

Regulations relating to environmental impact assessment and delimitation of the land-use planning areas in Svalbard

Laid down by Royal Decree of 28 June 2002 pursuant to section 47 and section 59, last paragraph, of the Act of 15 June 2001 No. 79 relating to protection of the environment in Svalbard (the Svalbard Environmental Protection Act).

Chapter I. Delimitation of the land-use planning areas

§ 1. (land-use planning areas)

The provisions relating to land-use planning set out in Chapter VI of the Svalbard Environmental Protection Act apply within the following delimited land-use planning areas in Svalbard: Longyearbyen, Svea, Ny-Ålesund, Barentsburg, Pyramiden and Colesbukta.

The land-use planning areas are shown on maps which constitute an appendix to these regulations. Copies of the maps are kept by the Ministry of the Environment, the Governor of Svalbard and the instances responsible for land-use planning.

The Ministry of the Environment may make amendments to the delimitation of the land-use planning areas.

Chapter II. Environmental impact assessment

§ 2. (purpose)

The purpose of environmental impact assessment is to elucidate the effects activities may have on continuous areas of wilderness, landscape elements, the flora, fauna and cultural heritage. The regulations shall ensure that such effects are taken into account during the planning of activities and when a decision is taken as to whether and if so subject to what conditions activities may be carried out.

§ 3. (activities for which an environmental impact assessment is mandatory)

In the case of activities for which a permit is required pursuant to section 57 or section 58, third paragraph, of the Svalbard Environmental Protection Act and that

- a) may have more than an insignificant effect on the natural environment outside land-use planning areas, or
- b) may have a significant and long-term effect on the environment inside a land-use planning area

an environmental impact assessment shall be carried out by the head of undertaking.

The Governor will decide whether the provisions of the first paragraph apply to an activity and may decide that it is not necessary to carry out an environmental impact assessment for a particular activity.

If there are proposals to locate two or more activities within the same area, each of which separately does not require an environmental impact assessment pursuant to the first paragraph, the Governor may lay down a duty to carry out an environmental impact assessment for these activities if they meet the conditions set out in the first paragraph when considered together.

Decisions made by the Governor pursuant to this provision relating to the duty to carry out an environmental impact assessment, cf. section 59, fourth paragraph, second sentence, of the Svalbard Environmental Protection Act, may be appealed to the Ministry of the Environment.

§ 4. (administrative procedures)

As early as possible in the process, the head of undertaking shall send prior notification, including a proposal for a study plan, to the Governor. The Governor will circulate the prior notification for comment. The Governor shall set a reasonable time limit for comments to the prior notification. The time limit should not be shorter than six weeks.

On the basis of the comments to the prior notification, the Governor will draw up and approve a prescribed study programme. The study programme shall lay down which studies are to be carried out to elucidate any consequences of the activity. The Governor may also decide that the study programme shall include the effects of the activity on local settlements and other lawful activities. The Governor shall prescribe the study programme within a reasonable time period, as a general rule not more than ten weeks after the expiry of the time limit for comments on the prior notification.

The Governor should take the necessary steps to ensure the participation of the authorities involved and other interested parties before the study programme is determined.

The prescribed study programme shall be sent to the head of enterprise, with copies to all parties that submitted comments to the prior notification, together with a summary of how the comments have been evaluated in relation to the prescribed study programme.

The head of undertaking shall draw up an environmental impact statement in accordance with the study programme.

The Governor shall circulate the environmental impact statement for comment at the same time as the application for a permit, cf. section 57 or 58, third paragraph, of the Svalbard Environmental Protection Act. The governor shall set a reasonable time limit for comments to the environmental impact statement. The time limit should not be shorter than eight weeks.

The Governor may, on the basis of the results of the consultation process, require further studies or additional information before a permit can be issued.

The Governor shall decide whether the environmental impact statement is to be approved within a reasonable time period, as a general rule not more than six weeks, after the expiry of the time limit for comments on the environmental impact statement.

The head of undertaking shall bear the costs of drawing up and making public the prior notification and the environmental impact statement, and the costs of meetings in connection with the statement.

Determination of the study programme and approval of the environmental impact statement are considered to be procedural decisions and can therefore not be appealed.

§ 5. (prior notification and environmental impact assessment for several activities)

If there are proposals to locate several activities in the same area, the Governor may order that one joint notification document and/or one joint environmental impact statement shall be drawn up.

§ 6. (content of the prior notification)

Prior notification given pursuant to section 59, third paragraph, of the Svalbard Environmental Protection Act shall contain a brief description of the activity, and, on the basis of the information available at the time of the notification, of its expected impact on the wilderness, landscape elements, flora, fauna and cultural heritage.

The notification document shall contain maps showing the location of the planned activity and any alternative locations.

The notification document shall contain a proposed study programme covering issues that are relevant to a decision on whether an activity may be started and if so, on what conditions.

§ 7. (the content and form of the environmental impact statement)

Pursuant to section 59, second paragraph, of the Svalbard Environmental Protection Act, the environmental impact statement shall, on the basis of an approved study programme, give an account of the activity and any suitable alternatives and elucidate possible impacts on the wilderness, landscape elements, flora, fauna and cultural heritage, with reference to measures that can be taken to prevent or mitigate any inconvenience or adverse effects of the activity. The statement shall also give an account of the impact of the activity on the community.

The statement shall contain a description of the direct and indirect impacts of the activity, a summary of its impacts and a comparison and evaluation of the impacts of any alternatives presented.

The statement shall contain an evaluation of the need for further studies before the activity is started, and an evaluation of the need for studies for the purpose of monitoring and elucidating the actual impact of the activity.

The environmental impact statement shall be submitted as a single coordinated document containing the necessary illustrations and maps.

Any relevant background material shall be available from the Governor's office.

§ 8. (use and follow-up of the environmental impact statement)

No permit may be granted in respect of the activity until the requirements for the environmental impact statement have been satisfied.

The grounds for the decision to grant or refuse a permit shall indicate how the environmental impact statement and any comments received have been evaluated and how much weight has been attached to them in making the decision.

The head of undertaking shall in accordance with the conditions laid down in the permit carry out regular and effective monitoring to

- a) evaluate the impact of ongoing activities, including verification of impacts that were predicted,
- b) ensure that unexpected impacts can be revealed as soon as possible.

§ 9. (renewed environmental impact assessment)

If the activity has not been initiated within five years after a permit was granted, a new environmental impact assessment must be carried out. The Governor may grant exemptions

from the duty to carry out a new environmental impact assessment, but may require supplementary studies of specific topics or issues.

§ 10. *(activities with a transboundary environmental impact)*

If an activity is likely to have a significant adverse environmental impact in another state, or if another state that may be significantly affected by the activity so requests, information on the project and its possible impact in the state in question shall be sent to the authorities in this state.

The notification shall contain information on the possible transboundary impact, the studies proposed to assess this further, and the types of decisions that shall be based on an approved environmental impact statement.

Chapter III. Entry into force

§ 11. *(entry into force)*

These regulations enter into force on 1 July 2002.