

Third Report of the Environmental Code Committee Released

Background

On January 1 1999 the Environmental Code entered into force. A key purpose of the code is to simplify and unify Swedish environmental legislation by collecting it in one statute. Previously, the environmental legislation was scattered among many different laws regulating different types of activities, with varying environmental impact.

The Environmental Code Committee (ECC) was established by the government in December 1999 to review the Environmental Code. The ECC has already issued two reports (for further information please see "[Amendments to the Environmental Code](#)" and "[Review of the Environmental Code Continues](#)"). In November 2002 the ECC submitted its latest report, entitled "Provisions on Environmental Quality - the Water Framework Directive".

At the same time, the Swedish Water Administration Committee (SWAC) submitted its report "Clear as Water". Both reports form part of the Swedish implementation of the Water Framework Directive (2000/60/EC). The SWAC report deals mainly with administrative and organizational issues that form the setting for the ECC proposals.

Water Administration Committee Report

SWAC proposes that Sweden be divided into five water districts, based on the Swedish river basins' connections with the major sea basins (the Bay of Bothnia, the Gulf of Bothnia, the North Baltic Sea and the North Sea). One water authority will then be established in each of the five water districts. The basic goal of the water authorities is to ensure achievement of the environmental objectives for water, which will be regulated by statute. The most important decisions for the water authorities will concern the environmental objectives and action programmes under the Water Framework Directive. The water authorities' activities are proposed to be documented in an administrative plan.

At the local level, SWAC proposes that Sweden's 119 main river basins form the starting point. Swedish municipalities are to form local cooperative bodies based on the geography of the main river basin areas. Such cooperative bodies could include companies, water conservation associations and other organizations. Local cooperative bodies will:

- carry out analysis;

- provide background documentation for environmental objectives;

- prepare proposals for measures; and

- be active in the implementation process.

SWAC also proposes an entire act on cooperative associations for water conservation. Such associations are to be set up for the protection or improvement of a specific water course or ground-water body. Moreover, the SWAC report contains a basic model system for water-related charges. SWAC states that all water users that affect water physically, chemically or ecologically should assume financial responsibility for their actions through payment of a charge or compensatory measures.

Environmental Code Committee Report

Expansion of Chapter 5

Chapter 5 of the Environmental Code only contains provisions on environmental quality standards. Quality standards for air and water are relatively new concepts in Swedish environmental law. They were introduced as part of the harmonization procedure resulting from Swedish membership of the European Union. A new piece of EU legislation, the Water Framework Directive, requires further amendments to Chapter 5.

In order for Chapter 5 to be able to cover all aspects of the Water Framework Directive, the ECC proposes that it be expanded to cover all types of provisions on environmental quality (and not only environmental quality standards). One type of environmental quality provision is the guideline values for environmental quality. The exact definition of the different environmental quality provisions is left to the government.

One of the most important types of environmental quality provision is the environmental quality objective under the Water Framework Directive. The ECC is of the view that the directive's environmental objectives should also be adopted by the government in an ordinance issued under the Environmental Code.

Action programmes and administrative plans

The ECC report develops the substantive obligations of the water authorities discussed in the SWAC report. The ECC is of the opinion that water authorities should decide on action programmes and administrative plans for the water districts. However, in cases where important societal interests, other than environmental interests, are affected by such programmes and plans, the ECC proposes that the government make the decision. The ECC also proposes procedures for making decisions on action programmes and administrative plans. The procedure proposed is broadly similar to the Swedish planning process - that is, it will require consultation with authorities, municipalities, organizations and the general public. In the ECC's view, the procedural rules for action programmes other than those governed by the Water Framework Directive need not be as elaborate as those required under that directive. However, the ECC proposes that the consultation procedure before the adoption of other types of action programme require consultation not only with the authorities, municipalities and operators concerned, but also with the general public.

General rules of consideration

As in its report entitled "The Environmental Code in Development", the ECC proposes certain solutions in principle (ie, without presenting draft legislation). In this report, the ECC returns to the crucial Chapter 2, regarding the general rules of consideration, and proposes important amendments. The general rules of consideration are provisions of the code that have general application to all types of activity. The ECC proposes that the provisions on environmental quality be introduced into the general rules of consideration. This would mean that the provisions on environmental quality would become applicable to all human activities and measures. Thus, if there is a risk that provisions on environmental quality would be contravened through an activity or a measure, the authorities would be able to require more in terms of precautionary measures from the individual operator than can normally be required under the general rules of consideration. However, the ECC suggests that action programmes will play an important role in the application of the general rules of consideration. The action programme is meant to be the instrument through which the burden of measures required to obtain a certain environmental quality are divided between different stakeholders. Thus, if there is an action programme, authorities may require more from individual operators than what would be required under the general rules of consideration, but not more than is required under the action programme. The fourth and final report of the ECC will be submitted towards the end of 2003. It is anticipated that this report will contain a large number of draft amendments to the Environmental Code.

April 2003
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