

address list

Invitation to open dialogue meeting

The Norwegian Maritime Authority (NMA) hereby invites you to an open dialogue meeting in Longyearbyen on 24 October 2018 at 0900-1500 at the Radisson Blu Polar Hotel.

Please register all participants here:

<https://response.questback.com/sjfartsdirektoratet/dialogmtesvalbard>

Registration will close on 12 October 2018.

Introduction

In the wake of the recently adopted Polar Code, the NMA has reviewed the safety requirements for passenger ships sailing in the Norwegian territorial waters around Svalbard. The NMA has by way of circulars informed about the certificates required for operation of passenger ships at Svalbard¹ and notified that the requirements were under review.

"3. Planned introduction of new regulations

The certificate requirements for ships carrying more than 12 passengers and operating in the inner and territorial waters of Svalbard must be regarded as temporary. The NMA is in an investigational phase regarding the introduction of new regulations for these ships. With the recently adopted Polar Code as a backdrop, one must expect that a potential adoption of new regulations will introduce further safety requirements."

The NMA has prepared a proposal for new Regulations on the construction, equipment and operation of passenger ships in the Norwegian territorial waters surrounding Svalbard, which will be applicable to Norwegian and foreign passenger ships. Before the Regulations are circulated for general review, the NMA wants to get the industry's immediate responses to the proposal.

¹ RSV 4-2015 and RSV 1-2017



Current legislation

Passenger ships which are to operate at Svalbard today must carry an international certificate in accordance with the International Convention for the Safety of Life at Sea (SOLAS), 1974, or a Passenger Ship Safety Certificate for Class A, B or C passenger ships engaged on domestic voyages, according to Directive 2009/45/EC², or another national certificate which allows trade at Svalbard.

The alternative with national certificates could in principle cause a varied safety standard at Svalbard, and could lead to passenger ships in the future operating at Svalbard without having to comply with the international code for ships operating in polar waters (Polar Code). Our national rules do not include any provisions taking into account the special conditions related to the remote location and other specific challenges in polar waters.

The Polar Code

Many of the considerations behind the implementation of the Polar Code are relevant to all passenger ships operating in the territorial waters around Svalbard. Svalbard is located within the geographical area of application of the Polar Code. The Norwegian government makes the following statement concerning the Polar Code in the Storting³ White Paper No. 32 (2015-2016): *“The Polar Code represents some of the most important work that has been done to ensure sustainable shipping in polar waters. The Government intends to ensure effective implementation of the regulations.”* The NMA sees no reason for having different levels of safety for passenger ships operating in polar waters.

Local conditions at Svalbard

There are relatively few ships in the Svalbard area. It could therefore take a long time before assistance from other ships is available in the form of search, rescue and towing, as the distances may be great. Additionally, the distance between places of refuge could be considerable.

There are still large uncharted areas, especially on the north and east side of Svalbard. Moreover, the glaciers are constantly changing, and as it melts, new areas are uncovered. Sea ice is also present in the waters, in various sizes.

The NMA considers that the special local and climatic conditions at Svalbard as well as the remote location, limited search and rescue resources and inadequate navigational charts are particular risk factors associated with traffic in the Svalbard region compared to traffic near the Norwegian mainland, and if not addressed, these risks will increase the likelihood of accidents. Additionally, there are large vulnerable nature areas at Svalbard, as the Ministry of Justice and Public Security states in their report to the Storting: *“Svalbard consists to a large degree of especially vulnerable and protected natural areas. The overall potential for damage in Svalbard is therefore large, while the acceptance of risk of environmental damage is proportionately low.”*⁴

The NMA would also like to stress what the Government utters about marine safety in their High North Strategy 2017: *“What is most important is to work to prevent accidents. Moreover, any safety measure taken to reduce the likelihood of an accident will to a large extent benefit the environment.”*⁵

² The Directive has been implemented by the Regulations of 28 March 2000 No. 305 on surveys, construction and equipment of passenger ships engaged on domestic voyages (EU Regulations).

³ The Storting is the Norwegian Parliament.

⁴ Storting White Paper No. 32 (2015–2016) Svalbard

⁵ https://www.regjeringen.no/no/dokumenter/strategi_nord/id2550081/

Undesirable incidents

There are limited resources ashore to handle an accidental event, and there is not much infrastructure on the group of islands, combined with great distances. The Ministry of Justice and Public Security has stated the following: *“In addition, more extreme weather could affect maritime traffic in the waters surrounding Svalbard and exacerbate the consequences of engine breakdowns or other incidents at sea. Climatic conditions, long distances, and relatively few local resources make search and rescue operations, preparedness against acute pollution and clean-up operations in Svalbard particularly challenging tasks. To ensure sustainable development and prevent accidents and harmful spills, it is important that the industry set high safety and environmental standards.”* Furthermore, the Ministry of Justice and Public Security stated that *“[o]ther developments in Svalbard and in the High North call for a thorough assessment of maritime safety in the archipelago, and for the implementation of measures wherever necessary.*

The objective is to reduce the risk of undesirable incidents related to maritime transport in Svalbard, so that damage to life, health and the environment can be avoided. Preventive measures are crucial to Svalbard. The Government will ensure that maritime activity sets high standards of safety and emergency preparedness in the north.”⁶

Increased activity

A new port infrastructure in Longyearbyen will probably contribute to increased activity from cruise ships in Svalbard in general, and particularly in the Isfjord. Additionally, glacier retreat along the shore and less sea ice will reveal new areas. The Governor of Svalbard also informs that the small passenger ship industry is growing rapidly. One of the action points of the Storting White Paper No. 32 (2015-2016) is to consider measures continuously to reduce the risk of undesirable incidents related to maritime transport in Svalbard.

Proposal for new Regulations – SOLAS including the Polar Code

The NMA considers that SOLAS, including the Polar Code, is most suitable to ensure that ships are constructed, equipped and operated in a way that provides satisfactory safety of life, health, property and the environment, cf. section 9 of the Ship Safety and Security Act. The Polar Code is objective-based with both functional requirements and prescriptive rules and can be adapted to ship type, ship size and operational pattern.

Due to Svalbard’s judicial position, it is important to have equal rules for all flag States, predictability and clear legislation for ships carrying passengers in the waters around Svalbard.

Details of the proposal

The proposed Regulations include three possible solutions for certification of passenger ships:

1. *International certificates for unrestricted trade.* This alternative is suitable for large expedition cruise ships, and is a universally recognised standard.
2. *The 2000 HSC Code.* This is suitable for light craft. There are no high-speed craft operating at Svalbard today. In principle, vessels operating at Svalbard would have to be Category B craft pursuant to the 2000 HSC Code, cf. the 2000 HSC Code paragraph 1.4.12. However, the proposal sets out that Category A craft may nevertheless operate in the Isfjord. The NMA proposes that light craft comply with the Polar Code, with certain modifications.

⁶ Storting White Paper No. 32 (2015–2016) Svalbard paragraph 10.5.3.

3. *Certification of passenger ships based on requirements of the Regulations.* The requirements are based on SOLAS including the Polar Code, with some exceptions. This alternative could be suitable for small day trip vessels which are not light built. The NMA proposes modifications in the requirements for life-saving appliances. The most important is that the ship may have liferafts instead of lifeboats, and that the maximum expected time of rescue in the Polar Code may be less than five days.

All ships must have a valid Safety Management Certificate in compliance with SOLAS Chapter IX, issued by their flag State.

Some additional rules have also been proposed, which are not covered by the international Conventions, which will be applicable to all passenger ships in the territorial waters surrounding Svalbard.

1. *Ship's hospital and possibility for evacuation by helicopter*

The NMA proposes using IMO Guidelines in MSC.1/Circ.1129 as starting point for a requirement for medical and sanitation related programmes for passenger ships. This guidance refers to internationally accepted guidelines. If the company chooses to follow ACEP's guidelines mentioned in the circular, these will take into account the ship's size. It is furthermore being proposed that the ship should be equipped with a winching area for pick-up by helicopter in compliance with the recommendations of the International Aeronautical and Maritime Search and Rescue Manual (IAMSAR Manual).

2. *Tender activity*

The proposed regulation of tender activity is based on IMO's guidelines for passenger ship tenders (MSC.1/Circ.1417). Ships with tenders on board satisfying the IMO guidelines will generally be able to use their tenders for tendering on Svalbard with the number of passenger for which the craft is constructed, with certain operational adjustments. We are also proposing provisions for the use of tenders for sightseeing with 12 passengers or less, etc.

3. *Voyage planning*

The non-mandatory safety part of the Polar Code, Part I-B, gives guidance to the master, including that the master should aim to plan their route through charted areas and well clear of known shoal depths, following established routes whenever possible. The NMA is proposing making the content of this guidance mandatory for passenger ships operating within the territorial waters around Svalbard. Ships shall in addition be operated at 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.

4. *Protection against polar bears*

The NMA is proposing that ships should be provided with equipment and procedures that protect persons against polar bears after evacuation to shore or ice.

5. *Exemptions*

The NMA is proposing that the company will have a possibility to apply in writing for exemption from requirements of the Regulations, where they can establish that the solution forming the basis for the application provides a level of safety equivalent to the requirements of the Regulations.

Concluding comments

On assignment from the NMA, the consulting company Menon Economics has estimated the financial implications of the proposal for shipping companies. They conclude that there will only be a small cost increase when constructing ships in accordance with the proposed Regulations, compared to the costs of constructing new ships according to the current requirements. For a small number of ships that currently have the lowest standard of safety, the conversion costs in order to satisfy the proposed Regulations could exceed the current value of the ship.

We are proposing a transitional arrangement of five years for ships having operated in the Norwegian territorial waters surrounding Svalbard every year for the last three years.

The NMA will go through the proposed Regulations thoroughly at the meeting in Longyearbyen on 24 October. Ample time will be allocated to questions and comments during the meeting.

Yours faithfully,

Sonja Hillersøy
Head of Section

Hanne H. Brekke
Senior Adviser

This document has been electronically approved and signed.