
September 2013

Revised legislation relating to changes of environmentally hazardous activities

Background

The Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (IED) entered into force in Sweden on January 7, 2013, which initially resulted in some minor amendments to the Swedish Environmental Code. Simultaneously the government announced that the actual implementation would be regulated by the enactment of a series of new regulations. One of this regulations, which entered into force on June 18, 2013, is the EIA Ordinance (Sv. Miljöprövningsförfordningen) (SFS 2013:251) ("MPF"), which replaced section 1 of the annex to the ordinance on environmentally hazardous activities and health protection (SFS 1998:899), and stipulates the activities which are subject to permit or notification requirements. The MPF ordinance also shifts the conditions for what an operator shall consider when changing an environmentally hazardous activity.

Previous regulatory

According to the previous general rule, permits were required for changes of activities, unless it concerned a minor change, which couldn't cause a significant negative impact on human health or the environment.

The new legislation

According to chapter 1 § 4 of the MPF a permit is now required under the following circumstances, when changing an environmentally hazardous activity:

- if the change per se constitutes an activity which requires a permit according to MPF, or
- if the change can cause a significant negative impact on human health or the environment.

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The assessment of whether or not the planned change of the environmentally hazardous activity would involve a negative impact, should be based on considerations which also takes previous changes into account. Changes which will not be embraced by a permit procedure should thus be subject to a notification procedure. The former requirement that only minor changes should be reported, has been removed and is not part of the revised legislation.

The consequence of the revision will be that more changes will be subject to a notification procedure instead of a permit procedure. Since the enactment of the regulation is very recent, it is however necessary to await the clarifying demarcation from legal praxis.



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