may designate any person as a pollution prevention officer with specified powers from sections 662 and 672. Pollution prevention officers enforce the provisions of Part XV and Part XVI of the CSA and the regulations made pursuant to these Parts, which include the provisions of Annex I and Annex II of MARPOL 73/78.
2. Under section 14 of the *Arctic Waters Pollution Prevention Act (AWPPA)*, the Governor in Council may designate any person as a pollution prevention officer with specified powers from sections 15 and 23. Pollution prevention officers in Transport Canada and Fisheries and Oceans enforce the provisions of the AWPPA related to shipping and the regulations made pursuant to the AWPPA that deal with shipping.

E. RESPONSIBILITIES AND AUTHORITIES

1. Joint:

In order to enforce the requirements of the AWPPA, Part XV and Part XVI of the CSA and regulations made pursuant to these Acts, officers in both Transport Canada and Fisheries and Oceans must be appointed as pollution prevention officers.

- i. In order to ensure that officers are both knowledgeable and proficient in their duties, suitable training is required. Officers being appointed for the first time will receive suitable training before being appointed and officers who are already appointed will receive suitable training and refresher courses. Each department will be responsible for the cost of training their respective personnel.

2. Transport Canada:

- i. Responsible for reviewing and approving all requests for Pollution Prevention appointments under the CSA.
- ii. Responsible for processing appointments under the CSA and AWPPA and producing pollution prevention officer cards.
- iii. Responsible for providing training for its pollution prevention officers.

3. Fisheries and Oceans:

- i. Responsible for identifying its officers requiring appointment as pollution prevention officers.
- ii. Responsible for providing training for its pollution prevention officers.

F. PROCEDURES AND CONSULTATION

1. Pollution prevention officer appointments shall be processed by Transport Canada. These appointments shall be made at least once a year to ensure that they are up-to-date.
2. Fisheries & Oceans shall submit lists of new, revoked or changed appointments. Information provided shall include the officer's name in full, the officer's position, the officer's business address or designator, the training completed, and the powers being requested. In the case of appointments under the CSA, the appointment may be made by title of office, rather than by the officer's name.
3. Appointments under the CSA are made by a Ministerial Order signed by the Deputy Minister of Transport Canada. Pollution prevention officer cards are signed by the Chairman of the Board of Steamship Inspection.
4. Appointments under the AWPPA will be made by an Order-in-Council submitted by the Minister of Transport Canada on behalf of both Ministries. In this instance, pollution prevention officers cards are signed by the Assistant Clerk of the Privy

Council.

5. In all cases in which Fisheries & Oceans officers receive training with respect to Fisheries & Oceans responsibilities, Transport Canada agrees to appoint these officers as pollution prevention officers with appropriate powers pursuant to the CSA and AWPPA.

G. SIGNING AUTHORITIES

M. Turner
Commissioner,
Canadian Coast Guard
Fisheries & Oceans

R. Jackson
Assistant Deputy Minister,
Safety & Security
Transport Canada

Date

Date

Annex H

Arctic Waters Pollution Prevention Act

A. PURPOSE

1. To identify the working relationship and the division of responsibilities between Transport Canada and Fisheries and Oceans with respect to parts of the AWPPA dealing with shipping and navigation of ships in the Canadian Arctic.
2. As stated in the AWPPA (2.1), where inconsistency exists between part XVI of the *Canada Shipping Act* (CSA) and any part of the AWPPA, part XVI of the CSA prevails. Consequently, where inconsistency exists between this annex and another annex relating to the CSA, the other annex will prevail.

B. OFFICES OF PRIMARY INTEREST

1. For the purpose of this annex, inquiries may be addressed to, and issues of concern may be raised with either of these offices:

Transport Canada: Director, Ship Safety, Prairie & Northern Region
Fisheries & Oceans: Regional Director, Coast Guard, Central and Arctic Region

2. The Regional Director General, Prairie & Northern Region is the senior representative for Transport Canada on behalf of the Ship Safety Branch. The Director, Ship Safety, Prairie & Northern Region administers the AWPPA and is the principal contact.

3. The Regional Director General, Central and Arctic Region is the senior representative for Fisheries and Oceans on behalf of the Legislative and Regulatory Review Branch. The Regional Director, Coast Guard, Central and Arctic Region is the principal contact.

C. LEGISLATION

1. The Arctic Waters Pollution Prevention Act:

- Preamble
- Sections 4 to 9 - Deposit of Waste
- Sections 11 to 13 - Shipping Safety Control Zones
- Sections 14 to 17 - Enforcement
- Sections 18 to 22 - Offences and Punishments
- Sections 23 to 27 - Seizure and Forfeiture

D. RESPONSIBILITIES AND AUTHORITIES

1. The Minister of Transport is the Minister responsible for the shipping provisions of the *Arctic Waters Pollution Prevention Act*, and for promulgating statutory amendments to the Act on shipping matters which arise from time to time.

2. Deposit of Waste

- i. Transport Canada is responsible for regulating the deposit of waste by ships in Arctic waters. This includes regulations pertaining to the reporting of such deposits to a Pollution Prevention Officer by the ship's master.
- ii. Transport Canada is responsible for developing and maintaining regulations pertaining to the civil liability of any ship or shipowner resulting from a deposit of waste.

3. Shipping Safety Control Zones

- i. Transport Canada has the responsibility to develop and establish shipping safety control zones. Any amendments or changes to the zones will be made in consultation with Fisheries and Oceans.
- ii. Transport Canada is responsible for the development, maintenance, monitoring and enforcement of regulations pertaining to ships navigating within Shipping Safety Control Zones. This includes regulations on construction, equipping, crewing, and carriage of cargo and fuel. Any changes to these regulations will be made in consultation with Fisheries and Oceans.
- iii. Fisheries and Oceans is responsible for the control and direction of shipping within the Shipping Safety Control Zones through the provision of Marine Traffic Regulators.

- iv. The Governor in Council exemption of foreign state owned ships and representation to the Foreign Affairs - Foreign Vessel Clearance Committee is the responsibility of Transport Canada. Transport Canada is also responsible for the Canada/USA Icebreaker Entry Accord. Consultation and exchange of information in both cases will take place with Fisheries and Oceans.

4. Destruction or Removal of Ships: Fisheries and Oceans has the authority to take necessary measures in accordance with the Minister's responsibility under section 678 of the CSA.

5. Powers of Pollution Prevention Officers: Refer to Annex F (Pollution Incident Investigation & Enforcement) and Annex G (Pollution Prevention Officer Appointments).

6. Offences and punishments: Pollution Prevention Officers from both Transport Canada and Fisheries & Oceans will exercise this authority as appropriate and consistent with their respective responsibilities.

7. Seizure and Forfeiture: Fisheries and Oceans Pollution Prevention Officers have the authority to carry out this obligation in accordance with the Minister's responsibility as Receiver of Wrecks in the CSA. Provisions of the Fisheries Act dealing with the Disposition of Seized items apply regarding protection of persons claiming interest under the AWPPA.

E. PROCEDURES AND CONSULTATION

1. Ongoing routine consultation is expected at all levels between the two departments and the two principal contacts. Detailed procedures are jointly developed for issues regarding NORDREG, and implementation and monitoring of standards pertaining to the Ice Regime System, Tanker and Barge Operations, and Arctic Oil Transfers. In case of shipping incidents and decision-making on navigation control, the collaboration and responsibilities are to be specified by jointly developed procedures, taking into consideration the Safety Annexes pertaining to Direction and Control of Commercial Shipping (Annex D) and Waterways and Routing Safety (Annex B).
2. Major issues such as regulatory amendments, shipping policy, navigation control and sovereignty will be referred to the jointly chaired Arctic Shipping Control Authority.
3. Arctic Shipping Control Authority (ASCA): ASCA, is to incorporate the duties of an Arctic Pollution Control Board, and is to be co-chaired by both the Regional Director General, Prairie & Northern Region for Transport Canada and the Regional Director General, Central and Arctic Region for Fisheries and Oceans.

F. SIGNING AUTHORITIES

M. Turner
Commissioner,
Canadian Coast Guard
Fisheries & Oceans

R. Jackson
Assistant Deputy Minister,
Safety & Security
Transport Canada

Date

Date

R. Pierce
Regional Director General

Central & Arctic Region
Fisheries & Oceans

J.S. Broughton
Regional Director General
Prairie & Northern Region
Transport Canada

Date

Date

Annex I

Pollution Occurrence Reporting

A. PURPOSE

1. Pollution deterrence, pollution occurrence investigation and enforcement, and pollution response are programs and measures of particular concern and dependent upon the maintenance of a co-ordinated pollution occurrence reporting system. The purposes of pollution occurrence reporting are to be able to:

- i. effectively discover and report the existence or threat of a pollution occurrence or illegal discharge;
- ii. provide for a co-ordinated and integrated response to pollution incidents in waters of Canadian interest by both parties;
- iii. facilitate the prosecution of polluters;
- iv. adequately gather information suitable to assessing pollution risks and the history of discharges or accidents and their causes and patterns; and to

- v. cross reference occurrence data with subsequent claims and recovery costs.

B. DEFINITIONS

Harmful Substance

Any substance that, if released into the environment, would degrade the quality of that environment to the extent that it may, endanger the health, safety or welfare of persons, endanger the health of animal life, cause damage to plant life or to property, or interfere with normal enjoyment of life or property, and, without limiting the generality of the foregoing, includes deleterious substances as defined under the Fisheries Act, and other substances regulated under the Canada Shipping Act by either Dangerous Goods Regulations, the Pollutant Substances Regulations, the Dangerous Chemicals and Noxious Liquid Substances Regulations, and the Dangerous Bulk Material Regulations as amended from time to time.

Pollutant

Includes oil and harmful substances.

Occurrence

A release or an imminent threat of release of pollutant.

C. OFFICES OF PRIMARY INTEREST

For the purpose of this annex, inquiries may be addressed to, and issues of concern may be raised with either of these offices:

Transport Canada: Director General, Marine Safety

Fisheries & Oceans: Director General, Rescue & Environmental Response

D. INTERNATIONAL CONVENTIONS, LEGISLATION, REGULATIONS, AND AUTHORITIES

1. Regulations Respecting the Reporting of Discharges or Anticipated Discharges of Pollutants, pursuant to section 657(a) of the Canada Shipping Act.
2. Guidelines for Reporting Incidents Involving Dangerous Goods, Harmful Substances and/or Marine Pollutants, pursuant to Resolution A.648(16) of the 16th Session of the Assembly of the International Maritime Organization, adopted 19 October 1989.
3. Regulations Respecting the Prevention of Pollution of Waters by Oil Discharged from Ships and from Loading and Unloading Facilities for Ships, pursuant to sections 656, 657 and 658 of the *Canada Shipping Act*.
4. Canadian Coast Guard's Interim National Marine Spills Contingency Plan.
5. Annex 9 of the Revised Great Lakes Water Quality Agreement of 1978, as amended by Protocol signed November 18, 1987.

6. Paragraph 3 of the Agreement Between the Government of Canada and the Government of the Kingdom of Denmark for Co-operation Relating to the Marine Environment, in force August 26, 1983.
7. Articles 4 and 5 of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990.
8. International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto.
9. Arctic Waters Pollution Prevention Act.
10. *Oceans Act*.
11. Canada-US Joint Marine Pollution Contingency Plan.
12. All Accord Acts.
13. Vessel Traffic Services Zones and Eastern Canada Vessel Traffic Zone Regulations.
14. NORDREG

E. RESPONSIBILITIES AND AUTHORITIES

1. The Canadian Coast Guard's Marine Communication and Traffic Services Centers, are the focal points for the receiving of, and transmission to the appropriate parties, information concerning actual or potential marine pollution occurrences.
2. The maintenance and development of call-out or alerting procedures in cooperation with Transport Canada is the responsibility of the Canadian Coast Guard.
3. The Canadian Coast Guard is responsible for reporting non-shipboard aspects of pollution occurrences including pollution response data collection and analysis.
4. Transport Canada is responsible for reporting onboard ship aspects of pollution occurrences, including data collection and analysis.
5. It is the responsibility of both departments to develop, implement, maintain, and periodically review incident reporting standards.

F. PROCEDURES & CONSULTATIONS

1. Should either party become aware of a pollution occurrence, or illegal discharge, that party will ensure that the other party is immediately alerted and that information concerning the incident is shared with the other party subject to provisions of TP789 respecting confidentiality and classified information.
2. Both parties agree to establish and maintain a single interdepartmental reporting system to be established with modules designed to meet each department's needs. The use of a common national database and reporting standards permits both departments to access recorded historical pollution occurrence reporting data, conduct trends analysis and facilitate cost-recovery
3. There may be times where information is of a sensitive nature and secure communications may be requested/used by either party.

G. SIGNING AUTHORITIES

M. Turner
Commissioner,
Canadian Coast Guard
Fisheries & Oceans

R. Jackson
Assistant Deputy Minister,
Safety & Security
Transport Canada

Date

Date

Annex J **Research & Development**

A. PURPOSE

To provide a framework for research and development (R&D) co-operation such that projects of joint interest are co-ordinated over time to assure delivery of results in keeping with the timing of operational and needs and the regulatory agenda.

B. OFFICES OF PRIMARY INTEREST

For the purpose of this annex, inquiries may be addressed to, and issues of concern may be raised with either of these offices: Transport Canada: Director General, Marine Safety
Fisheries & Oceans: Director General, Program Planning & Co-ordination, Canadian Coast Guard

C. RESPONSIBILITIES AND AUTHORITIES

1. Both departments have responsibility to ensure that the marine transportation client group needs are identified and addressed in an expeditious and economical manner. Each department shall undertake to formulate an R&D program which combines the needs of the client group with its in-house program to the maximum extent possible. In the formulation of each department's R&D program, consultative and project sharing mechanisms shall be embodied to ensure that each department assists the other in a correct and propitious manner. Each department shares responsibility to bring issues of interest to the attention of the other.
2. International agreements are developed by each department for their respective R&D programs.
3. Transport Canada is responsible for the identification and promotion of R&D projects designed to develop the knowledge base required to advance legislation/regulation essential for the safety of transport and for the prevention of pollution. Transport Canada also maintains an interest in all modal transportation technologies, particularly as they pertain to the advancement of national transportation policy.
4. Fisheries & Oceans, Canadian Coast Guard, is responsible for the identification and development of those technologies essential to the delivery of its own operations and program mandates, and where applicable, to assist in the development of technologies which contribute to enroute safety and environmental protection.

D. PROCEDURES AND CONSULTATION:

1. **Consultation/Committee Mechanisms** - Each department shall provide for specific consultative fora to periodically exchange information on R&D directions and activities, developed as part of their respective R&D committee process. An interdepartmental committee mechanism is one possible approach to this exchange of information but not necessarily the only process which can be utilised. The objective is to ensure greater collaboration on, and compatibility in, issues of common interest, to review arrangements with respect to the use of Transport Canada-Transportation Development Centre resources and Fisheries & Oceans' ships, to review other resource sharing issues, and to exchange ideas on strategic directions.
2. **Project management agreements**, based on previous Coast Guard - Transportation Development Centre models, are to be established for the management of resources from one agency by staff of the other. Such agreements shall specify the appropriate level of detail to ensure due diligence in both the management of the project and the management of resources assigned from one agency to another.

3. **Agreements for Use of Ship Time** - Where Fisheries & Oceans, Canadian Coast Guard vessels are required for the performance of R&D projects, an agreement of the use of ship time shall comprise part of each project justification and approval documentation. Where appropriate, such agreements are to recognize any interest which the Canadian Coast Guard may have as a party directly affected by the results of the project. Based on the level of related interest by the Coast Guard, these agreements will make provision for use of ships based on a sliding scale of cost recovery options ranging from full recovery for all costs to the use of ships as a contribution in kind. In no case will Fisheries & Oceans propose a cost recovery scheme which exceeds full attributable costs normally used in Fisheries & Oceans' own accounts.

E. SIGNING AUTHORITIES

M. Turner
Commissioner,
Canadian Coast Guard
Fisheries & Oceans

R. Jackson
Assistant Deputy Minister,
Safety & Security
Transport Canada

Date

Date

Annex K

Information Exchange / Database Sharing

A. PURPOSE

In view of the ongoing need for co-operation and interaction between the two administrations, Transport Canada and Fisheries and Oceans, there is a requirement for real time and near real time exchange of information and data.

B. BASIC PRINCIPLE

1. Transport Canada and Fisheries & Oceans will make available, on request and in a timely manner, the non-commercially confidential information contained in their respective general files, libraries, reporting systems and databases that is required for the parties to fulfil their statutory responsibilities. Access and further disclosure by either party will be structured to conform to the requirements of the *Privacy Act* and *Access to Information Act*.
2. Access to electronic data bases by either party may be real time or by batch download. Neither party may corrupt the other's data base.

C. INFORMATION EXCHANGE.

Marine Communication and Traffic Service Centres will provide Transport Canada information on arrivals, departures, marine incidents, accidents, pollution and casualties involving all vessels on an immediate basis to the appropriate office, as agreed at the Regional level. Transport Canada will reciprocate in a like manner. Regional offices are to identify their respective functional counterparts that are also to be given relevant information.

D. INFORMATION SOURCES

1. Correspondence files (Fisheries & Oceans & Transport Canada)
2. Libraries / Publications (Fisheries & Oceans & Transport Canada)
3. Marine Communications and Traffic Services (Fisheries & Oceans)
4. Pollution Reports / Investigations and Prosecutions (Fisheries & Oceans & Transport Canada)
5. Canada Port State Control (Transport Canada)

E. DATA BASE SOURCES

1. Tombstone data - Ship Inspection Reporting System - SIRS (Transport Canada)
2. Ship Registration Information System - SRIS (Transport Canada)
3. Reference Management System - *Canada Shipping Act* Regulations (Transport Canada)
4. VTS / ECAREG / WESTREG / NORDREG / CGRS-MCTS (Fisheries & Oceans)
5. Statistical Information Search & Rescue - SISAR (Fisheries & Oceans)
6. Hydrographic Charts and Publications - electronic format

F. PROTOCOLS

1. Procedures for the transfer of data sets to be determined for both individual requests and annual updates if required.
2. Identify contact persons for the holders of information.
3. Copyright protection of data and acknowledgement.
4. Format in which the requested data is to be received, e.g., variable definitions and descriptions for the data fields.
5. Access to electronic databases by either party may be real time or by batch download. Neither party may corrupt the other's database.

G. COST RECOVERY

Incremental costs incurred by either party in implementing this Annex will be recovered from the other party in accordance with Treasury Board Guidelines.

H. SIGNING AUTHORITIES

M. Turner
Commissioner,
Canadian Coast Guard
Fisheries & Oceans

R. Jackson
Assistant Deputy Minister,
Safety & Security
Transport Canada

April 1996

April 1996

Date

Date