

# **Beyond the Polar Code: IMO Measures for Assuring Safe and Environmentally Sound Arctic Ocean Navigation**

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# Preview

- Introduction
  - International Law Applicable to Arctic Ocean
  - Adoption of Polar Code
  - Seafarer Training and Certification
  - Future Work on Polar Code
  - Application of Polar Code
- IMO Measures for Assuring Safe and Environmentally Sound Arctic Ocean Navigation
  - MSC Measures
  - MEPC Measures
- London Convention & Protocol

# Applicable International Law

- Law of the Sea Convention, esp. Part III & art. 234
- IMO treaties: SOLAS, MARPOL, COLREGS, STCW, London Convention, SAR Convention, OPRRC
- Arctic-specific treaties: SAR Agreement, Pollution Prevention, Polar Code
- Soft law:
  - IMO guidelines
  - Arctic Council guidelines on Arctic oil and gas (2009)

# Polar Code

- International Code for Ships Operating in Polar Waters
- Drafted by IMO DE Sub-Committee and Correspondence Group (Norway lead), with input from other sub-committees
- MSC 94 completed safety-related provisions 21 Nov. 2014; MEPC 68 completed pollution prevention provisions 15 May 2015
- To be mandatory, through amendments to SOLAS and MARPOL, effective 1 January 2017
- Common provisions plus tailored separate mandatory and guidance provisions for safety and marine pollution
- Applicable to Arctic and Antarctic waters
- Replaces *Guidelines for Ships Operating in Polar Waters, 2009*

# Tacit Acceptance Procedure

Committee Meeting	Interval	Committee meeting	Interval	Entry into force
<b>SOLAS Article VIII Amendments to Regulations except Chapter I</b>				
MSC 93 May 2014		MSC 94		
Approved for circulation new Chapter XIV	Minimum 6 months	Adopted 21 Nov. 2014	Minimum one year	Deemed accepted 1 July 2016 EIF 1 January 2017
<b>MARPOL Article 16 Amendments to Annexes I, II, IV, V</b>				
MEPC 67 Oct. '14		MEPC 68		
Approved amendments for circulation	Minimum 6 months	Adopted 15 May 2015	Minimum 10 months	Deemed accepted 1 July 2016 EIF 1 January 2017

# Seafarer Training

- Now no tailored requirements, especially for ice navigator
- MSC 95 approved amendments to STCW Annex chapter V and Code on training requirements for officers and crew on board ships operating in polar waters
- for circulation and adoption at MSC 96 in May 2016, with entry into force 1 January 2018
- Over Canadian and Russian objections, no provisions for ice navigator (experienced in polar navigation similar to a pilot)

# Application

## New SOLAS Chapter XIV Regulation 2:

- Ships operating in polar waters, certified – i.e. >500 gt whether or not on international voyages
  - But no “express” inclusion of SOLAS vessels on domestic voyages as required by SOLAS Regulations I/1(a) and I/3(a)
- Not applicable to ships entitled to sovereign immunity
  - Encouraged to act in a manner, so far as reasonable and practicable, with Polar Code
- Nothing in Polar code shall prejudice rights and obligations of States under international law

# Application to other ships

- After Code is adopted intend to expand to some ships now exempt from SOLAS
  - Fishing vessels
  - Ships < 500 gt
- By amendment to SOLAS chapter XIV that must “expressly” add them as required by SOLAS Regulations I/1(a) and I/3(a)



# Possible New Measures

## MSC Measures

- Routing and Reporting Systems, including TSS & ATBAs
- Vessel Traffic Services
- Port State Control and ISPS Code

## MEPC Measures

- Specially designated Arctic marine areas
  - MARPOL Special Areas
  - Particularly Sensitive Sea Areas
  - Emission Control Areas
  - Marine Protected Areas
- Ballast water controls
- Anti-Fouling
- Port Waste Reception Facilities

## London Convention and Protocol

# MSC Measures

- Ships' Routeing
  - SOLAS regulation V/10
  - General Provisions on Ships' Routeing
  - Traffic separation schemes
  - ATBAs 5 new for the Aleutians
- Ships' Reporting
  - SOLAS regulation V/II
  - Voluntary or mandatory
- Vessel Traffic Services
  - SOLAS regulation V/12
  - IALA Guideline No. 1071 (2009) and IALA, *Vessel Traffic Services Manual*, 5th ed (2012)
- Port State Control and ISPS Code apply to ports on Arctic Ocean

# MSC Current Work

- Correspondence Group to develop guidance on a methodology for determining limitations for operation in ice, and associated draft MSC circular, for structural risk assessment and inclusion in the ship's documents
  - POLARIS – industry effort
- SSE 3 to advise whether additional performance or test standards for fire safety/protection and life-saving appliances and arrangements in relation to the Polar Code are needed
- Call for reports on incidents in polar waters to assist in assessing the potential scope of the Polar Code to non-Convention vessels operating in polar waters

# MEPC Measures

- Ban use of heavy fuel oil as in Antarctica
  - Amend MARPOL Annex I
  - Substitute LNG
- Noise restrictions
- Watches for marine mammals and seabirds

# Specially Designated Arctic Marine Areas

- MARPOL Special Areas
  - Amendments to MARPOL Annexes I, II, V
  - Resolution A.1087(28) (2013)
- Particularly Sensitive Sea Areas
  - A.982(24) (2005), as amended MEPC.267(68) (2015)
  - Requires Associated Protective Measure(s)
- Emission Control Areas
  - MARPOL Annex VI Appendix III
- Marine Protected Areas
  - PAME's Framework

# Process for New Measures

- Unless fits under continuous agenda item, proposal must first get approval from MSC/MEPC for a new work item/ unplanned output
- Continuous Agenda Items
  - NCSR: Routeing measures and mandatory ship reporting systems
  - MEPC: Identification and protection of Special Areas and PSSAs
- *Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies (MSC-MEPC.1/Circ.4/Rev.4) (10 June 2015)*

# Ballast Water Controls

- 2004 IMO International Convention for the Control and Management of Ships' Ballast Water and Sediments is close to entry into force, as it has needs only 2.14% of the world's merchant shipping to meet the entry into force requirement 12 months later
- Of the Arctic Council members, Finland, Iceland and the United States are not party
- Among the Arctic Council observers only France, Germany, the Netherlands and Spain are party
- Do current guidelines work in cold Arctic waters?

# Anti-Fouling

- International Convention on the Control of Harmful Anti-fouling Systems on Ships, was adopted on 5 October 2001, and entered into force 17 September 2008
- It prohibits the use of harmful organotins in anti-fouling paints used on ships' hulls and establishes a mechanism to prevent the potential future use of other harmful substances in anti-fouling systems.
- As of 22 July 2015 there are 70 parties, including all of the Arctic Council members and observers except India, representing 84.85 per cent of the world shipping tonnage.
- Enforcement: PSC?



# Reception Facilities

- MARPOL Annexes I & II require Parties to provide adequate port reception facilities to received wastes
- Polar Code does not directly address such facilities
- Rather MARPOL regulation I/38 has been amended to include a reference to Part II-A of the Polar Code paragraph 1.1.1, which reads:
- “In Arctic waters any discharge into the sea of oil or oily mixtures from any ship shall be prohibited.”

# London Convention & Protocol

- All of the Arctic Council members and observers except India and Singapore are party to the London Convention
- Most of the Arctic Council members and observers are party to the London Protocol; the exceptions among the members are Finland, Iceland and the United States, and among the observers non-parties are India, Poland and Singapore
- Compliance by ships of all Parties enhances environmental protection of Arctic waters

# Conclusions

- There are a substantial number of new measures that can be applied to assuring safe and environmentally sound Arctic Ocean navigation
- Other measures are already applicable or being developed for navigation in the Arctic Ocean
- The members of the IMO can be expected to keep and improve these measures as circumstances develop
- A revised Polar Code in 5 years' time?



Thank you for your attention

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