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LIST OF PAPERS

File under No. Marine Accident Rescue Law
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SERIAL NUMBER	FROM-	DATE	TO-	SYNOPSIS
MSA 1094(PR)	Ch, Pat. & Resc. D R. B. Janus, M. B.	2 Sep 49 25 Oct 49	Ch, MB Ch, MB	Marine Accident Rescue Law (Draft) Reasons for Need of Legis- lation on Marine Acc. Rescue Necessity of Presentation of Marine Acc. to Coming Ex Diet

25 October, 1949

MEMO: .

TO: Chief, Maritime Branch, PSD

SUBJ: Marine Accident Rescue Law

1. In view of the fact that rescue facilities of MSA stand to be greatly enlarged during the next fiscal year by the acquisition of a good number of large suitable vessels, no further action on the passage of the Marine Accident Rescue Law is deemed necessary at present for the below listed reasons:

- a. 27 suitable vessels can give adequate coverage for rescue purposes along the coastal waters of Japan.
- b. 15 wooden hulled PB's can afford adequate coverage for rescue and law enforcement in the Inland waters of Japan.
- c. The existing ARB's can fill any gaps in the Coastal waters for law enforcement.
- d. The present intent of the Marine Accident Rescue Law is to supplement existing MSA facilities for rescue based on subsidies to privately owned ships. This intent will no longer exist when the above mentioned vessels are acquired.
- e. No feasible reason will exist for the JG to spend a considerable amount of money to build up MSA and also put money out for private companies to do the same work.
- f. Dependency on the Imperial Rescue Association and designated vessels will no longer exist.
- g. The present so called "Designated Vessels" as observed on our recent TDY, averaging approximately 20-30 tons, are no more suitable for rescue vessels than the existing vessels of MSA.
- h. MSA should only be held responsible for rescue where their facilities exist and can be utilized.

File

R.B. Janus
R.B. Janus
Maritime Investigator

Concerning the pending point of a
Marine Accidents Rescue Law Draft

- a. Some pendencies are still in our new Marine Accident Rescur Law draft. We designed in our new draft refund to any civil merchant vessel which rendered their service for rescue work but in our Mariners Law Art. 14, we find "When it has come to the Knowledge of any master that another vessel is in distress, he shall use every possible means necessary for saving of human life on board the vessel, except in a case when there is imminent danger to the vessel under his command or in the case provided for in ordinance".

In the above Art. 14, the obligation of the master is understood that it is not only limited with the stage but also in any waters namely even not under ~~high~~ way.

There are some opinion that our new draft is likely to give faltering sense to the sea farer in the International Mutual Aid and Assistance in distress, we afraid.

We are still negotiating of the matter with the Ministry of Transportation.

- b. We are persuaded by the Ministries of Finance and Transportation for the materials which are recovered from the sea by us, shall be made in our custody and also the public notification and auctioning of the said materials shall be carried out by us.

They are firmly convincⁿing that those materials are not their property and have us business upon them at all.

It is almost hopeless to take them into the matter at present.

- c. We are studying the new draft in several points with other ministries concerned.

MARITIME SAFETY AGENCY
MINISTRY OF TRANSPORTATION

MSA No. 1094 (PR)

2 Sept. 1949

To: Chief, Maritime Branch, PSD, G2, SCAP.
From: Chief, Patrol & Rescue Division, Maritime Safety Agency.
Subject: Necessity of the Presentation of the Marine Accident to the Coming Extraordinary Diet.

1. The Maritime Safety Agency Law is regarded as one of the so-called "Establishment Laws" or "Organization Laws", which determines the establishment, purposes, organization and authorities of the Maritime Safety Agency, ~~excluding any provision for the limits of such authorities.~~

2. The authorities mentioned in the Maritime Safety Agency Law only provide for the limits of the authorities which the Maritime Safety Agency is permitted to perform.

✓ Accordingly, separate regulations for determining respective procedures are necessary for the performance of such authorities.

3. In case where the performance of authorities restricts on the right of the people or charges them with duties, regulations for determining procedure thereon should be established in the form of laws.

(Arts. 11-13, 17, 29, 31, etc. of the Constitution of Japan)

When any particular provisions are not mentioned in a law, provisions for delegating such procedures to a separate law or order are necessary.

To cite an instance the authorities concerning navigational aids activities are stipulated in the Maritime Safety Agency Law, while actual provisions concerning the use or expropriation of land and properties for the construction of lighthouses and charging definite obligations to persons other than the Maritime Safety Agency who performs navigational aids functions must be provided for by a law.

This is why the Aids to Navigation Law has been stipulated.

4. The Maritime Safety Agency in the main body for marine accident rescue activities as provided for in the Maritime Safety Agency Law. While, from the character of the Law, these are no provisions in it defining the scope of exercising individual competency which the Agency is delegated nor any provisions for the delegation of procedures thereof. So long as the rescue of marine accidents can be conducted solely as a service of a nation to the public without restricting the right of the people or placing them under any obligation, it will be sufficient to establish internal functionary rules or instructions for it, not necessitating to have any laws or regulations.

The provisions of the projected Marine Accident Rescue Law are expected to place the same or even more obligation on the people as compared with the Sea Casualties Rescue Law and to use their property rights for the Public welfare. Such measures ought to be taken by the provision of a law (Ref. Art. 29, the Constitution, etc.)

6. The "Sea Casualties Rescue Law" has not necessarily been abolished in accordance with the provision of Article 39 of the MSA Law. It is understood that the functions pertaining to the rescue of sea casualties performed by the state in accordance with the MSA Law are not incompatible with those performed by local public entities.

7. Moreover, the necessity of providing by law actual procedures concerning the competency for the rescue of marine accidents must be discussed separately from the abolition of the "Sea Casualties Rescue Law".

T. Okubo,
Director, Maritime Safety Agency.

Reasons for Need of Legislation on Marine Accident Rescue
as Drafted

I. The Maritime Safety Agency Law prescribes the rescue of marine accidents and clearing of obstacles as functions of the Maritime Safety Agency. But the execution of these functions has to comply with the provisions of other laws. Just as the Pilot Law is established for the control of pilots and pilot activities, the Navigational Aids Law for activities concerning navigational aids, and the Port Regulations Law for maintaining safety and order in ports, so a Marine Accident Rescue Law is necessary for the rescue of ships in distress and clearing of obstacles at sea.

For example, the prescriptions on the following matters are indispensable for the execution of the above functions and they must be contained in a law from the very nature of them.

- ✓ 1. Duty of a finder of marine accident to report,
- ✓ 2. ~~(Demanding)~~ ^(REQUESTING) cooperation of vessels and people, and compensation for cooperation,
- ✓ 3. ^(CONFINE to MSA UNITS) Material aids to the victims ~~and subsidies therefor,~~ ^{MAILED BY MSA}
- ✓ 4. Duty of a finder of any obstacle to report, and
- ✓ 5. Procedure of disposition of obstacles taken away by the Maritime Safety Agency. (BY M/F)

Besides, we believe the old Sea Casualties Rescue Law is still in force, except a few articles, for the provisions of the Sea Casualties Rescue Law are not in contradiction against the provisions of the Maritime Safety Agency Law. But the drafted Marine Accident Rescue Law has to be legislated notwithstanding whether the old Sea Casualties Rescue Law is valid or not.

II. The records quoted below evidence the fact that the Diet wants to have a powerful law established for the rescue of marine accidents.

53 patrol vessels
at present, 35 more
to be added in the
next fiscal year.

1. Part of the Proceedings No. 7 of the Special Committee for Damaged Districts in the Fifth Diet says as follows:

".....the extent of rescue of sea casualties was neither satisfactory. The Maritime Safety Agency extended its helping hand without delay. But its base was so far from the scene that it took them many hours to arrive there. The Agency had a handicap in possessing only a few number of patrol boats. It is considered necessary to provide a much more facilities for rescue activities of the Maritime Safety Agency in near future.

Besides, as a problem of legislation, various questions may be raised concerning the application of the old Sea Casualties Rescue Law. A proposal has been made that for the rescue of casualties in accidents the present Marine Accident Rescue Law should be more effectively operated or else it should be revised to meet the present need."

2. Part of the Additional Decision (Calamities Rescue Law) of the Welfare Committee of the House of Representatives says as follows:

"It is considered that the rescue of sea casualties can hardly be effectively performed under the present Sea Casualties Rescue Law. The rescue of sea casualties, therefore, shall be conducted satisfactorily by applying Item 2, Article 2 of this Law in the case where a rescue in accordance with the provisions of the Sea Casualties Rescue Law is insufficient and until it is revised.

Reference: The Calamities Rescue Law, Article 2. The rescue under this Law shall be conducted in cases where the whole or part of one or more To, Do and prefectures is affected by unusual calamities and immediate rescue is presently required.

This will also apply to the case where the scope of calamities does not come under the provision of the preceding paragraph and yet many people are afflicted by the same calamity and need immediate rescue."

For full study should have
copy of old law ^{and} and copy of
proposed cabinet order to be issued
under this law.

^{Under} Proposed Law
Proposed law establishes ^{reserve} reserve
^{operations on} operations on ^{central Gov.} full central Gov. operation
with all ^{expenses} expenses to be ^{born} born by
nationally. Believe local gov. should ^{be an} ^{part} part of program.

^{an} Expansion of MSA by designated
ships ^{and} and definition of ^{area} area
of operation should be ^{studied} studied
in ^{relation} relation to FEC policy.

^{Law} Law should establish standards
principles to be followed in ^{implementing} implementing
cabinet order. Cabinet order should
be limited to ^{procedural} procedural matters.

Sub by for expense for Fisheries Div

Sub by for fishing boats rescuing
facilities expense 3,990,000

Mr. Harrison:

This law is apparently designed to replace the Sea Casualties Reserve Law No. 95 of 1899. It would be well to have a copy of law No. 95 of 1899 for study in conjunction with this proposed law.

This proposed law definitely extends the jurisdiction of the Maritime Safety Agency and effects an expansion beyond the FEC authorized strength. This may be desirable if it can be done without giving MSA authority over other national and local government agencies.

Also parts of this proposed law should be part of the MSA general regulations and not incorporated in this. Several articles should be carefully studied from a budget point of view.

J.H.

Mr. James - CTS - 8)

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Marine Accident Rescue Law (Draft)

Chapter I General Provisions

(Purpose of the Law)

Article 1. The purpose of this Law is to effect promotion of public welfare by the Maritime Safety Agency preventing and making precautions against accidents resulting from natural disasters and other causes, and conducting emergency rescue in ports, harbors and sounds and on the coastal waters of Japan (hereinafter referred to as "at sea") with the cooperation of mayors of cities, towns and villages, members of National Rural Police and municipal police and the people.

Subject to definition of "at sea". At it is used here may be construed to include too much territory place MSB. in a position where it will dominate certain local prefectures

(Definition)

Article 2. "Accidents" in this law shall mean those situations in which rescue of human life and property at sea is required due to fire, ^{on board vessels,} collision, stranding, grounding, and disability of engines.

Chapter II Responsible Person for Rescue and Obligator for Cooperation therewith

(Responsible Person for Rescue)

Article 3. Affairs relative to the rescue of marine disasters in accordance with the provisions of this Law shall be executed by the Maritime Safety Agency.

(Obligator for Cooperation)

Article 4. Mayors of cities, towns and villages (including chiefs of special district; hereinafter the same) or members of National Rural Police or municipal police (hereinafter referred to as "the police officers") shall cooperate with the rescue service performed by the Maritime Safety Agency.

2. The Director of the Maritime Safety Agency may designate ships owned by persons other than the Maritime Safety Agency and deemed fit for the rescue of marine accidents and have them cooperate with the rescue function it performs.

3. The designation as provided for in the preceding paragraph shall be made with the consent of the owner of the ship concerned.

Article 5. The owner of the ship designated in accordance with the provision of paragraph 2 of the preceding Article (hereinafter referred to as "the designated ship") shall, in accordance with the provisions of a Cabinet Order, be furnished with provisions, medical supplies, beddings, life-saving gears, etc. and report the conditions thereof to the Maritime Safety Agency.

2. Masters of designated ships shall, in accordance with the provisions of the Maritime Safety Agency Ordinance, report the movement of the ships concerned to the Maritime Safety Agency.

*This may lead to abuse, strictly to the Gov. Treasury -
As a means of increasing MSP strength beyond that permitted by FEC and definitely increase in 613 Empire and influence going beyond normal coast guard function.*

Should be strictly limited to rescue supplies & gear.

Chapter III Rescue

(Obligation for Reporting Accidents)

Article 6. The chief of an office or the master of a ship of the Maritime Safety Agency shall, in case he has been informed of any accident at sea, take necessary measures for the rescue.

Article 7. Any person who has found or been informed of any accident at sea shall report it without delay to the nearest Maritime Safety Agency office (representing the Maritime Safety Regional Headquarters, Maritime Safety Local Headquarters, Maritime Safety Stations and Port Captains' Offices; hereinafter the same) or the master of a ship of the Maritime Safety Agency, mayors of cities, towns and villages or police officers.

2. In case when mayors of cities, towns and villages or police officers have received any report as provided for in the preceding paragraph, they shall inform of it without delay to the nearest office or ship of the Maritime Safety Agency.

(Proxy of Rescue)

Article 8. In spite of the provision of paragraph 2 of the preceding Article, mayors of cities, towns and villages or police officers shall, in case when there is no office or ship of the Maritime Safety Agency in the vicinity, shall execute the affairs of the rescue on behalf of it.

Custom Service is interested in accidents at sea which may involve salvage and the handling of commodities.

2. Mayors of cities, towns and villages or police officers shall, in case when they have performed the rescue operation as provided for in the preceding paragraph, report the result of it to the chief of an office of the Maritime Safety Agency.

(Rescue Order to Designated Ships)

Article 9. The chief of an office or the master of a ship of the Maritime Safety Agency may, in case when he deems it necessary for the rescue of human lives, issue a rescue order to a designated ship or ships.

2. Any designated ship shall, in case when it has received an order as provided for in the preceding paragraph, immediately attend to the rescue service.

Article 10. The chief of an office or the master of a ship of the Maritime Safety Agency may, in the case of special necessity for the rescue of human lives, have persons concerned with medical affairs, ship-owners and ships cooperate with the rescue.

(Use of Vehicles, Houses, etc.)

Article 11. The chief of an office of the Maritime Safety Agency may, in case of urgent necessity, use vehicles, houses or land or use or expropriate materials necessary for the rescue.

This may give rise to abuse!

(Right to Request Persons, Ships or Vehicles Cooperation)

Article 12. The Maritime Safety Official may, when deemed necessary, request persons, ships or vehicles nearby to cooperate with him.

(Report on Rescue)

Article 13. The master of a ship which has been out for a rescue service in accordance with the provisions of Article 9 and Article 10 shall send in a rescue report to the Maritime Safety Agency immediately after the rescue operation has been over in accordance with the provisions of the Maritime Safety Agency Ordinance.

Chapter IV Compensation, Allowance for Aid and Charge

(Compensation)

Article 14. In case where the designated ship, and the ship-owner or the ship as provided for in Article 10 has engaged or rendered cooperation in the rescue of human lives under order of the chief of an office or the master of a ship of the Maritime Safety Agency, the expenses required for the rescue shall be compensated by the Government in accordance with the provisions of a Cabinet Order.

What are the budgetary provisions on this?

Be more specific as to the extent of compensation actual expenses or to loss of revenue included

Provided that, when a ship and cargo was rescued accompanying the rescue of human lives, the provisions of Part V Chapter IV of the Commercial Code shall be applied mutatis mutandis excluding the cases where the estimated value of the ship and cargo rescued is unable to cover the expenses required for the rescue.

In the case as provided for in the proviso of the preceding paragraph, of the value estimated is unable to cover

the expenses required for the rescue, the Government shall compensate for the balance.

Article 15. Expenses required of the designated ship because of of the designation shall be compensated by the Government in accordance with the provisions of a Cabinet Order.

Article 16. Expenses required of persons related with medical affairs as provided for in the Article 10 or those cooperated with the rescue in accordance with the provisions of Article 11 and Article 12 shall be compensated by the Government in accordance with the provisions of a Cabinet Order.

(Allowance for Aid)

Article 17. Any person who has cooperated with a rescue operation in accordance with the provisions of Article 9 to Article 12 inclusive has suffered injury, sickness or death, allowance for aid shall be granted by the Government in accordance with the provisions of a Cabinet Order.

(Charge in Expenses)

Article 18. In case mayors of cities, towns and villages have provided any rescue station, rescue ship or other facilities or equipment necessary for the rescue of marine accidents, and upon the approval of the Maritime Safety Agency charges in the expenses therefor shall be subsidized by the Government in accordance with the provisions of Article 10 of the Local Finance Law.

2. Subsidy to the charges in the expenses as provided for in the preceding paragraph shall be defined by a Maritime Safety Agency Ordinance.

*what expenses?
Art 5 provides that
necessary supplies
will be provided*

Budget estimate required.

Budget estimate required

Budget estimate required

what provisions for this are made in both national and local gov. budgets?

Does this delegate to MSB functions which belong to the Budget Bureau?

Why not in the cabinet order

what state's approval

Chapter V Warning and Removal of Obstacles

(Report on Weather Conditions)

Article 19. The chief of the Central Meteorological Observatory, Regional Meteorological Observatories or Meteorological Stations shall, in case when the weather condition is recognized dangerous in view of preventing marine accidents, immediately report the conditions thereof to the Director of the Maritime Safety Agency or the chief of the Maritime Safety Agency office.

This should be a part of the enabling law covering the central meteorological obs.

2. The chief of the Maritime Safety Agency office shall in case when he has received a report as provided for in the preceding paragraph, give a warning thereof.

(Measures for Embargo, etc.)

Article 20. The chief of an office or the master of a ship of the Maritime Safety Agency may, in case when he deems the occurrence of a marine accident inevitable or there is a special necessity, advise ships to take shelter or evacuate.

(Report on Obstacles)

Article 21. A person who has found any floating or sunken dangers menacing the safety of navigation shall immediately report the fact either to the nearest office or ship of the Maritime Safety Agency, mayors of cities, towns and villages or to police officers in the neighborhood.

See the reasons why this should be in this law?

This apparently places local pro. authority in the position of being responsible for enforcement of MSB functions.

2. Mayors of cities, towns and villages shall, in case when they are informed of any fact as provided for in the preceding paragraph, immediately take necessary measures for the prevention of accidents and, at the same time, shall report it to the chief of an office of the Maritime Safety Agency.

(Measure for Obstacles)

This should be in MSB regulations

Article 22. The chief of an office or the master of a ship of the Maritime Safety Agency may, in case he has found any sunken or floating dangers menacing the safety of navigation, mark, destroy or remove it.

Article 23. The chief of an office or the master of a ship of the Maritime Safety Agency may, in spite of the provisions of the preceding Article, order the owner or occupant of the object to take necessary measures as marking, destruction or removal to prevent accidents.

Article 24. In the case as provided for in the preceding Article, when the owner or occupant is unidentifiable, the chief of an office of the Maritime Safety Agency shall remove that obstacle.

(Custody of Removed Objects)

Article 25. The chief of an office of the Maritime Safety Agency shall hand over the obstacles removed in accordance with the provisions of Article 22 and Article 24 to the chief of the nearest Local Financial Affairs Division.

2. The chief of a Local Financial Affairs Division may, in case where the objects handed over in accordance with the provision of the preceding paragraph come under any of the following items, put them to public sale and take charge of the money. Provided that, in the case as provided for in item (3), where deemed necessary, these objects may be abandoned:
 - (1) When the object is perishable or liable to be greatly devaluated;
 - (2) When the expenses for custody exceeds or are incommensurate with the value of the object;
 - (3) When the object is dangerous to custody such as explosives, inflammables, etc.
3. The chief of a Local Financial Affairs Division shall give a public notice to the effect that the objects removed shall be handed over to the owner or occupant. Provided that, in case where the owner or occupant is identifiable, he shall give notice to the owner or occupant concerned.
4. In case where the owner or occupant demanded the objects concerned to be handed over within three months from the date of the public notification or notice in accordance with the provisions of the preceding paragraph, the chief of a Local Financial Affairs Division shall ask the owner or occupant the payment of the expenses needed for the public notification or notice, removal, custody and public sale and hand over the objects to the owner or occupant concerned.

such articles if abandoned would become dangerous & likely destroyed. They should be

5. The owner or occupant of the object concerned may waive the ownership and be freed from the obligation of payment of the expenses as provided for in the preceding paragraph.
6. In case where any person has not applied for the object to be handed over within the period as provided for in paragraph 4, the chief of a Local Financial Affairs Division shall put the object to public sale and deliver the money to the National Treasury.

Chapter VI Council for Counter-measure
against Marine Accidents

(Establishment)

Article 26. In order to effect smooth application of this Law, there shall be established the Central Council for the Counter-measure against Marine Accidents (hereinafter referred to as "the Central Council") and the Local Councils for the Counter-measure against Marine Accidents (hereinafter referred to as "the Local Councils").

2. The Central Council shall be established in the Maritime Safety Agency and the Local Councils shall be established in offices of the Maritime Safety Agency as defined by the Director of the Maritime Safety Agency.
3. The Central Council shall, in compliance with the inquiry of the Director of the Maritime Safety Agency and the chiefs of offices of the Maritime Safety Agency where Local Councils are established, make investigations into and deliberations on important matters concerning the rescue of marine accident and make necessary proposals thereto.

4. Matters concerning the Central Council and the Local Councils other than those provided for in this Chapter shall be provided for by a Cabinet Order.

Chapter VII Miscellaneous Provisions

Article 27. In this Law, the provisions concerning the shipowner shall apply to the ship's manager in case of coownership and to lessee in case of leasing respectively, and those concerning the master shall apply to those who act in his place.

Article 28. The ship of the Maritime Safety Agency as Provided for in Article 9 and Article 10 shall mean those ships of Maritime Safety Agency other than harbor boats.

Chapter VIII Penal Provisions

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Article 29. A person who has not engaged or rendered cooperation without a justifiable reason in violation of the provisions of Article 9 paragraph 2 or Article 10 shall be punished with an imprisonment of not more than _____ years or with a fine not exceeding _____ yen.

9
1
Article 30. A person who has refused the use of vehicles, houses or land or the use or expropriation of materials necessary for the rescue as provided for in Article 11 shall be punished with as imprisonment of not more than _____ years or with a fine not exceeding _____ yen.

6 4

7

Article 31. A person who has failed in taking necessary measures as provided for in Article 23 shall be punished with an imprisonment of not more than _____ years or with a fine not exceeding _____ yen.

9

Article 32. A person who has neglected reporting as provided for in Article 13 or made a false report shall be punished with an imprisonment of not more than _____ years or with a fine not exceeding _____ yen.

Supplementary Provisions

Article 33. The day of the enforcement of this Law shall be established by a Cabinet Order.

Article 34. The Sea Casualties Rescue Law (Law No. 95 of 1899) shall be abolished.

2. Rescue of accidents on rivers and lakes shall be in accordance with by-laws of local public bodies.

Article 35. The provisions of the Lost Property Law shall be applied mutatis mutandis to the floating and submerged objects at sea other than those provided for in this Law.