

Amendments to the Environmental Code

The Swedish Parliament has passed the bill known as the Emergency Bill among Swedish environmental lawyers, which contains several amendments to the Environmental Code that came into force on July 1 2002.

Environmental Impact Assessments

Under the old legislation a party that applied for the withdrawal or reconsideration of a permit for an environmentally hazardous activity had to present an environmental impact assessment at its own expense. The authority could not demand that the permit holder carry out any other examinations that might have been necessary in connection with such a consideration. The authority was thus forced to carry out the whole investigation by itself. Now, the requirement for an environmental impact assessment will be cancelled in cases of the withdrawal or reconsideration of permits. The operator will further be obliged to execute the necessary investigations itself should an authority initiate withdrawal or reconsideration of a permit.

Simplified Procedures for Imposing Fines

When a supervisory authority prohibits an activity or orders an operator to take protective or remedial measures, the order or prohibition may be combined with a fine which becomes payable if the operator does not comply. However, the fine need not be paid until the Environmental Court, at the request of the supervisory authority, orders the operator to do so. Previously, criminal procedure applied to such a request. This meant that the parties had to appear in court and that if the supervisory authority lost the case it had to pay the other party's court costs. Facing the risk of court costs, many supervisory authorities hesitated to ask courts to order payment of fines. The amendment will allay this fear, since the administrative procedure will apply to the requests at issue. Moreover, parties will no longer have to appear in court in such cases.

Permit Applications

In order to bring the procedural provisions of the Environmental Code further into line with the Integration Pollution Prevention and Control Directive (1996/61/EC) a number of clarifications concerning the content of permit applications and decisions on permit granting have been made. For instance additional information on the following issues must now be included:

- the use of raw materials and energy;
- emission sources;
- type and quantity of foreseeable emissions; and
- proposals for measures that may be necessary to prevent the generation of waste.

Stricter Obligations for Supervisory Authorities

The supervisory authorities are given more room and stricter obligations to act with regard to environmentally hazardous activities that are covered by a valid permit. The authorities will have to assess continuously whether the conditions of the permit are sufficiently stringent. If not, the authority must initiate a procedure for reconsideration of the permit. One result of this amendment is that, in addition to certain government authorities and the county administrative boards, municipal supervisory authorities will be given the right to initiate such procedures.

Guarantees for Landfills

In order to implement the Landfill Directive (99/31) there will be a requirement that landfill permits can only be granted when the operator provides a financial guarantee or takes some other suitable measures in order to ensure that attendant obligations will be fulfilled. Earlier regulations provide only for the possibility of requiring that a guarantee be given in order to obtain a permit. There is no exemption from the guarantee requirement within the public sector (ie, local authorities that operate landfills must provide a guarantee).

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