



## REASSESSMENT OF THE RESPONSE TO TSB RECOMMENDATION M00-09

### Emergency position indicating radio beacons

#### Background

While crossing from Les Escoumins to Rimouski, Quebec, the *Brier Mist* swamped and sank some 10 miles offshore. The wreck was never found, two persons were recovered deceased and the other three crewmembers are missing.

The Board concluded its investigation and released report M98L0149 on 13 March 2001.

#### TSB Recommendation M00-09 (March 2001)

The Board considered that all fishermen should have distress alerting capability that should not rely on human intervention. It was further considered that fishermen forced into the water or survival craft should be able to continuously update their location to search and rescue (SAR) co-ordinators for more rapid rescue. The Board therefore recommended that

The Department of Transport require small fishing vessels engaged in coastal voyages to carry an emergency position indicating radio beacon or other appropriate equipment that floats free, automatically activates, alerts the search and rescue system and provides position updates and homing-in capabilities.

**TSB Recommendation M00-09**

#### Transport Canada's response to Recommendation M00-09 (May 2001)

The Minister notes the recommendation. As part of the consultations to amend the *Ship Station (Radio) Regulations*, Transport Canada considered requiring small vessels, including fishing vessels, engaged on all coastal voyages to carry an emergency position indicating radio beacon (EPIRB).

Initially, consideration was given to require all vessels of 8m in length or more engaged on coastal voyages to carry two different distress alerting devices: an EPIRB and a Very High Frequency (VHF) radio capable of digital selective calling (DSC). These two items of safety equipment would complement each other as they offer different safety advantages. In consultation with the fishing industry, it was agreed that all such vessels would carry only the VHF radio with DSC by the year 2003. In addition, those small vessels operating more than 20 miles offshore would also be required to carry an EPIRB. It was further agreed that only vessels of more than 15 gross tonnage would carry a float free EPIRB.

The float free EPIRB will send a distress alert automatically in the event the vessel sinks, while the push button distress alerting capability of the VHF radio with DSC also has many advantages. EPIRBs may have up to a 90 minute position delay via satellite and the alert must be relayed to vessels in the area through a coastal radio station. The DSC distress alert with position information will be received immediately by coastal radio stations and other vessels in the vicinity carrying a VHF radio with DSC. DSC also permits the distress alert to be acknowledged providing important confirmation of reception to the ship in distress. The VHF radio can be used in daily ship communications ensuring its operational readiness. The more ships that are similarly equipped, the greater will be the overall safety net at sea.

Transport Canada will continue to support and encourage the voluntary carriage of EPIRBs on all vessels that are not required to carry this equipment. The Standing Committee on Fishing Vessel Safety will have an opportunity to evaluate present requirements and consider further steps to improve alerting capability in case of distress at the next CMAC meeting scheduled for November 2001. Preliminary review by the Standing Committee in May 2001 raised the issue of equipment cost for owners of small fishing vessels.

### **TSB assessment of the response to Recommendation M00-09 (July 2001)**

The response indicates that the recommendation is noted and re-affirms the current regulatory requirement and the on-going consultations with industry to require the fitting of either EPIRBs or VHF with digital selective calling (DSC). It was agreed that vessels of 8m in length or more would carry VHF with DSC by the year 2003. Those vessels operating more than 20 miles offshore would require an EPIRB and vessels of more than 15 gross tons would carry a float-free EPIRB.

This, however, would leave vessels of less than 15 gross tons (and over 8m in length) operating less than 20 miles offshore with VHF (DSC) only. TSB statistics consistently indicate that it is these smaller vessels (less than 15 gross tons) that are more vulnerable to sudden capsizing or sinking, leaving very little time to activate the VHF (DSC) and if no EPIRB is carried, the crew is put at greater risk. Even though it could be 90 minutes before an accurate fix is available, the initial EPIRB signal is sufficient to alert SAR resources. The response also indicates that the voluntary carriage of EPIRBs is encouraged and that the Standing Committee on Fishing Vessel Safety will further evaluate the situation at the November, 2001 CMAC meeting. Cost of such equipment for small fishing vessels has already been made an issue.

Since there is no other indication of specific action to require the fitting of appropriate, float-free emergency position indicating equipment, other than to further evaluate and discuss the options available, the staff considers the response **Satisfactory in Part**.

### **TSB reassessment of the response to Recommendation M00-09 (September 2004)**

A risk assessment study to evaluate the need for more effective distress altering capabilities on small commercial vessels, including fishing vessels that are not yet required to carry either an EPIRB or a VHF radio with DSC is on-going and is expected to be completed before the end of 2004.

The response is considered **Satisfactory in Part**.

### **TSB reassessment of the response to Recommendation M00-09 (December 2005)**

A Distress Alerting Risk Assessment study to evaluate the need for more effective distress altering capabilities on small commercial vessels, including fishing vessels that are not yet required to carry either an EPRIB or a VHF radio with DSC was initiated and an analysis was done to estimate the impact distress alerting equipment might have had on past fatalities. The preliminary findings of the risk assessment were presented during the November 2004 CMAC meeting. It is anticipated the project will be completed and a decision on distress alerting capabilities will be made by the end of 2005. Given that a decision has yet to be made in addressing the deficiency identified by the recommendation, TSB will need to follow-up on the results of the study and decisions by Transport Canada (TC).

No substantial change to address the safety deficiency since the last reassessment.

### **Transport Canada's response to Recommendation M00-09 (November 2006)**

TC's update, dated November 2006, indicated that it has finalized its report on the Marine Distress Alerting Risk Assessment and it will be presented to the Marine Safety Executive Committee of Marine Safety. Based on the report and the consideration by MSE, TSB will be informed of Marine Safety's action.

### **TSB reassessment of the response to Recommendation M00-09 (November 2006)**

TC's update indicated that its Distress Alerting Risk Assessment study to evaluate the need for more effective distress altering capabilities on small commercial vessels has been completed, and that the study will be considered by senior management.

Therefore, the assessment remains **Satisfactory in Part**.

### **Transport Canada's response to Recommendation M00-09 (June 2008)**

TC's update, dated June 2008, indicated that a review of the distress alerting capabilities of small commercial vessels identified certain scenarios where the level of risk was deemed unacceptable. The review recognizes the numerous training and awareness initiatives underway, which could mitigate existing risk levels.

TC will pursue a precautionary approach to address the level of risk and has recommended additional EPRIB carriage requirements in consultations to amend the *Navigation Safety Regulations*. Pre-publication in Part I of the *Canada Gazette* is anticipated in spring 2010.

### **TSB reassessment of the response to Recommendation M00-09 (September 2008)**

If fully implemented, the adoption of a precautionary approach and consideration of additional carriage requirements for distress alerting capabilities based on a level of risk will substantially reduce the deficiency identified by the recommendation.

The assessment of the response is considered **Satisfactory Intent**.

### **Transport Canada's response to Recommendation M00-09 (March 2010)**

TC's update, dated March 2010, indicated that it has reviewed distress alerting capabilities of small commercial vessels and acknowledges numerous training and awareness initiatives are underway, which would mitigate existing risk levels. TC has also recommended additional EPIRB carriage requirements in consultations to amend the *Navigation Safety Regulations*.

### **TSB reassessment of the response to Recommendation M00-09 (March 2010)**

Consideration of additional carriage requirements for distress alerting capabilities based on a level of risk continues and, if fully implemented, will substantially reduce the deficiency identified by the recommendation.

Therefore, the assessment of the response remains **Satisfactory Intent**.

### **Transport Canada's response to Recommendation M00-09 (December 2010)**

TC's update of December 2010 indicated that they have reviewed distress alerting capabilities of small commercial vessels and numerous training and awareness initiatives are underway, which would mitigate existing risk levels. TC has also recommended additional Emergency Position Indicating Radio Beacon carriage requirements in consultations to amend the *Navigation Safety Regulations*. The amendments of the *Navigation Safety Regulations* are being held in abeyance pending regulatory priorities.

### **TSB reassessment of the response to Recommendation M00-09 (March 2011)**

Consideration of additional carriage requirements for distress alerting capabilities based on a level of risk continues and, if fully implemented, will substantially reduce the deficiency identified by the recommendation. However, the protracted delay in implementing these requirements continues to place lives at risk.

Therefore, the assessment of the response remains **Satisfactory Intent**.

### **Transport Canada's response to Recommendation M00-09 (December 2011)**

By 2002, the phase-in of additional EPIRB requirements was completed according to the *Ship Station (Radio) Regulations*. These regulations extended the EPIRB carriage requirement to all vessels of 8 m or more in length operating beyond the limits of home-trade voyage, Class III.

In 2007, TC provided a preliminary proposal for additional EPIRB carriage requirements. The proposal would further extend the requirement for a float-free EPIRB, but would also allow consideration to exempt certain classes of vessels based on risk factors (i.e., voyage, size) and alternative arrangements (i.e., VHF DSC radio).

The proposed *Fishing Vessel Safety Regulations*, expected to be published in the 2<sup>nd</sup> quarter of 2013 will include EPIRB carriage requirements for all classes of voyages by referencing the *Navigation Safety Regulations*. TC did not provide an anticipated completion date for the amendments to the *Navigation Safety Regulations*.

### **TSB reassessment of the response to Recommendation M00-09 (March 2012)**

If fully implemented, the regulatory requirement for all fishing vessels to carry float free, automatically activating equipment that alerts search and rescue and provides position updates and homing in capabilities, will reduce the risk for small fishing vessels on coastal voyages. The protracted delay in implementing these regulations, however, continues to place fishermen, their vessels and the environment at risk.

Therefore, the assessment of the response remains **Satisfactory Intent**.

### **Transport Canada's response to Recommendation M00-09 (November 2012)**

The *Ship Station (Radio) Regulations (1999)* that came into force in 2000 began, among other things, the regulatory phase-in of 2 significant requirements related to improving distress-alerting capabilities of many smaller vessels at sea. In 2002, the phase-in of additional EPIRB requirements was completed, extending the EPIRB carriage requirement to all vessels of 8 m or more in length operating beyond the limits of home-trade voyage, Class III.

Since 2003, all vessels of more than 8 m in length on the east and west coasts must be equipped with a VHF DSC radio that provides for automated distress alerting at the push of a button. These requirements were based on extensive consultations with marine stakeholders.

In 2006, TC concluded a distress alerting risk assessment that further evaluated the need for more effective distress alerting capabilities on small commercial vessels, including fishing vessels that are not yet required to carry either an EPIRB or a VHF DSC radio. The study recognized that Transport Canada safety training and awareness efforts underway could help lower the level of risk to acceptable levels, but could also consider, if necessary, additional measures such as requiring certain vessels to be equipped with a rapid alert system – either an EPIRB (proven effective) or a VHF radio with DSC (vessel operator preference).

In May 2007, TC provided a preliminary proposal for additional EPIRB carriage requirements during consultation with the marine industry at CMAC. The proposal would further extend the requirement for a float-free EPIRB, but would also allow consideration to exempt certain classes of vessels based on risk factors (i.e., voyage, size) and alternative arrangements (i.e., VHF DSC radio).

Work on this project has been incorporated in the regulatory reform of the *Navigation Safety Regulations*. The anticipated date of completion of the amendments to these regulations cannot be determined at this time as a result of numerous regulatory priorities in Marine Safety.

### **TSB reassessment of the response to Recommendation M00-09 (March 2013)**

If fully implemented, the proposed Fishing Vessel Safety Regulations will require that fishing vessels comply with the *Ship Station (Radio) Regulations*. That is, all fishing vessels greater than 8 m and those vessels on voyages outside 20 nautical miles will be required to carry an EPIRB. The protracted delay in implementing the proposed Fishing Vessel Safety Regulations continues to place fishermen, their vessels and the environment at risk.

Therefore, the assessment of the response remains **Satisfactory Intent**.

**Transport Canada’s response to Recommendation M00-09 (November 2013)**

The *Ship Station (Radio) Regulations (1999)* that came into force in 2000 began, among other things, the regulatory phase-in of two significant requirements related to improving distress-alerting capabilities of many smaller vessels at sea. In 2002, the phase-in of additional EPIRB requirements was completed extending the EPIRB carriage requirement to all vessels of 8 m or more in length operating beyond the limits of home-trade voyage, Class III.

Since 2003, all vessels of more than 8 m in length on the east and west coasts must be equipped with a VHF DSC radio that provides for automated distress alerting at the push of a button. These requirements were based on extensive consultations with marine stakeholders.

In 2006, TC concluded a Distress Alerting Risk Assessment that further evaluated the need for more effective distress alerting capabilities on small commercial vessels, including fishing vessels that are not yet required to carry either an EPIRB or a VHF DSC radio. The study recognized that Transport Canada safety training and awareness efforts underway could help lower the level of risk to acceptable levels, but could also consider, if necessary, additional measures such as requiring certain vessels to be equipped with a rapid alert system - either an EPIRB (proven effective) or a VHF radio with DSC (vessel operator preference).

In May 2007, TC provided a preliminary proposal for additional EPIRB carriage requirements during consultation with the marine industry at CMAC. The proposal would further extend the requirement for a float-free EPIRB, but would also allow consideration to exempt certain classes of vessels based on risk factors (i.e., voyage, size) and alternative arrangements (i.e., VHF DSC radio). Proposed requirements in Phase 1 of the *Fishing Vessel Safety Regulations* for carriage of EPIRBs follow:

45. (1) A fishing vessel that is engaged on a voyage set out in column 1 of the table to this subsection, of a length set out in column 2, must carry on board the safety equipment set out in column 3.

Item	Column 1 Voyage	Column 2 Length	Column 3 Other Safety Equipment
1.	Unlimited	Any length	a) two or more SOLAS life rafts or reduced capacity life rafts of sufficient total capacity to carry on each side of the vessel the total number of persons on board; b) one recovery boat; and c) an immersion suit of an appropriate size for each person on board.
2.	Near coastal voyage, class 1	Any length	a) one or more SOLAS life rafts or reduced capacity life rafts of sufficient total capacity to carry the total number of persons on board; and b) an immersion suit of an appropriate size for each person on board.
3.	Near coastal voyage, class 2	12 m or more	a) one or more life rafts or a combination of life rafts and recovery boats of sufficient total capacity to carry the total number of persons on board; b) a 406 MHz EPIRB, unless the vessel is already carrying an EPIRB required by the <i>Ship Station (Radio) Regulations, 1999</i> ; and

			c) if the water temperature is less than 15°C, an immersion suit or an anti-exposure work suit of an appropriate size for each person on board.
4.	Near coastal voyage, class 2	Less than 12 m	one or more life rafts or a combination of life rafts and recovery boats of sufficient total capacity to carry the total number of persons on board; or b) both of the following: i) a 406 MHz EPIRB, unless the vessel is already carrying an EPIRB required by the Ship Station (Radio) Regulations, 1999; and ii) if the water temperature is less than 15°C, an immersion suit or an anti-exposure work suit of an appropriate size for each person on board.
5.	Sheltered waters or near coastal voyage, class 2, limited [5][2] miles	Any length	a) one or more life rafts or recovery boats of sufficient total capacity to carry the total number of the persons on board, or b) both of the following: (i) a 406 MHz EPIRB or an effective means of two-way communications, unless the vessel is already carrying an EPIRB required by the Ship Station (Radio) Regulations, 1999; and (ii) if the water temperature is less than 15°C, an immersion suit or an anti-exposure work suit of an appropriate size for each person on board.

(2) Instead of the equipment referred to in paragraph b)ii) of item 5 of the table, a fishing vessel [engaged on a Sheltered Waters voyage] may carry equipment on board or establish written procedures, or a combination of both, to protect all persons on board from the effects of hypothermia or cold shock resulting from immersion in cold water.

The 2013 Spring Report of the Auditor General of Canada contained a performance audit of federal Search and Rescue Activities and included a recommendation that Transport Canada should consider whether requirements for the use of digital emergency beacons should be applied to additional classes of boats and airplanes. In response, TC has circulated a consultation document that seeks input from marine stakeholders on EPIRB carriage and other distress equipment by the end of 2013. Work on this project has been incorporated in the regulatory reform of the *Navigation Safety Regulations*. The anticipated date of completion of the amendments to these Regulations cannot be determined at this time as a result of numerous regulatory priorities in Marine Safety.

**TSB reassessment of the response to Recommendation M00-09 (March 2014)**

Pursuant to the *Ship Station (Radio) Regulations (1999)* a fishing vessel with a length of 20 m or more and operating beyond sheltered waters is required to carry an EPIRB. However, smaller fishing vessels (i.e. with a length of 8 m or more and a gross tonnage of less than 15, or less than 20 m in length and a gross tonnage 15 or more) only require an EPIRB when operating in waters beyond 20 nm.

The proposed Fishing Vessel Safety Regulations would extend the requirement to carry an EPIRB on fishing vessels 12 m or more in length and operating less than 25 nm from shore.

Fishing vessels less than 12 m would have the option to carry a 406 MHz EPIRB in lieu of carrying a life raft or other survival craft. However, in opting to carry the EPIRB, the vessel would have to carry immersion or anti-exposure work suits if the water temperature is less than 15° C. Fishing vessels of any length, but operating on sheltered waters or in waters within 2 or 5 nm (yet to be determined) from shore, would have the similar option afforded to vessels less than 12 m to carry an EPIRB or an effective means of two-way communications. Given the lower costs of purchasing, maintaining and fitting an EPIRB and having an anti-exposure work suits instead of a life raft, operators may opt for the least expensive option and forego carrying a life raft or other survival craft.

The TSB issued this recommendation more than 13 years ago. Once the proposed regulations are in force, they will extend the requirements to carry EPIRB to more smaller fishing vessels in a much larger geographic area and the risks associated with not carrying an EPIRB will be substantially reduced.

Therefore, the assessment of the response remains **Satisfactory Intent**.

**Transport Canada’s response to Recommendation M00-09 (December 2014)**

Transport Canada’s response reiterated the previous regulatory amendments of the *Ship Station (Radio) Regulations (1999)* to improve the distress-alerting capabilities of smaller vessels at sea, the requirements for certain vessels to be equipped with VHF DSC radio, and the completion of its Distress Alerting Risk Assessment. The response also indicated the following information:

8 metres has been used as a cut-off in the *Ship Station (Radio) Regulations* for several decades. Vessels smaller than 8 metres may not have sufficient space/capacity to fit radio equipment.

Phase 1 of the proposed Fishing Vessel Safety Regulations, which are expected to be published in the *Canada Gazette, Part I*, in the 1st quarter of 2015, would include additional EPIRB carriage requirements for small fishing vessels. More specifically, they would further extend the requirement for a float-free EPIRB for certain classes of vessels based on risk factors (i.e., voyage, size), but would also allow consideration of alternative arrangements (i.e., VHF DSC radio). The requirements are explained in more details below:

**Life rafts/boats and Alternatives**

A fishing vessel on a voyage set out in column 1 of the table to this subsection, shall carry on board the life raft or survival craft set out in column 2 [3].

Item	Column 1 Voyage	Column 2 Hull Length	Column 3 Other Safety Equipment
1.	Unlimited	Any length	(a) two or more SOLAS life rafts or reduced capacity life rafts of sufficient total capacity to carry, on each side of the vessel, the number of persons on board; (b) one recovery boat; and (c) an immersion suit of an appropriate size for each person on board.



2.	Near Coastal Class 1	Any length	(a) one or more SOLAS-type life rafts of sufficient aggregate capacity to accommodate the total number of persons on board; (b) an immersion suit of an appropriate size for each person on board.
3.	Near Coastal Class 2	More than 12m	(a) one or more life rafts or a combination of life rafts and recovery boats with a total capacity that is sufficient to carry the number of the persons on board; (b) an EPIRB, unless the vessel is already carrying an EPIRB required by the <i>Ship Station (Radio) Regulations, 1999</i> ; and (c) if the water temperature is less than 15° C, an immersion suit or an anti-exposure work suit of appropriate size for each person on board.
4.	Near Coastal Class 2 limited 5 miles	Not more than 12m	(a) one or more life rafts or a combination of life rafts and recovery boats with a total capacity that is sufficient to carry the number of the persons on board; or (b) both of the following: (i) an EPIRB or a means of two-way communications, unless the vessel is already carrying an EPIRB required by the <i>Ship Station (Radio) Regulations, 1999</i> ; and (ii) if the water temperature is less than 15° C, an immersion suit or an anti-exposure work suit of appropriate size for each person on board.
5.	Sheltered waters or Near Coastal Class 2 limited 2 miles	Any length	(a) one or more life rafts or recovery boats with a total capacity that is sufficient to carry the number of the persons on board; or (b) both of the following: (i) an EPIRB or a means of two-way communications, unless the vessel is already carrying an EPIRB required by the <i>Ship Station (Radio) Regulations, 1999</i> ; and (ii) if the water temperature is less than 15° C, an immersion suit or an anti-exposure work suit of an appropriate size for each person on board.

Drafting of Phase 1 of the proposed regulations is close to completion. The date of pre-publication in *Canada Gazette, Part I*, is targeted for the 1st quarter of 2015, however that date is dependent upon factors beyond Transport Canada’s control.

**TSB reassessment of the response to Recommendation M00-09 (March 2015)**

TC’s 2014 response indicated little new substantive information. The proposed new Fishing Vessel Safety Regulations would extend the requirement to carry an EPIRB on fishing vessels more than 12 metres in length and operating less than 25 nm from shore. Fishing vessels not more than 12 metres would have the option to carry a 406 MHz EPIRB in lieu of carrying a life raft or other survival craft. However, in opting to carry the EPIRB, the vessel would have to carry immersion or anti-exposure worksuits if the water temperature is less than 15° C. Fishing vessels of any length, but operating in sheltered waters or in waters within 2 miles from shore,

would have the similar option afforded to vessels not more than 12 metres to carry an EPIRB or an effective means of two-way communications.

The TSB made this recommendation over 10 years ago. Originally, TC had indicated these carriage requirements would be included in the revised Navigation Safety Regulations to be pre-published in the spring of 2010. Subsequently, in 2011, TC indicated that these requirements would be included in the proposed Fishing Vessel Safety Regulations expected to be pre-published in the second quarter of 2013. This date has been continually postponed since then and was planned for the first quarter of 2015. Once the proposed regulations are in force, it will extend the requirements to carry an EPIRB to more smaller fishing vessels in a much larger geographic area and the risks associated with not carrying an EPIRB will be substantially reduced. While the proposed measures are reasonable, the protracted delay is not reasonable.

Therefore, the assessment rating has been changed to **Unsatisfactory**.

### **Transport Canada's response to Recommendation M00-09 (February 2016)**

Transport Canada's response indicated the following:

Phase 1 will be published in the *Canada Gazette*, Part 1 as soon as possible. As soon as a definitive date of publication is confirmed, TC will advise TSB. The options are expected to result in increased carriage of EPIRBs on vessels where they not currently required by other Regulations. The *Navigation Safety Regulations* are currently undergoing a regulatory reform review with a target completion date in 2018.

Follow-up information indicated that the regulations amending the *Small Fishing Vessel Inspection Regulations* were published in the *Canada Gazette*, Part I on 06 February 2016. The public, stakeholders, and industry now have until 06 April 2016 to review and comment on the proposed regulations before they are enacted, and then published in the *Canada Gazette*, Part II.

### **TSB reassessment of the response to Recommendation M00-09 (March 2016)**

The proposed new *Fishing Vessel Safety Regulations* (FVSR) would extend the requirement to carry an EPIRB on fishing vessels, but not to the extent indicated in Recommendation M00-09.

The proposed increased carriage requirements for EPIRBs is encouraging; however, the proposed FVSR give small fishing vessels the option to choose one of the following types of lifesaving equipment as an alternative to carrying an EPIRB:

- 1 or more life rafts or a combination of life rafts and recovery boats of sufficient total capacity to carry everyone on board; or
- a means of 2-way radio communication and a sufficient number of immersion suits of the appropriate size for each person on board if the water temperature is less than 15°C.

The Board notes that there have been several occurrences on board vessels not equipped with an EPIRB, and that were either unable or did not use any other means of signaling distress (e.g. M10M0007, M10M0042, M11M0057, M12W0062, M12M0046, M14P0121, and M14A0289). The lifesaving equipment alternatives indicated above that are allowed by the new proposed Fishing Vessel Safety Regulations do not have a means to float free, for automatically alerting search and rescue authorities, and for homing-in capabilities as the recommendation requires.

The proposed measures in the new *Fishing Vessel Safety Regulations* do not mitigate the risk identified in Recommendation M00-09. Until such time as the regulations are published in the *Canada Gazette*, Part II, and they include the requirement for all fishing vessels to carry an emergency position indicating radio beacon or other appropriate equipment that floats free, automatically activates, alerts the search and rescue system and provides position updates and homing-in capabilities, the reassessment of this rating remains **Unsatisfactory**.

**Transport Canada’s response to Recommendation M00-09 (December 2016)**

The Recommendation is noted. The *Fishing Vessel Safety Regulations* were published in the *Canada Gazette*, Part II, and will come into force on July 13, 2017. Consultations with stakeholders on the Navigation Safety Regulations are ongoing with a target completion date in 2018.

**TSB reassessment of the response to Recommendation M00-09 (March 2017)**

TC’s response indicated that the *Fishing Vessel Safety Regulation* (FVSR) were now published and will come into force on 13 July 2017. Since 2008, TC has been recommending additional EPIRB carriage requirements in consultations to amend the *Navigation Safety Regulations* which would apply to fishing vessels. The *Navigation Safety Regulations* were originally scheduled to be completed prior to the publication of the FVSR. The target completion date continues to be delayed and is now 2018.

Currently, TC is proposing additional EPIRB carriage requirements in the new *Navigation Safety Regulations* as follows:

	< 8 metres	8 metres to 15 tons	>15 tons (12 metres)
Near Coastal, Class 1 and beyond	Float-Free EPIRB	Float-Free EPIRB (currently manual EPIRB is allowed)	Float-Free EPIRB (already required)
Near Coastal, Class 2	Float-Free EPIRB; or Manual EPIRB; or 406 MHz PLB; or Portable VHF-DSC/GPS	Float-Free EPIRB; or Manual EPIRB; or 406 MHz PLB	Float-Free EPIRB (already required if > 20 m)

The FVSR extend the requirement to carry an EPIRB on fishing vessels more than 12 m in length and operating less than 25 nm from shore. Fishing vessels not more than 12 m have alternative life saving equipment options in lieu of carrying an EPIRB. The TSB continues to record fatalities and occurrences on board fishing vessels less than 12 m and not equipped with an EPIRB, and that were either unable or did not use any other means of signaling distress. The measures in the FVSR do not mitigate the risk identified in Recommendation M00-09.

The reassessment of this recommendation remains **Unsatisfactory**.

**Transport Canada’s response to Recommendation M00-09 (December 2017)**

Transport Canada takes note of the recommendation. The *Fishing Vessel Safety Regulations* came into force on 13 July 2017. TC has held a number of consultation sessions on the new *Navigation Safety Regulations* over the last few years and based on stakeholders’ feedback we are proposing

a flexible carriage approach for vessels less than 12 m on Near Coastal, Class 2 voyages. Final public consultation was held at CMAC in December 2017.

TC is expecting to publish the new *Navigation Safety Regulations*, including the amendments mentioned above, in the *Canada Gazette*, Part I in 2018.

### **TSB reassessment of Transport Canada's response to Recommendation M00-09 (March 2018)**

The *Fishing Vessel Safety Regulations* are now in force and extend the carriage requirements for EPIRBs to fishing vessels more than 12 m operating less than 25 nm from shore. This requirement is estimated to extend the carriage requirements to an additional 20 percent of the small fishing fleet.

In the new *Navigation Safety Regulations*, which will also apply to fishing vessels, TC is proposing additional distress signalling device carriage requirements. Based on stakeholder feedback, TC has proposed a flexible approach that provides vessels less than 15 tons (less than 12 m) operating on Near Coastal, Class 2 voyages with an option to carry:

- a float-free EPIRB;
- a manually-activated EPIRB;
- a 406 MHz personal locator beacon (PLB); or
- a portable VHF-DSC/GPS radio.

While Recommendation M00-09 calls for all fishing vessels to carry a float-free automated distress signalling device, the TSB recognizes that industry and TC have concerns over float-free EPIRBs on smaller vessels, specifically, the likelihood of theft, challenges with activation, and situations where an EPIRB may not be as effective as a portable distress (e.g. person overboard).

The implementation of the proposed *Navigation Safety Regulations* could substantially reduce the safety deficiency identified in this recommendation. Over the past 11 years, there have been 7 fatalities as a result of occurrences involving small fishing vessels where no distress signal was received. Had the proposed regulations been in force at the time of these occurrences, all of the vessels involved would have been required to carry at least 1 of the distress alerting equipment options noted above.

The *Navigation Safety Regulations* are still in the stakeholder consultation process. Therefore, the Board considers the response to the recommendation to show **Satisfactory Intent**.

### **Transport Canada's response to Recommendation M00-09 (January 2019)**

Transport Canada (TC) agrees in principle with this recommendation. In 2018, the Department has focused on drafting the new *Navigation Safety Regulations*, which are expected to be published in the *Canada Gazette*, Part I, in spring 2019. These regulations provide vessels less than 12m on Near Coastal, Class 2 voyages the option to carry:

- a float-free EPIRB;
- a manually-activated EPIRB;
- a 406 MHz personal locator beacon (PLB); or
- a portable VHF-DSC/GPS radio.

As per the TSB's March 2018 reassessment, the publication of the amended new *Navigation Safety Regulations*, should address the remaining component of the recommendation.

### **TSB reassessment of Transport Canada's response to Recommendation M00-09 (February 2019)**

The Board notes that the new *Navigation Safety Regulations* are still at the draft stage and are expected to be published in the *Canada Gazette, Part I*, in spring 2019. Once the proposed *Navigation Safety Regulations* are published and in force, these regulations, in conjunction with the FVSR, will substantially reduce the safety deficiency identified in this recommendation.

The Board considers the response to the recommendation to be as **Satisfactory Intent**.

### **Transport Canada's response to Recommendation M00-09 (January 2020)**

Transport Canada agrees with this recommendation. In 2018/19, the Department focused on drafting the new *Navigation Safety Regulations*, which were published in the *Canada Gazette, Part I*, in June 2019, with a 90-day comment period. The proposed regulations are expected to be published in the *Canada Gazette, Part II*, in Spring 2020.

### **TSB reassessment of Transport Canada's response to Recommendation M00-09 (March 2020)**

The Board notes that the new *Navigation Safety Regulations* published in the *Canada Gazette, Part I*, in spring 2019 are expected to be published in the *Canada Gazette, Part II*, in spring 2020. Once the proposed *Navigation Safety Regulations* are published, they will substantially reduce the safety deficiency identified in this recommendation.

The Board considers the response to Recommendation M00-09 to show **Satisfactory Intent**.

### **Next TSB action**

The TSB will monitor the progress of the new *Navigation Safety Regulations* proposed by Transport Canada.

This deficiency file is **Active**.