Sjøfartsdirektoratet
Norwegian Maritime Authority

Circular - Series R

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Regulations on safety management for small cargo ships, passenger ships and fishing vessels, etc.

Introduction

The Norwegian Maritime Authority (NMA) has laid down new Regulations on safety management for small cargo ships, passenger ships and fishing vessels, etc. These Regulations enter into force on 1 January 2017.

Section 7 of the Ship Safety and Security Act on safety management systems applies, as a starting point, to all Norwegian and foreign ships that operate in Norwegian waters and to Norwegian ships abroad. For a long time, there has been a need for supplementary rules on safety management systems, as the Accident Investigation Board Norway has pointed to in their reports and recommendations.

These Regulations apply to all commercial vessels, including passenger ships, cargo ships and fishing vessels, where a safety management system is currently not required by the ISM Code, as well as recreational craft of more than 24 meters in length. The Regulations arrange for a simplified safety management system compared to the requirements pursuant to the ISM Code. The Regulations do not involve any requirements for external audit or certification.

The content of the Regulations does not affect vessels that are already required to have an ISM safety management system pursuant to the applicable ISM regulations.

Consultation

The proposed Regulations on safety management for smaller cargo ships, passenger ships and fishing vessels, etc. were circulated for review from 21 September to 1 December this year, and we received comments from authorities concerned, shipowner organisations and the Norwegian Bar Association. A total of 17 consultative statements was received.

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Details about safety management systems – the background for these Regulations

Recommendations from the AIBN

In several of their reports, the Accident Investigation Board Norway (AIBN) has pointed to the need for supplementary rules on safety management systems on vessels. This is, inter alia, clearly expressed in safety recommendation MARINE No. 2009/13T, where the Accident Investigation Board Norway recommends the NMA to consider reviewing the Regulations on safety on board fishing vessels and the HSE Regulations in order to harmonize them with each other; in safety recommendation MARINE No. 2010/24T, where the AIBN recommends the NMA to prepare specifications on the scope of a safety management system for cargo ships of less than 500 gross tonnage; and in safety recommendation MARINE No. 2010/25T, where the AIBN recommends the NMA to introduce systematic supervision in order to control the compliance with the safety management system and the HSE Regulations for cargo ships of less than 500 gross tonnage. The new Regulations largely cover the safety recommendations.

Other safety recommendations that address the question on safety management and risk assessments in the fleet are MARINE No. 2009/19T, MARINE No. 2010/09T, MARINE No. 2010/22T, MARINE No. 2011/07T, MARINE No. 2011/06T, MARINE No. 2011/05T. The full reports can be downloaded from the AIBN website.

About the process prior to consultation

In connection with drawing up the proposal prior to the consultation, the NMA has been in dialogue with the industry, including an open dialogue meeting in Haugesund on 12 October 2015, where different views were presented. Moreover, the NMA participated in the Norwegian Cargo Transfer Conference (Fraktefartkonferansen) in 2016 and had a meeting with the Norwegian Fishermen's Association and the Norwegian Coastal Fishermen's Union in Trondheim on 27 April 2016 as well as a meeting with the Norwegian Association of Cargo Freighters (Fraktefartøyenes Rederiforening; now: Kystrederiene) in Bergen on 2 June 2016 to exchange views and receive comments on the content of the safety management system in order to have the best possible basis for consultation.

Assessments in connection with the need for an audit scheme or a certification

These Regulations do not imply the introduction of any standard procedure audit of the safety management system, but risk-based unscheduled supervision with system audit using random sampling may be conducted. Therefore, it is assumed that elaborating the requirements for the safety management system by regulations will not involve any significant expenses for the company.

Details on the duties of the safety management system

The duties of the safety management system are based on the duties of the Ship Safety and Security Act, where the company, in accordance with sections 6 and 7, has an overall duty to ensure that the safety system is established, implemented and further developed, while the master and other persons working on board are obliged to participate in ensuring that the safety system is complied with on board. Some might be unfamiliar with being called a company. "Company" is, however, a term defined in section 4 of the Ship Safety and Security Act, and in that sense, one-person businesses are also a company within the meaning of the Act.

The scope of application – ships that operate primarily in Norwegian territorial waters

It is desirable that ships that operate primarily in Norwegian waters have the same safety standard as Norwegian-registered vessels. The requirements for the safety management system thus apply to all vessels that operate in Norwegian territorial waters, within the scope of the United Nations Convention on the Law of the Sea.

Possible supervision of the scheme

There is no mandatory external audit or certification scheme. This, however, does not mean that it is up to each individual company to decide whether to comply with the requirements of the safety management system.

The Norwegian Maritime Authority has the opportunity to supervise the company's safety management system through unscheduled supervision and random sampling, and companies that do not conform to the requirements will risk being issued orders to rectify or coercive fines as appropriate, and may risk detention. It is also conceivable that unsatisfactory implementation of the safety management system will have consequences in relation to civil law cases, for example insurance settlements.

Section 58 of the Ship Safety and Security Act also provides the legal basis for prosecuting companies or individuals for breach of the company's duties in respect of a safety management system. The sentencing framework is fines or imprisonment for a term not exceeding 2 years.

The need for guidance / further information

Several consultative statements mentioned that there is a need for further guidance in addition to the regulations, while others expressed a concern that pointing to specific templates or examples could cause the companies to not develop their own vessel-customized safety management systems to a sufficient degree. The NMA is working on a guide for the different vessel categories, which will include a general part on safety management and a specific part which will provide concrete examples and clarifications of each provision in certain areas.
The guidance will not cover everything, and it must be assumed that the guidance will be adapted in line with the development of more specific standards in the industry. Regardless of the detail level selected for the guidance, it is essential that the companies get started with their safety management systems and get the most important elements in place first.

It is worth stressing that it is largely up to each individual company to determine the comprehensiveness of the safety management system. The scope will of course vary both based on the size and design of the vessel and the complexity of the operations being performed on board. It can be challenging to establish a simple and applicable safety management system, but there are several organisations and private companies that have developed excellent tools to serve as a good starting point for this work.
As for vessels that are required to have ISM, we have seen a shift from complex and cumbersome systems to simplification, where the operational applicability in day-to-day operations is top priority. On vessels manned with only one person, it will be possible to quickly establish many of the matters dealt with in the safety management system, such as the description of responsibilities and authority. Some people might be unaccustomed to doing this in writing. The NMA, however, is convinced that it might be helpful, also on board smaller vessels manned by only one or a few persons, to make use of the methodology behind the safety management system to obtain a better overview of day-to-day operations. This particularly applies to the exercise in carrying out risk assessments, identifying hazards and appropriate measures and evaluating and systematically developing the safety management system. It can be difficult to get the necessary information and achieve good safety management through a more casual approach, which seems to be prevalent in the industry today.

The specific content of each safety management system must be prepared by the companies and adapted to the needs of the company based on the operation on board each vessel. The NMA or others cannot possibly undertake this task on behalf of the company. However, we expect the standard for safety systems to develop over time. The NMA will thus contribute to necessary clarifications and provide information about good solutions in a partnership, through dialogue with the industry and organisations, as the safety standard is developing. Particularly in the beginning, there will be a need for some guidance and information for the industry.
The NMA is aware, however, that several organisations and commercial actors want to take part in this development, and some of these are already well underway to developing their own standards and

platforms in order to make it easier for companies to establish a safety management system on board their own vessels.

The NMA presupposes that it is possible for the companies to establish their own safety system without needing to ask for external help, but assumes that the interest for and thus the amount of external tools and instructions related to safety management systems will increase when the Regulations are laid down. Again, the NMA wishes to reiterate that the focus should be on functionality and user-friendliness rather than on complexity.

Some consultative statements were especially concerned with the date for phasing in the requirements of the new Regulations, and some of these statements mentioned that the date when the safety management system is required to be established and implemented should be postponed to 2018. The NMA finds it important that the companies get started with establishing a safety management system, and that six months should be sufficient to get a simple system in place. Therefore, we do not find a further postponement of the new regulations appropriate.

Economic and administrative consequences

The company's duty to establish, implement and further develop a safety management system is already laid down in section 7 of the Ship Safety and Security Act, and these Regulations are intended to clarify and concretise the content of this provision. This is for the benefit of both the industry and the Norwegian Maritime Authority, as it makes it easier to establish, implement, further develop and supervise safety management systems.

For the industry

According to the supervisory system of the NMA, there are currently 176 registered active fishing vessels with a gross tonnage of 500 and upwards and 734 active fishing vessels of more than 15 meters in overall length with a gross tonnage of less than 500. According to the records of the Norwegian Directorate of Fisheries, there were 4,608 active fishing vessels of less than 15 meters in overall length registered in 2015. According to the supervisory system of the NMA, there are currently approx. 1,063 registered cargo ships with a gross tonnage of 500 and upwards and approx. 900 active cargo ships of more than 15 meters in overall length with a gross tonnage of less than 500. In connection with the review of the proposed new Regulations on construction and supervision of smaller cargo ships in 2013, the number of cargo ships of between 8 and 15 meters in overall length was estimated to be more than 800-1000 vessels. The Regulations will according to NMA's supervisory system also be applicable to 264 passenger vessels and 29 recreational craft of 24 meters in length and upwards.

At present, the NMA has no figures on how many foreign-registered ships operating in Norwegian territorial waters that will be subject to the Regulations.

Establishing and operating an efficient safety management system may require a great deal of resources. An efficient safety management system, however, may also pay off in a number of areas in terms of safety, operational stability and general supervision. There is, nonetheless, already a requirement for a safety management system in section 7 of the Ship Safety and Security Act, and a specification of the requirements may make it easier for companies to develop their own safety management systems.
The costs associated with the development of a safety management system for vessels will depend on whether the company establishes the system itself or makes use of external consultants. The NMA presupposes that many companies will chose to establish and operate the safety management system on their own. There are already several examples of templates for safety management systems that can serve as a good starting point for creating a vessel-adapted safety management system. Some systems are computer-based, whereas others are paper-based. The NMA has, inter alia, assessed the safety management system that the Norwegian Fishermen's Association has created for its members, and found it to serve as a good basis for meeting future requirements. This system is designed primarily to address

fishing vessels of less than 15 meters in length, but vessel-specific adjustments can make it a good starting point for the establishment of a safety management system for larger vessels as well. The price is NOK 500 plus VAT and postage/service charge for members and NOK 3500 plus VAT and postage/service charge for non-members. The NMA assumes that the selection of tools for safety management will increase, but expects that both the organisations and the NMA will have to contribute to necessary clarifications, as well as provide information and statements during the process of developing a new and improved safety standard for the fleet. This can for example be done in the form of circulars or specific topics on the internet and in paper format, that focus on selected vessel-specific areas of safety management.

The requirement for vessels to have a safety management system will result in the ships being able to better control the risks associated with operations. This could in turn help reduce the number of accidents by making risk assessments and, in particular, ensuring ongoing maintenance. A better overview of the maintenance of ships and equipment will reduce the risk of operational disruption. The NMA has also experienced that unscheduled inspections generally reveal fewer deficiencies on vessels which have already implemented a safety management system. The safety management system can thus contribute to fewer ship detentions. Better risk control may contribute to improved maritime safety and consequently fewer insurance claims. In the terms of agreement, several insurance companies already require that policyholders have a functioning safety management system in place, and to some extent, they point to specific areas that must be covered by the safety management system. If the policyholder has not established a safety management system, the policyholder risks that the insurance company either refuses to insure the vessel, or that a possible future insurance settlement will be reduced.[1]

Since the control of the safety management system is not subject to a certification scheme or external audits, the companies will not have any direct costs associated with supervision and guidance by the public sector. The total costs and savings connected with establishing a safety management system will vary according to the type of vessel, operation and ambitions of the company. It is therefore difficult to make a general estimate.

For the authorities

The introduction of detailed requirements for a safety management system will also involve economic and administrative consequences for the Norwegian Maritime Authority.

The costs will largely relate to unscheduled inspection and supervision, which is resource-demanding in the implementation phase. Later, the workload will be lower.

If the content of the requirements laid down in the Ship Safety and Security Act concerning a safety management system for smaller vessels is not elaborated by regulation, it will imply particular challenges for the supervision of legal requirements, as well as a great deal of uncertainty for the industry as to how comprehensive the safety management system should be.

These Regulations enter into force on 1 January 2017, and it is expected that the companies have established and started to use the safety management system within 1 July 2017.

Yours faithfully,

Olav Akselsen
Director General of Navigation and Shipping

Bjørn E. Pedersen
Head of Department

[1] The Nordic Marine Insurance Plan 2013 Version 2016, Chapter 3, Section 3 and The Nordic Association of Marine Insurers (Cefor): Marine Insurance Conditions relating to Commercial Vessels less than 15 meters long, Cefor Form No. 275, section 4-8

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Attachment:

1) Regulations on safety management for small cargo ships, passenger ships and fishing vessels, etc.

This document has been electronically approved, and therefore does not contain handwritten signatures.