

Revised Environmental Code: new requirements for hydropower sector

04 February 2019 | Contributed by [Advokatfirman Lindahl](#)

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Introduction

On 1 January 2019 a number of revisions to the Environmental Code entered into force. The new rules apply to operators of hydroelectric power plants and plants that originally intended to produce hydroelectric power. The legislative changes aim to provide hydroelectric power plants with modern environmental conditions and ensure efficient national access to hydroelectric power.

Until now, most dams and hydroelectric power plants have been tried under the Water Act 1918 and therefore have had stale and out-of-date conditions. According to case law, only 78 of 3,656 trials have been retried under the Environmental Code and provided with modern environmental conditions. Therefore, environmental permits that were issued in accordance with earlier legislation (ie, before 1990 when the Environmental Code entered into force) will need to be reconsidered.

National action plan

Modern environmental condition targets will be achieved through the initiative of plant operators which, under the national action plan, must register to have their environmental permits reconsidered by 1 July 2019 or apply for reconsideration by the environmental courts.

The Swedish authorities are responsible for drafting a national plan for how the trials and reconsiderations will be carried out. The plan is not a substitute for trials which determine each business's concrete operating conditions. It must reflect a national holistic view and provide businesses with modern environmental conditions in a coordinated manner that ensures:

- the greatest possible benefit to the water environment; and
- efficient national access to hydroelectric power.

The government will then decide the plan. Businesses will be divided into trial groups to ensure that:

- the modern environmental conditions are implemented systematically; and
- the national holistic view will have an impact on individual trials.

However, plant operations may still be conducted under conditions which do not meet the new environmental standards if:

- the business is pending its national plan trial period; or
- the operator has either:
 - signed up for the national plan; or
 - applied for a reconsideration.

The tremendous task of implementing modern environmental conditions in every hydroelectric

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power plant is expected to take approximately 10 to 20 years to complete.

Funding

Hydroelectric power plant owners which sign up to the national plan may apply for funding from the Hydroelectric Environmental Fund, which was created by eight of the largest hydropower companies in Sweden.

In order to be covered by the national plan and be able to apply for funding, operators must submit a notification to a county administrative board. The funding is expected to cover:

- environmental measures (including investigations);
- costs for assessing environmental measures in court; and
- potential production losses and discharges.

The funding can cover up to 85% of the environmental measures and court costs and up to 95% of the costs relating to production restrictions.

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