

Environment & Climate Change - Denmark

Amendments to Environmental Protection Act and Spatial Planning Act

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Introduction

On January 29 2015 Minister for the Environment Kirsten Brosbøl introduced a bill amending the Environmental Protection Act and the Spatial Planning Act. The bill follows a political agreement on a growth plan from June 2014 and should be seen as an important part of government efforts to reduce processing times for environmental permits and ease the administrative burden for companies and authorities.

The agreement followed an earlier political agreement from April 2014, in which it was agreed that it should be simpler and quicker for companies to obtain an environmental permit. The agreement stated that environmental rules needed to be simplified and that the government should develop a system that gave companies more flexibility, a shorter processing time and facilitated the faster deployment of production, provided that the activities had no material adverse impact on the environment. On this basis, it was agreed that two studies should be undertaken:

- a study on integrating the environmental impact assessment screening process and the process of environmental approvals in an integrated authorisation process; and
- a study of the digital tools that best accommodate specific changes for streamlining the environmental permit system.

According to the agreement, the companies listed in Annex 2 of the Order on the Approval of Listed Activities (669/2014) should be covered by a notification system that makes it faster for companies to start new production.

The new bill relates to the less environmentally damaging activities that require a permit, which are included in Annex 2 of the order, and the approval process is simplified compared to the listed activities covered by Annex 1. The application's requirements are reduced and the environmental approval for a number of business categories will be based on standard conditions.

The bill would make it possible to streamline case handling, including requiring a digital review and concurrency in proceedings. It proposes to establish a single terms database and introduce enhanced monitoring of companies.

The minister proposed that she be authorised to issue rules governing procedure, including the need to adopt a number of decisions on a company's environmental conditions under the Environment Protection Act simultaneously. Further, the bill proposes authorising the minister to issue rules that a review of the environmental impact assessment screening be heard and determined simultaneously with decisions under the Environmental Protection Act.

It is envisaged that a number of companies subject to Annex 2 of the order will be deleted from the list of enterprises subject to approval. Instead they will be subject to general regulations in industry notices with prior notification, but conditions may be set that complement, reinforce or derogate from the general regulations. It should also be possible to stipulate that construction work must not begin until a review has been completed.

Proposed amendments

In relation to the Environmental Protection Act, the bill proposes that the minister can issue rules on notification and conditions for the establishment and operation of construction work in connection with the issue of trade regulations.

On the spatial planning side, the bill proposes authorising the minister for the environment to issue

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rules governing procedure, including deadlines for the examination of a review of the bill referred to in the assessment of a plant's significant environmental impact (environmental impact assessment screening). The dates will be determined in accordance with EU Environmental Impact Assessment Directive (85/337/EEC) requirements. The minister also proposed being able to establish rules that make it mandatory for developers to notify certain categories of plant for the assessment of a plant's environmental impact (screening) and the subsequent communication on the review digitally.

Enterprises affected

The proposed reporting scheme to cover undertakings which are covered by the simplified approval system in Annex 2 of the order would affect companies that must have an environmental permit under Section 33 of the Environmental Protection Act before they establish themselves, expand or change in a way that involves increased pollution. However, the approval process would be simplified compared to the other listed activities in Annex 1 of the order. It is estimated that there are approximately 5,000 listed activities covered by this simplified approval system. In principle it is expected that approximately:

- 2,900 companies will need an environmental permit under the Environmental Protection Act and an environmental impact assessment screening under the Spatial Planning Act;
- 1,200 companies will need an environmental permit; and
- 900 companies will be removed from the list of enterprises subject to approval and will be covered instead by an industry publication.

Under the proposed reporting scheme, companies are expected to see savings in comparison with the existing system, since a number of notifications and applications under the Environmental Protection Act and the Spatial Planning Act will continue to occur simultaneously and digitally. Further, companies will no longer be required to submit information to the same extent, but will instead be presented with the terms of the new terms database provided.

Finally, a number of companies will be taken off the list of enterprises subject to approval and instead be subject to industry regulations. An industry publication for machine shops included in the order is tentatively scheduled to be drawn up.

Comment

Although the bill proposes authorising the minister for the environment to issue rules in the form of statutory orders with the view of simplifying the application procedures when setting up new enterprises, it follows from the explanatory memorandum accompanying the bill that the government intends to make it easier for start-ups to begin production faster than under the existing environmental approval scheme. With the simplified procedures chosen, it seems likely that this goal will be achieved.

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