Sjøfartsdirektoratet
Norwegian Maritime Authority

Appendix 3

(Our reference 2022/12322-8)

English translation of the consultation letter and proposed amendments to the regulations

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Consultation:
Proposed new safety rules for tender vessels

1. The proposal in brief – deadline for comments 24 December 2022

The Norwegian Maritime Authority (NMA) hereby presents a proposal for new safety rules for vessels that form part of the equipment of a certified ship, and that are used to carry passengers from and to the ship.

This proposal applies to:

1. vessels used to carry more than 12 passengers the shortest route between a stationary passenger ship and shore in the territorial waters surrounding Svalbard; and

2. vessels carrying 12 passengers or less that are used for round trips from and to a certified ship – with or without disembarkation.

For vessels mentioned in (1), we propose to include the amendments in the Regulations of 7 June 2019 No. 710 on the construction, equipment and operation of passenger ships in the Norwegian territorial waters surrounding Svalbard (Svalbard regulations), and for vessels mentioned in (2), we propose to include the amendments in the Regulations of 14 January 2020 No. 63 on vessels of less than 24 metres carrying 12 passengers or less (12 Pax Regulations).

Item 1 is a codification of current practice and also makes it clear that all vessels used for tendering in the territorial waters surrounding Svalbard with more than 12 passengers shall comply with MSC.1/Circ.1417 Guidelines for Passenger Ship Tenders, cf. paragraph 5.1.

Item 2 proposes safety rules adapted to vessels used for round trips from certified ships, cf. paragraph 5.2. The 12 Pax Regulations were originally made with regard to voyages starting and ending at a port and do not take into account that round trips take place at a limited distance from ships having their own emergency plan on board in order to cope with unforeseen incidents involving such vessels.

Vessels used to carry 12 passengers or less the shortest route from a stationary ship to the shore and back are not affected by the proposal. The current legislation is continued for these vessels.

The legal basis for the proposal is the Ship Safety and Security Act and the aim of the proposal is to ensure safety and security at sea, cf. paragraph 4. The NMA notes that there are other provisions regulating the right

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to carry out certain activities in a specified area. For companies operating in Svalbard, for instance, information about relevant provisions is available on the website of the Governor of Svalbard: www.sysselmesteren.no.

Comments should be submitted to post@sdir.no by 24 December 2022.

2. The background for the proposal

On 24 February 2020[1], the Norwegian Maritime Authority was assigned by the Ministry of Trade, Industry and Fisheries the task of resuming the work of laying down special provisions for the use of tender vessels from and to a mother ship in Svalbard. The work was started in connection with the process of developing the Svalbard Regulations but was not completed at that time[2].

The reason for this assignment is that for years, some companies have been carrying and using small craft for various round trips from the mother ship in the territorial waters surrounding Svalbard, believing that this use has been covered by the exemption for the activity "tendering".

Between May and August 2020, the Governor of Svalbard, the Norwegian Environment Agency and the Norwegian Maritime Authority took part in three virtual meetings discussing this matter[3]. The Norwegian directorates cover various areas of responsibility, and the Norwegian Maritime Authority is regulating matters concerning ship safety and security, cf. section 1 of the Ship Safety and Security Act ("Purpose of the Act").

From 2020, the use of small craft operating at a limited distance from the mother ship in the territorial waters surrounding Svalbard has been regulated by guidelines informing the industry of the terms on which the NMA may grant exemptions from the applicable rules. Based on the experience with these guidelines, the NMA now proposes to establish requirements by regulation for such operation.

Small craft used for round trips with 12 passengers or less from a mother ship also operate along the coast of mainland Norway. Therefore, this proposal includes all vessels that are used for this purpose in Norwegian territorial waters and on rivers and lakes. The proposal aims to simplify the difference in the rules for tendering and other forms of passenger transport by aligning the safety requirements for voyages starting and ending at a mother ship with those applied by the industry today for tendering between a ship and shore.

At the same time, the NMA proposes to establish by regulation the current practice that vessels used for tendering in the territorial waters surrounding Svalbard carrying more than 12 passengers must comply with MSC.1/Circ.1417 Guidelines for Passenger Ship Tenders.

3. Current legislation

3.1 The difference between tendering and other forms of passenger transport

Vessels that form part of a ship's equipment and that are used to bring passengers to the nearest safe disembarkation point and back when the ship is stationary ("tendering"), are generally exempt from the usual safety rules that apply to ships carrying passengers. The *actual use* of the vessel determines which rules that apply[4].

[1] Our ref. No. 2020/12996-3
[2] Refer to *Consultation of 3 December 2018 – Regulations on the construction, equipment and operation of passenger ships in the Norwegian territorial waters surrounding Svalbard* (our ref. No. 2018/99521-1) and *RSR 03-2018 New Regulations on the construction, equipment and operation of passenger ships in the territorial waters surrounding Svalbard* (our ref. No. 2018/99521-32).
[3] Teams meetings on 15 May, 12 June and 20 August 2020.
[4] Cf. NOU 14: 2005: På rett kjøl punkt 7.1.3.2.

For ships carrying more than 12 passengers, the exemption for tendering is based on practice, and for vessels carrying 12 passenger or less, it is based on the exemption of section 1 (2) b in the Regulations of 14 January 2020 No. 63 on vessels of less than 24 metres carrying 12 passengers or less (12 Pax Regulations). For tender vessels carrying 12 passengers or less, it is therefore the responsibility of the shipping company to make sure that the activity is carried out in a safe and proper manner within the framework of the Ship Safety and Security Act. For tender vessels carrying more than 12 passengers on board, the NMA recommends compliance with MSC.1/Circ.1417 Guidelines for Passenger Ship Tenders.

The fundamental difference between sightseeing, etc. and tendering is also found in international rules (we have underlined a few passages):

- *APPLICATION*
  These Guidelines are intended for ship-carried tenders used for transferring more than 12 passengers from a stationary passenger ship to shore and back. Other types of voyages, for example coastal sightseeing excursions, are not considered appropriate for such tenders and should be undertaken by ships that meet the requirements for passenger ships of the coastal State. (MSC.1/Circ.1417)

- *Ship-carried tenders are used to ferry passengers from passenger ships directly to shore and back, taking the shortest safe sea route. They are not appropriate, and should not be used, for other types of services such as coastal sightseeing excursions. (Directive 2017/2108/EC)*

Accordingly, different safety rules apply to the same vessel depending on whether it is used for tendering or for other passenger transport.

3.2 Vessels carrying more than 12 passengers

For vessels carrying more than 12 passengers, the NMA has not received any comments claiming that the current rules are unclear. If it is not certified as passenger ship, this type of vessel may not be used for other purposes than transporting the passengers from a stationary passenger ship to shore and back.

The Regulations of 7 June 2019 No. 710 on the construction, equipment and operation of passenger ships in the Norwegian territorial waters surrounding Svalbard apply to passenger ships carrying more than 12 passengers. Accordingly, section 6 applies to vessels used as tender vessels *carrying more than 12 passengers.* Today, section 6 has operational limitations for tender vessels. Beyond this, tender vessels that form part of the ship's equipment and that carry more than 12 or less passengers between the ship and land are not specifically regulated. However, the NMA recommends that companies that have these vessels comply with the IMO Guidelines for Passenger Ship Tenders (MSC.1/Circ.1417)[5].

The NMA now proposes a codification of this practice for passenger ships operating in Svalbard, see item 5.1 for more details.

3.3 Vessels with 12 passengers or less

As a main rule, the Regulations of 14 January 2020 No. 63 on vessels of less than 24 metres carrying 12 passengers or less apply to all transport of 12 passengers or less in Norwegian territorial waters and on rivers

[5] This recommendation also applies to tender vessels used in the same way outside of the geographical scope of application of the Regulations on the construction, equipment and operation of passenger ships in the Norwegian territorial waters surrounding Svalbard.

and lakes, and in the territorial waters surrounding Svalbard, see section 1. In principle, the Regulations shall apply regardless of the purpose of the passenger transport.

Vessels which form part of the ship's equipment and are used to carry passengers directly to shore and back, however, are exempt from the scope of application of the Regulations, see section 1 second paragraph subparagraph b. It is the responsibility of the company to ensure that tendering with 12 passengers or less is carried out in compliance with the general rules of the Sip Safety and Security Act, see for example sections 7, 9, 14 and 15. In practice, this means that the companies must decide how these operations can be carried out in a safe manner, the level of emergency preparedness required on board the mother ship, what the passengers should wear, which life-saving appliances that should be used, etc.

Some companies have been bringing and using small craft for years for round trips from the mother ship, believing that this operation was subject to the provisions applicable to tender vessels. Part of the reason for this is that there are companies which use the term "tender vessels" to describe a type of craft, but according to the Ship Safety and Security Act, it is *the actual use* that determines which set of rules a vessel should comply with. To be covered by the exemption of section 1 second paragraph subparagraph b of the 12 Pax Regulations, the vessel needs to be used to carry passengers between the ship and shore. If the vessel is used in other ways – for example for trips to discover the landscape or wildlife – the exemption will not apply, and the vessel needs to fully comply with the rules of the Regulations.

It can be difficult to distinguish between tendering operations and other forms of passenger transport. If the passengers enjoy the trip to shore, if there is a photo stop on the way, or if they choose not to disembark due to wildlife or the safety of the passengers, etc., this does not mean that the voyage is not "tendering". If the intention of the voyage, however, is to look at the wildlife or scenery without disembarking, the exemption for tendering will not be applicable. The blurry line between tendering and other passenger transport currently provides shipping companies with a certain freedom to plan various excursion. In many cases, however, this is not a good way to regulate these activities, since it creates uncertainty as to which activities are acceptable as "tendering" and which activities are subject to the Regulations.

The 12 Pax Regulations were originally made with regard to voyages starting and ending at a port and do not take into account that round trips take place at a limited distance from ships having their own emergency plan on board in order to cope with unforeseen incidents involving such vessels. This has become especially clear to operators in Svalbard, with regard to the sections 6, 8 and 16 of the Regulations, which contain rules on qualification requirements for masters, sailing seasons and geographical limitations, and life-saving appliances. Norwegian and international shipping companies offering expedition cruises often operate outside of the geographical areas mentioned in section 8 second paragraph, and the masters of small craft often have other formal qualifications than those required by section 6 first and second paragraphs, cf. section 67 of the Regulations on qualifications and certificates for seafarers. The NMA has spoken to several shipping companies who have brought up that the requirement of section 16 fifth paragraph that all persons on board must wear a one-piece flotation suit is not practical when sailing at a moderate speed and disembarking from time to time.

In March 2022, to ensure predictability and equal treatment while proposing new rules, the NMA published the guidance circular RSV 7-2020 *«How to apply for exemptions for vessels carrying 12 passengers or less operating from mother ships in the territorial waters surrounding Svalbard.»* This circular was renewed without changes to the content for the 2021 season (RSV 25-2020). In 2021, as a response to comments from the industry, the NMA also published the guidance circular RSV 8-2021 *«Alternative to one-piece flotation suits for vessels carrying 12 passengers or less from a mother ship.»*

For 2022, former circulars were merged and continued in RSV 13-2021 *«How to apply for exemptions for vessels carrying 12 passengers or less operating from mother ships in the territorial waters surrounding Svalbard (2022).»*

The transport of passengers between ships and shore ("tendering") is not regulated in the circular.

The guidelines address the above-mentioned challenges, and several shipping companies – most of them foreign – have applied for and been granted exemption pursuant to these guidance circulars.

Based on experiences with the circulars and feedback from the industry, the NMA now proposes to establish by regulation the rules for using a vessel with 12 passengers or less operating at a limited distance from a mother ship, see item 5.2 for more details.

4. Legal basis for the proposal

The legal basis for the proposal is the Ship Safety and Security Act, which – in order of priority – aims to safeguard life, health, property and the environment, see section 1 and NOU 2005: 14 På rett kjøl (only available in Norwegian) item 7.1.2.1.

"Environmental safety" indicates that the ship should not pose a threat to the external environment, see NOU 2005: 14 På rett kjøl (only available in Norwegian) item 7.5.1. This is specified in the main rule in chapter 5 of the Act. *Pollution of the external environment by the discharge or dumping from ships, or by the incineration of harmful substances, or pollution in any other way in connection with the operation of the ship is prohibited, unless otherwise decided by law or regulation laid down pursuant to law.*

The Ship Safety and Security Act does not provide the legal basis to issue regulations to protect fauna or wildlife from the presence of human beings. Any such regulations must be issued by other authorities.

The authority to lay down regulations pursuant to the Ship Safety and Security Act has been delegated to the Ministry of Trade, Industry and Fisheries and to the Norwegian Maritime Authority by Royal Decree 16 February 2007 No. 590 171 and Formal Delegation of 31 May 2007 No.

5. Comments to the proposal

I. Proposed amendments to the Regulations on the construction, equipment and operation of passenger ships in the Norwegian territorial waters surrounding Svalbard

5.1 Proposed amendments to section 6

The NMA proposes amendments to section 6 of the Regulations of 7 June 2019 No. 710 on the construction, equipment and operation of passenger ships in the Norwegian Territorial waters surrounding Svalbard.

The first and second paragraphs of the proposal apply to vessels that form part of the equipment ("ship-carried tenders") and that are used to carry more than 12 passengers the shortest route between the ship and shore. The NMA proposes to establish by regulation the current practice of vessels complying with the IMO Guidelines for Passenger Ship Tenders (MSC.1/Circ.1417). This means that MSC.1/Circ.1417 *shall* be followed, even when the circular uses the words such as "should". The decision that vessels used for tendering with more than 12 passengers *shall* comply with MSC.1/Circ.1417 also means that it will not be possible to use vessels to which the guidelines do not apply for such operations with more than 12 passengers[6].

Furthermore, the NMA proposes that these tender vessels will be fitted with AIS Class B, which shall be in operation at all times when the vessel is underway.

[6] "These Guidelines are also not intended for inflatable boats or rigid hull inflatable boats (RHIB)," MSC.1/Circ.1417 Application.

The second paragraph of the proposal is a continuation of the current section 6 second paragraph: The vessel shall keep a safe distance from glacier fronts. The distance shall be at least five times the height of the glacier front, but not less than 200 metres.

The third paragraph is proposed included as information to the shipping companies to let them know that vessels with 12 passengers or less are regulated by the 12 Pax Regulations. The reference is not necessary since the 12 Pax regulations will be applicable according to their scope of application.

II. Proposed amendments to the Regulations on vessels of less than 24 metres carrying 12 passengers or less

5.2 Proposed new section 2a

The NMA proposes to regulate vessels with 12 passengers or less operating from a mother ship in a new section 2a in the Regulations of 14 January 2020 No. 63 on vessels of less than 24 metres carrying 12 passengers or less. This provision has been included to regulate the use of small craft from mother ships not only in the Norwegian territorial waters surrounding Svalbard, but also ships operating near mainland Norway, cf. the scope of application of the Regulations in section 1 ("Norwegian territorial waters and on rivers and lakes").

The NMA proposes to gather as many as possible of the rules regarding this type of activity in one provision. This solution involves a certain degree of repetition of the content of other provisions of the Regulations. However, we believe that this is the most user-friendly way of presenting the rules.

For vessels included in section 2a, sections 6 to 17 of the Regulations do not apply. This means that section 3 (the company's duty to submit information), section 4 (safety management system) and section 5 (safety briefing) will apply. Vessels complying with the new section 2a may be used for all types of excursions from the mother ship, regardless of whether a disembarkation will take place.

The Regulations are based on the principle of the company's control, and it is not necessary to apply to be covered by section 2a.

5.2.1 First paragraph

This provision applies to vessels used to carry 12 passengers or less from a certified passenger ship or cargo ship. The vessels must form part of the ship's equipment, but there is not requirement for them to, for instance, be part of the ship's life-saving appliances or be listed in the fire and safety plan. It is sufficient that the vessels are brought on board the ship.

"Certified passenger ship or cargo ship" are passenger ships (carrying more than 12 passengers) or cargo ships (12 passengers or less) that are certified by a flag State. The proposed new section 2a may therefore not be used by vessels operating form uncertified vessels complying with the 12 Pax Regulations. Certified ships are subject to stricter safety management system requirements including regular supervision. They also have sufficient crew members and level of equipment to make it possible to have good emergency preparedness on board in case of an unforeseen vessel incident.

To relax the requirements compared to what is applicable for vessels complying with the main rules of the Regulations, it is necessary to issue vessels operating this way with some operational limitations. The NMA proposes to continue the limitations that have been enforced since 2020 through the guidance circular mentioned in item 3.3. This means that the provision will only apply to vessels operating in groups of two or more up to 2.5 nautical miles from the mother ship.

These limitations make it possible for the vessels to assist each other in the event of unwanted incidents, and for MOB boats from the mother ship to assist within a reasonable time. It is the sailing distance from the mother ship that decides the 2.5 nautical miles, not the air distance.

5.2.3 Subparagraph a

Subparagraph a proposes that all voyages must be planned by using updated nautical charts and necessary nautical publications, e.g. tide tables and the Norwegian Pilot Guide – Sailing Directions. Note that keeping nautical publications on board is not a requirement. However, up-to-date official nautical charts must be kept on board for the master's disposal. The proposed draft also specifies that nautical charts used with a chart plotter must be based on chart data from the Norwegian Mapping Authority.

The proposal is identical to section 10 second paragraph of the Regulations.

5.2.4 Subparagraph b

The first paragraph subparagraph b of the proposal is based on what has been current practice since 2020 through the guides mentioned in item 3.3. The company must be able to document that the master of the vessel has undergone "necessary training". The master is not required to hold a Certificate for Pleasure Craft etc., cf. the main rule of the Regulations section 6, cf. sections 67 and 68 of the Regulations of 22 December 2011 No. 1523 on qualifications and certificates for seafarers. The master also needs "practical experience" from operating similar vessel in these waters. This is of particular importance in the Norwegian territorial waters surrounding Svalbard considering ice, etc. The experience must be from a "similar vessel". This means that if the passengers are carried by an open RIB, the master's practical experience must also be from an open RIB. The world "similar" is chosen to stress that the experience does not need to be from a vessel which is identical in size, motor or design.

The provision only applies to qualifications to operate the actual vessel. Other rules may require further training or certification to operate as a tourist guide in the area in question.

5.2.5 Subparagraph c

Subparagraph c is based on what is set for other vessels in section 9 first paragraph.

Subparagraph c begins with a statement that the vessels that are used must be capable of being used in the waters in question. Vessels used in a fjord in mainland Norway on a summer day may not necessarily be "capable" of being used between ice flakes in the territorial waters in Svalbard. The companies must carry out these assessments.

The proposed section 2 a (c) first sentence sets out as a main rule that the vessel must be CE marked as a recreational craft, cf. Regulations of 15 January 2016 No. 35 on the manufacturing and the placing on the market of recreational craft and personal watercraft, etc.

Vessels that are not CE marked are subject to subparagraph c second sentence. Such vessels shall be constructed in accordance with a standard equivalent to the legislation for CE marking of recreational craft. The wording "legislation for CE marking of recreational craft" refers to the Regulations mentioned in the first sentence. The requirement of the first sentence that the vessel must be "capable" also applies to vessels included in second sentence.

For vessels that are not CE marked, the company must, as a minimum, be able to provide evidence that the vessel is designed in a way which makes it capable of carrying passengers for the designated trade area.

5.2.6 Subparagraph d

Subparagraph d (i) is a regulation of what is currently accepted pursuant to RSV 13-2021 Part I item 2.3. At the same time, the NMA proposes that a hand-held VHF should have sufficient power supply for the entire planned voyage plus six hours. This corresponds with the requirement of section 12 fifth paragraph of the Regulations.

In subparagraph d (ii) and (iii), a requirement is proposed for having aboard a floating quoit attached to a buoyant lifeline of at least 30 metres and a device that makes it possible to recover a person from the water. This is equipment which is also required pursuant to section 16 first paragraph subparagraphs d and f, and which the NMA regards important to keep on board to be able to handle situations where someone falls into the water. Note that (iii) does not set out specific requirements for the equipment, except that it must be possible to recover a person from the water. The company is at liberty to find a solution which works for the vessel in question. The company should practice these situations on a regular basis, and such practices should be documented.

In subparagraph d (iv), it is proposed that the vessels as a main rule should be equipped with flotation devices in accordance with ISO 12402-3 (level 150) for all persons on board. In the Norwegian territorial waters surrounding Svalbard there is a proposal to lay down the requirement in regulations that are currently found in RSV 13-2021, saying that the flotation devices must comply with ISO 12402-2 (level 275). This provision must be viewed in connection with subparagraph e, requiring the use of flotation devices.

5.2.7 Subparagraph e

According to section 16 fifth paragraph persons on board vessels constructed without a superstructure in the territorial waters surrounding Svalbard must wear a one-piece flotation suit which alone or in combination with other flotation devices provide a buoyancy of 150 N. This is one of the provisions that the industry operating in Svalbard regard challenging when considering the use of smaller vessels there. The NMA has therefore, in the guidance circular RSV 13-2021, permitted exemptions from this provision provided that certain conditions are met. The proposed second paragraph subparagraph e is based on this practice.

Subparagraph (e), it is proposed that all persons on board must wear the flotation devices mentioned in subparagraph d (iv) when the vessel is underway. The proposal applies to all vessels operating pursuant to this provision, whether or not they have a superstructure providing all passengers protection from the weather. The required flotation devices – which are already used by companies the NMA has been in touch with – is inflatable and not bulky.

The proposal is a requirement for the company to ensure that all on board wear appropriate clothing before the voyage starts. What is regarded appropriate clothing must be decided for each trip and will vary depending on the weather and where and when the activities take place. It is not natural to wear the same clothes during a summer voyage near the mainland as during a voyage in Svalbard in March. In principle, it will be sufficient to consider the clothing *based on the appearance of the passengers* when they board the vessel. A close inspection of the passengers' clothing is not required. For voyages in colder areas, however, the company should inform the passengers early on – for instance when they book the trip – of what types of clothes they should bring and how they should dress for excursions with smaller vessels.

The proposal clearly stresses that the company should consider whether a one-piece flotation suit should be used in addition to the flotation devices. The minimum requirement is that this type of suit needs to be CE marked and have Class D thermal protection pursuant to ISO 15027. Since there is a minimum requirement in

the Regulations, it will be possible to use SOLAS approved suits. Some companies set their own requirement for passengers to use these suits for activities early in the year in Svalbard.

5.2.8 Subparagraph f

Subparagraph f sets out a proposal to continue the same operational limitation as in section 8 fourth paragraph concerning a safe distance from glacier fronts.

5.3 Proposed new fourth paragraph of section 4

Companies with vessels complying with section 2a must also meet the minimum requirements of section 4 regarding safety management systems. The procedures should for example include launching of the vessels, safe embarkation, operational calculations for speed, the use of any accompanying vessels, communication between the vessel and ship and an overview of services and crew needed on the mother ship during the operations, etc.

The proposed new fourth paragraph permits the safety management systems of these vessels to be included in the safety management system of the mother ship from which they are operating. It is the opinion of the NMA that this is in line with the current practice of many companies. The proposed new fourth paragraph second sentence confirms that it is not necessary to have a safety management system available on board. In this context, "on board" applies to the vessels operating pursuant to section 2a. Needless to say, the safety management system must be available on board the mother ship.

6. Economic and administrative consequences

6.1 For the industry

The proposed amendments to section 6 of the *Regulations on the construction, equipment and operation of passenger ships in the Norwegian territorial waters surrounding Svalbard* codifies the current practice of compliance with MSC.1/Circ.1417 Guidelines for Passenger Ship Tenders. The proposed requirement to use AIS Class B may entail that some vessels will have to install this equipment. The price of the equipment is around NOK 10,000–15,000. It is the opinion of the NMA that this is a relatively small investment considering the advantages of a tender vessel carrying more than 12 passengers becoming particularly visible to others in the traffic.

One of the reasons for the proposed new section 2a in the 12 Pax Regulations is to simplify the differences in the rules between tendering and other carriage of passengers, and this is mainly built on the rules which this segment is currently following. For most companies, it is therefore assumed the proposal will not cause a need to invest in lots of new equipment.

The proposal also applies to vessels operating from mother vessels in the territorial waters near mainland Norway. These vessels should currently fully comply with the 12 Pax Regulations, and the proposed new section 2a is a simplification compared to these rules.

Companies with vessels covered by the new section 2a must register their operations, cf. section 3 of the Regulations. The registration is done electronically on the NMA's website www.sdir.no/12pax, which is also available in English.

6.2 For the Norwegian Maritime Authority

In practice, the industry already follows the IMO Guidelines for Passenger Ship Tenders (MSC.1/Circ.1417). The introduction of this requirement therefore does not entail more work for the NMA. The special Norwegian requirement of AIS Class B may involve requests for advice from the industry.

Today, for vessels carrying 12 passengers or less, the NMA spends a lot of time processing exemption applications related to published guidelines. Including adjusted rules in the Regulations will save resources for the NMA, since the Regulations are based on the principle of the company's control. The companies do not need to apply to use section 2a. They only have to register their operations electronically on the NMA's website when the requirements are met.

Yours faithfully,

Knut Arild Hareide
Director General of Shipping and Navigation

Linda Bruås
Head of Department

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

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Sjøfartsdirektoratet
Norwegian Maritime Authority

Proposal for Regulation concerning amendments to the Regulations on the construction, equipment and operation of passenger ships in the territorial waters surrounding Svalbard and amendments to the Regulations on vessels of less than 24 metres carrying 12 passengers or less

Laid down by the Norwegian Maritime Authority on dd.mm.2023 under the Act of 16 February 2007 No. 9 relating to Ship Safety and Security (Ship Safety and Security Act) sections 2, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 21, 22, 27 and 43, cf. Formal Delegation of 16 February 2007 No. 171 and Formal Delegation of 31 May 2007 No. 590.

I

The Regulations of 7 June 2019 No. 710 on the construction, equipment and operation of passenger ships in the territorial waters surrounding Svalbard are amended as follows:

Section 6 should read:

Section 6. Requirements for vessels belonging to and operating from passenger ships

Vessels which form part of the passenger ship's equipment and are used to ferry more than 12 passengers the shortest route to shore and back shall comply with IMO circular MSC.1/Circ.1417 and be fitted with AIS Class B equipment, which shall be in operation at all times when the vessel is underway.

All vessels shall keep a safe distance from glacier fronts. The distance shall be at least five times the height of the glacier front, but not less than 200 metres.

Vessels carrying 12 passengers or less which form part of the passenger ship's equipment and operate from the passenger ship shall comply with the Regulations of 14 January 2020 No. 63 on vessels of less than 24 metres carrying 12 passengers or less.

II

The Regulations on vessels of less than 24 metres carrying 12 passengers or less are amended as follows:

New section 2a should read:

Section 2a. *Special rules regarding vessels operating from a certified passenger ship or cargo ship*

The provisions of sections 6 to 17 do not apply to vessels which form part of the equipment of a certified passenger ship or a cargo ship and which operate in groups of two or more vessels within 2.5 nautical miles of the ship. For such vessels, the following shall apply:

a. Intended voyages shall be planned by means of up-to-date official nautical charts and necessary nautical publications. Up-to-date official nautical charts shall be kept on board. Nautical charts for chart plotters shall be based on chart data from the Norwegian Mapping Authority.
b. The company shall be able to provide evidence that the master of the vessel has undergone the necessary training and has practical experience of operating similar vessels in this trade.
c. The vessel shall be capable of carrying passengers in the waters and shall be CE marked pursuant to the Regulations of 15 January 2016 No. 35 on the manufacturing and the placing on the market of recreational craft and personal watercraft, etc. Vessels that are not CE marked shall be constructed in accordance with a standard corresponding to the legislation for CE marking of recreational craft.
d. The vessel shall be fitted with:

i. portable VHF equipment with sufficient power for the entire planned voyage plus six hours;
ii. a floating quoit attached to a buoyant lifeline of at least 30 metres;
iii. a device that makes it possible to recover a person from the water;
iv. personal flotation devices in accordance with ISO 12402-3 (performance level 150) for everyone on board. In the territorial waters surrounding Svalbard, the flotation devices shall be in accordance with ISO 12402-2 (performance level 275),

e. When the vessel is underway, everyone on board shall wear flotation devices required by subparagraph d (iv). Before the voyage commences, the company shall ensure that everyone on board is wearing appropriate clothing and consider whether it is necessary to wear CE marked one-piece suits with Class D thermal protection in accordance with ISO 15027 in addition to the flotation devices.
f. The vessel shall keep a safe distance from glacier fronts. The distance shall be at least five times the height of the glacier front, but not less than 200 metres.

Section 4 new fourth paragraph should read:

(4) For vessels complying with section 2a, the requirements of the first and second paragraphs of this section can be included in the safety management system of the ship from which the vessel is operated. The third paragraph of this sections does not apply to such vessels.

III

This Regulation enters into force on dd.mm.2023.