

Maritime Transport Act 1994

Maritime Rules

MARITIME (EPIRBS) AMENDMENT RULES 2006

Pursuant to section 36 of the Maritime Transport Act 1994 I, Harry James Duynhoven, Minister for Transport Safety, hereby make the following maritime rules.

Signed at Wellington

this *17th* day of *October* 2006

by HARRY JAMES DUYNHOVEN




Minister for Transport Safety

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Objective

Parts 40A, 40C and 40D prescribe design, construction and equipment requirements for passenger ships that are not SOLAS ships, non-passenger ships that are not SOLAS ships and fishing ships. At present, these rules require or allow the carriage of 121.5/243 MHz Emergency Position-Indicating Radio Beacons (Epirbs) on certain vessels operating in specified areas. Part 43 (Radio) prescribes the performance standards for Epirbs.

On 1 February 2009, the International Cospas-Sarsat system will cease satellite processing of 121.5/243 MHz beacons in response to guidance from the International Civil Aviation Organisation (ICAO) and the International Maritime Organisation (IMO).

The Maritime (Epirbs) Amendment Rules amend Parts 40A, 40C, 40D and 43 to provide for the retirement of Epirbs operating on 121.5/243 MHz.

The Cospas-Sarsat Council has recommended that 121.5/243 MHz Epirbs be replaced before 1 February 2009. As a result, the amendment rules require new ships to carry a 406 MHz Epirb, with immediate effect, where previously the rules required a 121.5/243 MHz Epirb. Transitional provisions allow existing ships to continue carrying 121.5/243 MHz Epirbs until 1 July 2008.

Rules subject to Regulations (Disallowance) Act 1989

Maritime rules are subject to the Regulations (Disallowance) Act 1989. Under that Act, the rules are required to be tabled in the House of Representatives. The House of Representatives may, by resolution, disallow any rules. The Regulations Review Committee is the select committee responsible for considering rules under the Regulations (Disallowance) Act 1989.

Extent of Consultation

On 30 July 2005, Maritime New Zealand published in each of the daily newspapers in the four main centres of New Zealand a notice inviting comments on the proposed Maritime (Epirbs) Amendment Rules 2005. A notice was also published in the *New Zealand Gazette* on 28 July 2005. The Authority then made its Invitation to Comment and draft amendment rules available to the public with approximately 250 copies being sent automatically to interested parties. Comments on the draft rules were requested by 28 September 2005.

Six submissions were received on the draft amendment rules. All submissions and any oral comments were considered, and where appropriate, the proposed rules were amended to take account of the comments made.

General

1 Entry into force

This Part comes into force on 23 November 2006.

Part 40A: Design, Construction and Equipment – Passenger ships which are not SOLAS ships

2 Rule 40A.6(a)(iv) – Conditions for restricted limits ships making voyages in the coastal limits

Rule 40A.6(a) is amended by substituting for paragraph (iv) the following –

“(iv) a 406 MHz EPIRB that complies with the requirements of rule 43.18A or 43.19:”

3 Rule 40A.57(2)(b) – Radiocommunication Equipment

Rule 40A.57(2) is amended by substituting for paragraph (b) the following –

“(b) a 406 MHz EPIRB that complies with the requirements of rule 43.18A or 43.19; or”

4 Part 40A, Appendix 5, Clause 5.1 – Ships within VHF coverage area

Clause 5.1 of Appendix 5 of Part 40A is amended by substituting for the second row of the table (subtitled “Satellite EPIRB”) the following –

“Satellite EPIRB	(1) The ship must be provided with a 406 MHz EPIRB that complies with the requirements of rule 43.18A or 43.19.
	(2) The EPIRB must be kept in a readily accessible position on board the ship.”

5 Part 40A, Section 4, Final and Miscellaneous Provisions

Part 40A is amended by inserting the following heading and rule -

“Section 4 Final and Miscellaneous Provisions

40A.77 Transitional Provisions

- (1) An existing ship may carry a 121.5/243 MHz EPIRB that complies with the requirements of rule 43.18 in place of a 406 MHz EPIRB until 1 July 2008.
- (2) In subrule (1), **existing ship** means a ship -
 - (a) that was in a safe ship management system; and
 - (b) for which the owner was in possession of a current rule 21.13(2) certificate; on 23 November 2006.

Part 40C: Design, Construction and Equipment – non-Passenger ships which are not SOLAS ships

6 Rule 40C.6(a)(iv) - Conditions for restricted limits ships making voyages in the coastal limits

Rule 40C.6(a) is amended by substituting for paragraph (iv) the following -

“(iv) a 406 MHz EPIRB that complies with the requirements of rule 43.18A or 43.19; and”

7 Rule 40C.53(2)(b) - Radiocommunication Equipment

Rule 40C.53(2) is amended by substituting for paragraph (b) the following -

“(b) a 406 MHz EPIRB that complies with the requirements of rule 43.18A or 43.19; or”

8 Part 40C, Section 5, Final and Miscellaneous Provisions

Part 40C is amended by inserting the following heading and rule -

“Section 5 Final and Miscellaneous Provisions

40C.84 Transitional Provisions

- (1) An existing ship may carry a 121.5/243 MHz EPIRB that complies with the requirements of rule 43.18 in place of a 406 MHz EPIRB until 1 July 2008.
- (2) In subrule (1), **existing ship** means a ship –
 - (a) that was in a safe ship management system; and
 - (b) for which the owner was in possession of a current rule 21.13(2) certificate; on 23 November 2006.

9 Part 40C, Appendix 4, Clause 4.1 – Ships within VHF coverage area

Clause 4.1 of Appendix 4 of Part 40C is amended by substituting for the second row of the table (subtitled “Satellite EPIRB”) the following –

“Satellite EPIRB	(1) A ship must be provided with a 406 MHz EPIRB that complies with the requirements of rule 43.18A or 43.19.
	(2) The EPIRB must be kept in a readily accessible position on board the ship.”

Part 40D: Design, Construction and Equipment – Fishing ships

10 Rule 40D.6(a)(iv) – Conditions for restricted limits ships making voyages in the coastal limits

Rule 40D.6(a) is amended by substituting for paragraph (iv) the following –

“(iv) a 406 MHz EPIRB that complies with the requirements of rule 43.18A or 43.19; and”

11 Part 40D Final and Miscellaneous Provisions

Part 40D is amended by inserting the following heading and rule –

“Final and Miscellaneous Provisions

40D.85 Transitional Provisions

- (1) An existing ship may carry a 121.5/243 MHz EPIRB that complies with the requirements of rule 43.18 in place of a 406 MHz EPIRB until 1 July 2008.
- (2) In subrule (1), **existing ship** means a ship –

- (a) that was in a safe ship management system; and
- (b) for which the owner was in possession of a current rule 21.13(2) certificate; on 23 November 2006.

12 Part 40D, Appendix 3, Clause 3.1 – Ships that do not proceed beyond VHF coverage areas

Clause 3.1 of Appendix 3 of Part 40D is amended by substituting for the second row of the table (subtitled “Satellite EPIRB”) the following –

“Satellite EPIRB	(1) The ship must be provided with a 406 MHz EPIRB that complies with the requirements of rule 43.18A or 43.19.
	(2) The EPIRB must be kept in a readily accessible position on board the ship.”

13 Part 40D, Appendix 3, Clause 3.2 – Ships that proceed beyond a VHF coverage area but not beyond offshore limits

Clause 3.2 of Appendix 3 of Part 40D is amended by –

- (a) substituting for the words “Subject to clause 3.2.1, the” the word “The”; and
- (b) in the table, substituting for the third row (subtitled “Satellite EPIRB”) the following –

“Satellite EPIRB	The ship must be provided with –
	(a) a 406 Mhz EPIRB that complies with the requirements of rule 43.18A or 43.19; or
	(b) an INMARSAT 1.6 GHz EPIRB that complies with the requirements of rule 43.20.
	The EPIRB must be kept in a readily accessible position on board the ship.”

- (c) revoking subclause 3.2.1.

14 Part 40D, Appendix 5, Clause 5.8(2) Safety Equipment

Clause 5.8(2) of Appendix 5 of Part 40D is amended by substituting for paragraph (e) the following –

- “(e) a 406 MHz EPIRB that complies with the requirements of rule 43.18A or 43.19.

Part 43 – Radio

15 Rule 43.18A - 406 MHz Class 3 EPIRB

Part 43 is amended by inserting the following rule –

“43.18A 406 MHz Class 3 EPIRB

Class 3 Emergency position-indicating radio beacons operating on 406 MHz must –

- (a) comply with the Australian/New Zealand standard *AS/NZS 4280.1:2003 – 406 MHz satellite distress beacons, Part 1: Marine emergency position indicating radio beacons (EPIRB)*; and
- (b) be readily accessible, manually released and easily carried by one person.”

Maritime Rules
Maritime (Epirbs) Amendment Rules 2006
CONSULTATION DETAILS

*(This text does not form part of the rules contained in the Maritime (Epirbs) Amendment Rules 2006.
It provides details of the consultation undertaken in making the rules.)*

Summary of Consultation

An invitation to comment on draft Maritime (Epirbs) Amendment Rules was issued on 28 July 2005 with a closing date for submissions of 28 September 2005.

As a result of the formal consultation process one individual, Mr Rex Smith, and five organisations, Safety at Sea (Australasia) Ltd, New Zealand Police, Radio Surveys New Zealand Ltd, Gulfstream Consultants Limited and New Zealand Seafood Industry Council Ltd, provided written submissions.

General

New Zealand Seafood Industry Council Ltd supported the amendment as drafted.

New Zealand Police and **Safety at Sea (Australasia) Ltd** proposed the following:

- (i) mandatory registration of all 406 MHz Epirbs at the point of sale;
- (ii) carriage of 406 MHz Epirbs on all craft (pleasure and commercial) operating beyond 2 miles of the coast;
- (iii) prohibition of the sale of 121.5/243 MHz Epirbs from February 2007;
- (iv) implementation of a disposal scheme for 121.5/243 MHz Epirbs; and
- (v) mandatory replacement of existing 121.5/243 MHz Epirbs on commercial craft by 30 June 2007.

Maritime NZ's response: *Items (i) to (iv) are outside the scope of the proposed amendment.*

As these proposals would impinge on all satellite distress beacons – land, sea and air – copies of these submissions have been forwarded to the New Zealand SAR Council for their consideration and appropriate action.

Maritime NZ believes the fifth proposal has merit. As a result, Maritime NZ considers that 121.5/243 MHz Epirbs should not be allowed on new ships. However, mindful of the proposed approach of the Civil Aviation Authority to phase out 121.5/243 MHz Epirbs, the economic restrictions on the industry, the education campaign launched by the SAR Council; and the recommendations of the November 2005 meeting of the COSPAS-SARSAT Council, Maritime NZ considers that existing ships should be allowed to continue to utilise 121.5/243 MHz Epirbs until February 2009. The rules have been amended accordingly.

Radio Surveys New Zealand Ltd proposed that passenger, non-passenger and fishing ships operating within the same waters, should have the same requirements for fitment of Epirbs.

Maritime NZ's response: *Maritime NZ believes this proposal has merit. However, it is outside the scope of the amendment. The submission will be considered in the context of future policy work in this area.*

Amendment of transition date rules 40A.77, 40C.84 and 40D.85

Minister of Transport forwarded on 17 July 2006 instructions to Maritime New Zealand to change the date of transition for 121.5 MHz beacons to 406 MHz on existing ships from 31 January 2009 to 1 July 2008.

Rule 4 - Part 40A, Appendix 5, Clause 5.1 – Ships within VHF coverage area

Gulfstream Consultants Limited questioned the need for boats within VHF coverage to carry an Epirb as they were unable to envisage a situation when such a craft would be unable to communicate its problems and location to the shore.

Maritime NZ's response: Maritime NZ disagrees with this viewpoint. An Epirb is a cost-effective last resort means of distress communication, which continues to provide location and distress alert after a catastrophic event, such as the sinking of a ship.

Rule 11 – Part 40D, Appendix 5, Clause 5.8(2) – Code of practice for ships of 6 metres or less in length that proceed neither beyond enclosed water limits nor more than 2 miles from the shore – Safety Equipment

Mr Rex Smith questioned whether an error had been made in the title of the amendment rule.

Maritime NZ's response: The title of the amendment rule referenced the title of the Appendix being amended. Maritime NZ has changed the title of the amendment rule to reference instead the title of the specific subclause being amended.

Gulfstream Consultants Limited questioned the need, for a vessel of less than 6 metres that operates within 2 miles of the coast, to carry an EPIRB when often these craft have a VHF radio and a cellphone.

Maritime NZ's response: Cellphones are not considered to be an appropriate means of distress communication for commercial craft. In addition, the carriage of a VHF radio is not mandated for vessels to which the relevant provision applies.