

Regulations Relating to Pollution and Waste in Svalbard

Legal basis: Issued by the Ministry of Climate and Environment on 3 July 2020 with a legal basis in the Act of 15 June 2001 no. 79 Relating to the Protection of the Environment in Svalbard (Svalbard Environmental Protection Act) Section 66, Section 71, Section 72, Section 88 and Section 100, the Act of 16 February 2007 no. 9 Relating to Ship Safety and Security (Ship Safety and Security Act) Section 31, Section 33, Section 35, Section 37 and Section 38 and the Act of 11 June 1976 no. 79 Relating to Control of Products and Consumer Services (Product Control Act) Section 8.

Part I. Introductory provisions

Chapter 1. Purpose, scope and definitions

Section 1-1. *(purpose)*

The purpose of these Regulations is to prevent and reduce harm to the external environment in Svalbard resulting from waste and pollution.

Enters into force on 1 Jan. 2021.

Section 1-2. *(scope)*

Subject to the limitations imposed by international law, these Regulations apply to the entire land area of Svalbard and its waters extending to the territorial limit.

Chapter 9 also applies to foreign vessels.

Section 1-3. *(definitions)*

For the purpose of these Regulations, the following definitions shall apply:

- a. *waste*: corresponds with the definition of waste in Section 3 of the Svalbard Environmental Protection Act, first paragraph (b)
- b. *hazardous waste*: corresponds with the definition of hazardous waste in Section 11-2 of the Regulations of 1 June 2004 no. 930 Relating to Recycling and Treatment of Waste
- c. *pollution*: corresponds with the definition of pollution in Section 3 of the Svalbard Environmental Protection Act, first paragraph (a)
- d. *lawful waste management facility*: undertaking in possession of the necessary permit or approval for receipt and treatment of waste
- e. *planning manager*: landowner or the person authorised for land-use planning pursuant to Section 48 of the Svalbard Environmental Protection Act
- f. *land-use planning area*: area defined as land-use planning area in the Regulations of 28 June 2002 no. 650 Relating to Impact Assessments and Delimitation of Land-Use Planning Areas in Svalbard
- g. *head of undertaking*: person defined as head of undertaking in Section 3 of the Svalbard Environmental Protection Act, first paragraph (o)

Enters into force on 1 Jan. 2021.

Part II. Pollution

Chapter 2. Concerning contaminated soil and dredging at sea etc.

Section 2-1. *(prohibition against physical alteration of the terrain in contaminated soil)*

No person may physically alter terrain in areas with contaminated soil without permission pursuant to the Svalbard Environmental Protection Act Section 57 or Section 58.

Physical alteration of terrain is defined as excavating, levelling, extracting of material and other alterations that may harm or adversely impact the environment in that existing contamination is spread or rendered less accessible for clean-up operations.

If a physical alteration of terrain in contaminated soil in a land-use planning area will not entail a risk of significant harm or adverse impact on health or the environment, the Governor of Svalbard or person so authorised by the Ministry may decide that it is not necessary to obtain a permit for pollution pursuant to Section 58 of the Svalbard Environmental Protection Act, third paragraph (b).

Physical alterations of terrain in contaminated soil that are necessary in order to conduct repairs to water and sewage works, district heating or other critical infrastructure due to acute incidents, may occur without a permit. Excavated material shall be returned to the same location. In case of a risk of run-off or other spread of pollution in connection with physical alteration of terrain, measures shall be taken to prevent such occurrences.

Enters into force on 1 Jan. 2021.

Section 2-2. *(duty to assess contamination of soil in case of physical alteration of terrain)*

When physical alterations of terrain are planned in areas where there is reason to believe there may be contaminated soil, the head of undertaking shall ensure that necessary studies are conducted to survey the area and significance of any possible soil contamination.

Enters into force on 1 Jan. 2021.

Section 2-3. *(requirements for content of applications for physical alterations of terrain in contaminated soil)*

Permit applications for physical alterations of terrain in areas with contaminated soil shall include the information necessary to assess whether or not a permit should be issued, and what conditions should be established. Applications shall at least account for the following:

- a. soil contamination studies that have been conducted
- b. what physical alterations of terrain will be implemented in contaminated soil, and a schedule for the execution thereof
- c. a risk assessment of spread of pollution and possible measures considered necessary to avoid the spread of pollution
- d. the future land use and risk assessment for health and the environment in the short and long term, with accompanying proposals for concentrations of individual substances that can be accepted in the soil
- e. possible measures that should be implemented as a result of the assessment in (d), including a proposed schedule for the implementation of these measures
- f. how contaminated material will be disposed of, and
- g. whether or not there is a need for control and monitoring during and after the physical alteration of the terrain, and, if so, what measures are considered necessary.

Enters into force on 1 Jan. 2021.

Section 2-4. *(prohibition against dredging)*

No person may dredge at sea without a permit pursuant to the Svalbard Environmental Protection Act Section 57 or Section 58.

Dredging is defined as intentional relocation of material from the seabed, including sludge suctioning, displacement or removal of sediments from the seabed. Dredging does not include erosion resulting from ordinary activities at sea, including ordinary maritime traffic.

Enters into force on 1 Jan. 2021.

Section 2-5. *(prohibition against dumping)*

No person may dump waste or other material at sea without a permit pursuant to the Svalbard Environmental Protection Act Section 57 or Section 58.

Permits may only be granted for dumping of

- a. dredged material, excavated material and rock, or
- b. other waste/material in exceptional situations where depositing on land would entail unacceptable risk or harm.

Dumping is defined as any intentional disposal of waste or other material at sea for the purpose of waste removal. Dumping does not include disposal of waste or other material relating to or deriving from ordinary operation of vessels, installations or fisheries and fish farming, except when the waste or material has been transported away from the source of the waste for the purpose of waste removal.

Enters into force on 1 Jan. 2021.

Section 2-6. *(prohibition against placement of material)*

No person may place material at sea for purposes other than that for which it was originally built or constructed without a permit pursuant to the Svalbard Environmental Protection Act Section 57 or Section 58 issued by the Governor of Svalbard or person so authorised by the Ministry.

Enters into force on 1 Jan. 2021.

Section 2-7. *(prohibition against infilling)*

No person may reclaim land at sea by way of infilling without a permit pursuant to the Svalbard Environmental Protection Act Section 57 or Section 58.

Infilling is defined as any disposal of material at sea or in river systems that expands the land area.

Enters into force on 1 Jan. 2021.

Section 2-8. *(requirements for content in permit applications for dredging, dumping, placing of material and infilling)*

Permit applications for dredging, dumping, placing of material and infilling at sea shall include the information necessary to assess whether or not a permit should be issued, and what conditions should be established. Applications shall contain information regarding

- a. the purpose of the measure
- b. condition of seabed and nature in the permit area
- c. results from pollution studies, if there is reason to believe that the seabed may be contaminated
- d. the risk of spread of pollution and particles resulting from the measure, and
- e. whether or not there is a need for control and monitoring during and after the measure, and, if so, what measures are considered necessary.

Applications for dredging shall also contain the following information:

- a. amount and area requested for dredging, including maps indicating the area affected by the measure, and
- b. information regarding how dredged material shall be disposed.

Applications for dumping, placing of material and infilling at sea shall also contain information regarding

- a. the material to be dumped, placed or filled in including a map indicating the relevant area, and
- b. the amount of material to be dumped, placed or filled in.

Enters into force on 1 Jan. 2021.

Chapter 3. Concerning storage of hazardous waste, petroleum products etc. in tanks

Section 3-1. *(permit requirement for tank storage)*

No person may store hazardous waste, petroleum products or other hazardous chemicals in tanks, including barrels and cans, unless a permit has been issued pursuant to the Svalbard Environmental Protection Act Section 57 or Section 58 or such storage is permitted pursuant to the provisions of this Chapter.

Hazardous chemicals are defined as

- a. substances that are persistent in the environment, that accumulate in living organisms and which may cause harm even when the substance occurs in low concentrations,
- b. substances that are highly persistent and highly bioaccumulative, and
- c. substances and mixtures of chemicals that are classified according to Article 3 of the CLP Regulation, cf. the Regulation of 16 June 2012 no. 622 Regarding classification, labelling and packaging of substances and mixtures of substances (CLP). (CLP Regulation) Section 1.

Enters into force on 1 Jan. 2021.

Section 3-2. *(requirements for storage in tanks less than 2 m³ in land-use planning areas)*

Hazardous waste, petroleum products or other hazardous chemicals may be stored without a permit in tanks less than 2 m³ in land-use planning areas if

- a. the storage occurs in a sound manner, and
- b. necessary measures to avoid pollution of the environment or harm to humans or fauna are implemented.

The Governor of Svalbard or person so authorised by the Ministry may decide that storage pursuant to the first paragraph nevertheless requires a permit pursuant to the Svalbard Environmental Protection Act Section 57 or Section 58.

Enters into force on 1 Jan. 2021.

Section 3-3. *(requirements for storage in tanks between 2 m³ and 10 m³ in land-use planning areas)*

Hazardous waste, petroleum products or other hazardous chemicals may be stored without a permit in tanks from 2 m³ up to 10 m³ in land-use planning areas if such storage satisfies the requirements in Section 3-5 to Section 3-7.

The Governor of Svalbard or person so authorised by the Ministry may decide that storage pursuant to the first paragraph also requires the issuance of a permit pursuant to the Svalbard Environmental Protection Act Section 57 or Section 58.

Enters into force on 1 Jan. 2021.

Section 3-4. *(requirements for storage in tanks outside of land-use planning areas and in large tanks within land-use planning areas)*

Storage of hazardous waste, petroleum products or other hazardous chemicals in tanks that are 10 m³ or larger in land-use planning areas requires the issuance of a permit by the Norwegian Environment Agency or person so authorised by the Ministry. The requirements in Section 3-5 to Section 3-7 apply correspondingly.

Storage of hazardous waste, petroleum products or other hazardous chemicals outside of the land-use planning areas that are not covered by paragraph three, requires the issuance of a permit by the Norwegian Environment Agency or person so authorised by the Ministry. The requirements in Section 3-5 to Section 3-7 apply correspondingly.

Storage in or near cottages outside of land-use planning areas of smaller amounts of petroleum products that are necessary for heating or transportation, may occur without a permit. The same applies to smaller amounts of hazardous chemicals for use in households or maintenance of cottages. Storage shall occur in accordance with Section 3-2, first paragraph.

Permits issued pursuant to the Svalbard Environmental Protection Act prior to 1 January 2021 remain valid. In case of conflicts between requirements in a permit and the requirements in Section 3-5 to Section 3-7 the most stringent requirements apply.

Enters into force on 1 Jan. 2021.

Section 3-5. (requirements for sound storage and environmental risk assessment)

Storage shall occur in a sound manner to avoid pollution of the environment or harm to humans or fauna.

The person responsible for the storage shall assess the environmental risk associated with the storage. The environmental risk assessment shall encompass all aspects of the tank storage that may entail a risk of pollution to water, soil and air, including tanks, pipes, associated equipment, installations, activities, operations and possible external impact. It shall also include an assessment of the vulnerability of the environment that may be impacted by pollution resulting from the tank storage.

The environmental risk assessment pursuant to the first paragraph shall be updated in case of changes to storage conditions or other changes that may impact the environmental risk.

Enters into force on 1 Jan. 2021.

Section 3-6. (requirements for risk reducing measures)

The person responsible for the storage shall, based on the environmental risk assessment, ensure the establishment and maintenance of the risk reducing measures necessary to prevent pollution. The following minimum measures shall be implemented:

- a. Persons who participate in planning, operation, inspection, maintenance, emergency preparedness and response system, closure or other operations associated with tanks that are covered by this Chapter, shall have relevant competence.
- b. Tanks and associated pipes shall be secured by necessary barriers to prevent incidents that may result in pollution. A barrier is a technical or organisational function or a measure that is planned, established and maintained to halt events that may result in pollution.
- c. Monitoring shall be established in order to detect pollution or the risk of pollution during filling, draining and other activities associated with the tanks and during periods without such activities. Monitoring measures may be both technical and organisational.
- d. Tanks and pipes shall be labelled with content and other relevant information. The labelling shall be clearly visible and easy to understand for all who may come into contact with the tanks and pipes.

In case of changes that may impact the environmental risk, the risk reducing measures shall be assessed and, if necessary, adapted to the changes in the environmental risk.

Enters into force on 1 Jan. 2021.

Section 3-7. (requirements for emergency preparedness and response system against acute pollution)

The person responsible for the storage shall, pursuant to the Svalbard Environmental Protection Act Section 70, first paragraph, ensure the necessary emergency preparedness and response system against acute pollution. The emergency preparedness and response system shall be adapted to the environmental risk associated with the storage, cf. Section 3-5, and the risk reducing measures, cf. Section 3-6.

The person responsible for the storage shall have written procedures for the handling of acute pollution from tanks and associated pipes, cf. these Regulations, Chapter 11.

Enters into force on 1 Jan. 2021.

Chapter 4. Concerning sewage

Section 4-1. (permit requirement for discharge of wastewater)

No person may initiate the discharging of wastewater without the issuance of a permit pursuant to the Svalbard Environmental Protection Act Section 57 or Section 58 unless the release is permitted pursuant to the provisions of this Chapter.

Wastewater is defined as sanitary and industrial wastewater.

Sanitary wastewater is defined as wastewater that primarily derives from human metabolic processes and household activities, including wastewater from toilets, kitchens, baths, laundry rooms or similar.