



SARL POLARIS EXPEDITIONS  
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Tromsø, 07<sup>th</sup> April 2022

**Joint response to the Høringsvar ref 2021/9496 and 21/4952 – MAKO :**

- 1. Proposal for amendment of Svalbard Environmental Protection Act – and regulations/orders given with authority in this Act from the Norwegian Environmental Agency, with reference 2021/9496; and the**
- 2. Proposal for substitution of “Regulations related to tourism” with “Regulations related to field safety” and the proposal to apply the Package travel Act in Svalbard, from the Norwegian Ministry of Justice and the Ministry of trade and industry, with reference 21/4952 – MAKO**

Letter sent to:

<i>Environmental Agency:</i>	<i>Ministry of Justice</i>	<i>cc:</i>
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### ***Our Company***

Polaris Expeditions is a French company specialized in Arctic cruises, we own and operate the vessel POLARIS I, IMO 4500163, under French flag. Polaris Expeditions is the fruit of our passion for Polar Regions and our wish to share them under the best possible conditions and while respecting Nature.

Our vessel is 34 meters long and is certified for carrying 12 passengers maximum. We've been operating our vessel in northern Norway and Svalbard waters every year since 2012 and we operate 5 months per year in Svalbard waters for both mountaineering trips and wildlife watching or photography trips. Our crews and staff are French and highly experienced, all of them cumulating several years in the field in Svalbard.

Our experience in Svalbard, our philosophy of travel, and the size of the vessel (twelve passengers maximum), match with our conditions of travel and the way we want our guests to experience and appreciate this place. Such a small boat gives a good flexibility in our program to mitigate and anticipate weather and ice conditions, provides the perfect pedagogic platform in a friendly and serene atmosphere, and also allows us to have safe, and less disturbing experience with wildlife.

Polaris I allows us to appreciate places, wildlife and cultural heritage as much as we can according to the guidelines and regulations. Our idea is not to run from one place to another

one, but to appreciate and enjoy anything we can encounter and have a great experience and understanding of Svalbard.

We are member of AECO and our CEO is part of the AECO's Yacht committee. We are also part of the clean-up Svalbard program.

We usually bring a total of approx. 180 passengers per year in Svalbard, which is not so much but nevertheless contributes to local economy with different incomes, estimated at 1 million NOK per season to the local community.

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### **Our overall comments to both regulatory proposals**

The severity and complexity of the proposed regulations are really high. We see several major issues in the regulatory process:

- The use of wrong facts/statistics
- The insufficient preliminary investigation
- The disregard of research that does not support the regulatory proposals - research that shows little or no problems with the tourism we represent.
- The disregard of advice from researchers
- The lack of industry involvement in the regulatory process
- The lack of impact assessment – for the tourism industry, for the local community, and also for the authorities (ref. Norway gun regulations that are challenges for the Governor of Svalbard)
- Biased negative presentation of tourism
- Principles such as “closing” a majority of Svalbard for one group of people – expedition cruise passenger

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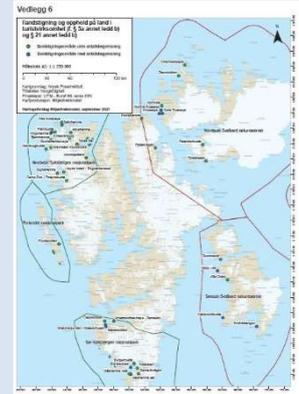
### ***Proposal: Entry into force 2023 – arguments that apply to both regulatory proposals***

- Major proposals require long planning and preparation horizon. Knowing that we are just coming out from a major crisis with Covid19, and that we now face a war in Europe, the implementation of such regulations with short notice is not possible to handle for the tourism operators as well as for the Governor. Something experienced now with the new firearms regulations implemented in 2021.
  - The Governor has invited AECO to involve in a process finding new solution for the guide certification. We need time to come up with a new proposal.
  - Cruise industry plans with a 3-years or longer horizon, and marketing and sales starts at least 2-years ahead of operations. We need time to comply without significant losses and problems
  - The cruise industry has been one of the most affected industries from the pandemic. Please consider our difficult situation.
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## A. Proposal for amendment of Svalbard Environmental Protection Act – and regulations/orders given with authority in this Act from the Norwegian Environmental Agency, with reference 2021/9496

### Proposal:

- **Close larger national parks and nature reserves for landings from cruise vessels**
- **Landing permitted in 42 sites within protected areas**
- **13 sites with max 39 people (3x 12 pax + 1 guide)**
- **7 sites with area limitations (no long walks)**



We are strongly opposed to this proposal.

- The national parks and nature reserves have been established also to ensure that people have opportunity to experience and learn from experiences in the wilderness.
- Expedition cruise tourists visit less than 1% of the area that is proposed to be closed
- There is no documentation on where the present activities represent a problem
- Lack of vulnerability assessments on some of the locations they have planned to keep open.
- Lack of vulnerability assessment for the sites that are planned to close, no arguments for closing.
- Impact on sites suggested open would be huge.
- Lack of dialogue with the industry when selecting the sites.
- Lack of understanding of operational considerations.
- Who is going to coordinate use of these sites?
- Risk of very increased traffic on sites outside protected areas (such as Isfjorden) and conflicts with other user groups
- Risks connected to pushing limits when at risk of “loosing the slot”
- There is a difference in the proposed regulations between landing in "winter" time, meaning when the snow covers the ground, and landing in summer ( § 5a. *Disembarkation and stay on land in tourism*). We are operating 2 months per year **from mid-april until mid-june** for skiing trips, and we absolutely need to keep our freedom to land in good and safe skiing spots, which are in different locations from landing sites for summer, and which depends on snow conditions for obvious safety reasons **relating to avalanche**. Otherwise we would have to stop this activity. The period for being allowed to land anywhere without restrictions on snow covered ground should last until 15th June at least instead of 25<sup>th</sup> may as currently proposed.

In addition to these general comments on this proposal, we see a major issue related to the non-distinction between different type of ships when considering closing sites. We are a small operator and we carry less than 12 passengers. It is not acceptable to be treated in the same way than operators carrying hundreds passengers onboard.

Indeed, onboard a 12-passenger vessel, we simply cannot work in the same way, as done on a >100pax vessel. We are especially concerned about the safety of small ship operations when losing the ability to land in many sheltered places (as proposed by the Norwegian authorities).

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Thus, some regulations/ guidelines could be more adapted specifically towards small ship operators.

Many landing sites might not be suited for landing big groups, this seems obvious. But well managed groups with a guide/ guest ratio of 1:6 can literally nearly land “most places” (at least during some time of year) with no or minimal impact on nature (if following wildlife etiquette, etc.). Our environmental footprint when landing with 12 passengers is nothing compared to a landing with hundreds of passengers.

Keeping the freedom to land anywhere for 12pax ships, without the planned bans, would let us continue operating in a safe manner by choosing well sheltered places for small ships when the weather conditions are not favorable. Bigger ships can often operate easier in tougher weather conditions (giving lee for Zodiac operations etc.).

*This is a point that cannot be overemphasised, as even many polar field staff with comprehensive experience from bigger ships may not be sufficiently aware of it (and it is probably the same for authorities and politicians). Small vessels are much more capable of operating in a flexible way, being able to navigate in areas inaccessible to bigger ships, and at the same time are much more dependent on doing so. It is everyday business for small ships to move flexibly and on very short notice from one site to another (depending on wind and wave directions or to avoid operating in the vicinity of polar bears).*

*This greatly enhances both the safety of the operation and, at the same time, the quality of the experience. But in order to be able to do so, the importance of being able to move „around the corner” towards another nearby location with more favourable conditions at the given time, cannot be overestimated.*

**All who make or influence decisions should be aware that a significant reduction of this flexibility, for example by a significant reduction of the legally accessible landing sites, would dramatically reduce the ability of small vessels to operate safely. As unsafe operation is obviously not an option, such a reduction would essentially reduce the ability of such vessels to operate at all.**

**Proposal: Remove the legal requirement to use site specific guidelines in 15 sites in Svalbard (AECO has developed 21 site specific guidelines in Svalbard).**

**We are strongly opposed to this proposal**

- The 21 site specific guidelines AECO has developed in Svalbard are tools that have been developed to ensure sustainable operations within a legal framework.
  - The guidelines have been developed with heavy involvement from researchers, the Governor of Svalbard, the Svalbard Environmental Protection Fund and other experts.
  - The guidelines are based on professional vulnerability assessments carried out using accepted methods.
  - The industry has taken ownership and has implemented these as standards in their operations.
  - The expedition guides are tested in their knowledge of these guidelines.
  - The guidelines represent an asset for AECO as AECO can offer these to members. Non-members will have to develop their own site-specific guidelines if they want to land in these areas.
  - When operators become members of AECO they are not only committed to site specific guidelines, but to all guidelines, tools and measures enforced by the organization.
  - It will be a great loss for AECO and the organized part of the industry if site specific guidelines as a tool is discontinued.
  - Site specific guidelines can be an alternative to closing areas.
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***Proposal: Intensification of the ban on seeking out polar bears, and a requirement to keep at least 500 meters distance***

We are strongly opposed to the 500-meters distance to polar bears.

- Polar bears are already strongly protected
- The Norwegian Polar Institute believes today's regulations are sufficient
- Polar bears approaching a vessel parked in the drift ice, are not disturbed but curious. They may be disturbed if vessel starts navigation
- Experiencing polar bears is a major value in in the tourism experience
- Such a distance would mean the end of wildlife photography trips in Svalbard.

***Proposal: Prohibition of ice breaking in fjords and of fast ice***

We support this proposal but a clarification needs to be made between different types of ice. Also, that should be allowed to keep possible mooring on fjord ice for small vessels, this is often used for overnighing and does'nt damage the ice at all.

***Proposal: 5 knots speed limitation in a distance of 500 meters from selected bird cliffs in the period April 1 – August 31.***

No comment.

***Proposal: Keep at least 300 meters from walrus haul outs at sea***

We are opposed to the proposal and suggest 100 meters distance from haul outs at sea.

- Many years of research show no negative impact on walrus from tourism in Svalbard.
- The proposal is pointing to the 300 meters distance being part of a guidelines from Norwegian Polar Institute. This is incorrect. Such an advice is not part of the guidelines (but the guidelines advise landings at least 300 meters from a colony).

***Proposal: Prohibition against use of submarines***

No comment.

***Proposal: Prohibition against use of all kinds of drones***

No comment

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**B. Proposal for substitution of “Regulations related to tourism” with “Regulations related to field safety from the Norwegian Ministry of Justice and the Ministry of trade and industry, with reference 21/4952 – MAKO**

***Proposal: Duty to report operations to the Svalbard Tax office if operations exceed 30 consecutive days in Svalbard or Svalbard waters. See “tax document” for details.***

**We are strongly opposed to this proposal**

- There is no tax-exchange agreement between Svalbard and other countries. That will mean that as a Foreign operator, we will be subject to double taxation.
- There is a Norwegian tax regulation ensuring that Norwegian registered companies will not be subject to double taxation. This does not seem to be in accordance with the equality principle in the Svalbard Treaty.
- Registering tax payment for foreigners requires D-numbers for all that are non-Norwegian.
- The Norwegian registration system is not laid out to handle this.
- A vessel has a number of “operators” responsible for different parts of the vessel operations. Who will be the responsible parties?
- International ship traffic should be handled in accordance with international laws.
- If local tax income is the objective, consider applying a per passenger local tax. Much less administration and larger net income.

***Proposal: Systematic health, environment and safety work (HES)***

Measures need to be aligned with international maritime regulations.

***Proposal: Guide certification system***

**We are strongly opposed to the proposal as presented but supports that there should be a guide certification system.**

- The proposal does not seem to have the competence as an objective, but rather how this education can support specific institutions and activity in Svalbard.
  - The industry has not been involved in developing this proposal, only institutions that will have an economic interest in it.
  - Does not seem to value any of the existing and well function educations and tests such as AECO’s Field Staff Standards and AECO’s Field Staff Online Assessment, nor any types of international certification schemes or education that provide a similar level of competence
  - Does not take the high competence and experience in the industry into account.
  - Many guides have more education and competence than the requirements.
  - The education in Svalbard is not better than education one can get other places.
  - Svalbard will not have capacity. The shooting range capacity is already a major problem.
  - It is impossible to send all guides to Svalbard to undertake more than 23 days of courses.
  - The costs for each guide’s education in accordance with the proposal, will be between NOK 100 000,- and 200 000,- It is not doable.
  - A distinction should be made between expedition cruising guides and mountain guides operating from ships without overnighing in the field. For skiing activity, our French and Swiss mountain guides are all UIAGM certified and should not be asked to be certified in Svalbard for their activity provided they hold a guide license and have previous experience in Svalbard. To give a comparison: France and Switzerland do not ask the UIAGM Norwegian guides coming in Chamonix or Zermatt to follow a course
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in France or Switzerland before being allowed to bring their clients on the Mont Blanc. UIAGM guides are all much more skilled for avalanche safety, glacier and mountain safety than the Arctic guides trained in Svalbard, that would be a non-sense to ask them to follow a course in Longyearbyen.

- For "summer" expedition cruising guides, there are many experienced guides who are working in Svalbard for many years for different companies. Their experience should obviously be taken into account and they should be certified without having to follow a course.
- **The process needs to be restarted.**

### **Closing remarks**

- We understand that growing tourism can be a concern, but we would like to collaborate with the authorities and discuss necessary measures to ensure sustainable tourism operations and development. We have developed and are using many guidelines, tools and standards, and we are willing to discuss how we can further develop these to meet potential challenges.
- Authorities should appreciate the value of tourism, also when it comes to education, engagement and care.
- The small ships carrying less than 12 passengers should have specific regulations, the proposed landing restrictions are a non-sense for us, it alters the operation's safety and our landings with 2 guides for 12 passengers have no environmental footprint compared to landings with more than 100 passengers.

**To ensure that the cumulative negative effect on the environment, and safety risks are not too large, various tools and measures can be alternatives, such as:**

- Committing collaboration between industry and authorities.
- Work through the organizations such as AECO and Visit Svalbard to enforce measures
- Ensure operators' competence, standards, and measures through the application process, and if necessary, through concessions
- Work on a guide certification system from an objective of ensuring competence, and not ensuring positions or monopolies
- Value and make use of the high competence among guides working in Svalbard
- Value and make use of the resources the tourism industry, included expedition cruise vessels represent, e.g. related to SAR and Oil Spill Preparedness and Response
- Do not close nature areas for visitors if not necessary and do not keep people away experiencing wildlife, cultural remains, and nature in general on land, at sea and under water.
- If there is a need for regulations, consider alternatives that does not prohibit but may regulate.

**Site management can be done in many ways and the industry is willing to discuss measures such as:**

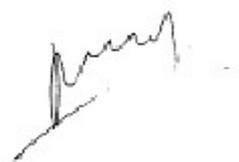
- Ensuring guide competence
  - Developing more site-specific guidelines
  - Support to research to study impacts
  - Regulating number of visitors/visits/times
  - "Resting times"
  - Collaboration between authorities and industry to manage the use of sites, e.g., through databases
  - Collaboration between authorities, research, and industry to monitor impacts
  - Please work with us, not against us.
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We do hope that our comments will be listened and understood, and we look forward to further collaboration for restarting this regulatory process.

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**Arthur VOIRIN**

A handwritten signature in black ink, appearing to read 'Arthur Voirin', written in a cursive style.