

**Translation. Only the Danish document has legal validity.**

*Order no. 32 of 7 January 2011 issued by the Ministry for the Environment*

### **Order on the dumping of dug up seabed material**

In pursuance of sections 28, 48(1) and (2) and section 61(1) of the Act on the Protection of the Marine Environment, cf. Consolidated Act no. 929 of 24 September 2009, the following provisions are laid down:

**Section 1.** For the purposes of this order, the following definitions shall apply:

- 1) **Dumping:** Dumping of dug up seabed material, for example from deepening, dredging and port construction work as well as cable and pipeline work on the seabed.
- 2) **Deepening:** Increase of a publicised water-depth.
- 3) **Dredging:** Maintenance of a publicised water-depth.
- 4) **Work area:** The area from which seabed material is wanted to be removed.

*Subsection 2.* The seabed shall be delimited in relation to the mainland by the mean water level line.

**Section 2.** Dumping may not be made without a permit acquired beforehand.

*Subsection 2.* Applications for dumping permits shall be sent to the Nature Agency.

**Section 3.** The application shall contain information about the following:

- 1) The nature and quantity of the material requested dumped (clay, mud, sand, etc.), in m<sup>3</sup> and tonnes, as well as information about whether it originates from dredging or deepening. The information shall be distributed on each individual task.
- 2) Information about the material's contents of polluting substances, cf. annex 2 of the act, including the physical, chemical, biochemical and biological properties of the material.
- 3) Indication of the work area marked in a chart or similar dimensionally accurate chart material indicating the position.
- 4) Proposal for a dumping area marked in a chart or similar dimensionally accurate chart material indicating the position.
- 5) Indication of the thickness of the sediment layer requested removed, including an indication of the depth before and after the work.
- 6) Time schedule for the performance of the work.
- 7) Dumping method and digging up method.
- 8) Assessment of the possibilities of making use of the material or handling it in any other way.

*Subsection 2.* As regards the information given under item 5, the Nature Agency may request documentation in the form of sounding plans.

*Subsection 3.* Applications for dumping permission in connection with deepening or dredging work shall be accompanied by information whether the Danish Coastal Authority has granted permission to carry out the work or whether an application for this has been submitted.

*Subsection 4.* The Nature Agency may require that the applicant has analyses carried out for the content of polluting substances, etc. at a laboratory accredited by the Danish Accreditation and Metrology Fund (DANAK) or by a similar accreditation body that is a Party of the EA's (European co-operation for Accreditation) multilateral agreement on mutual recognition. The Nature Agency may point to special sampling and analytical methods. The sampling position shall be given in a chart or similar dimensionally accurate chart material.

*Subsection 5.* Analyses shall be carried out if the applicant contains more than 10,000 tonnes of material unless it is considered obvious that it is not polluted. This assessment shall be made by the Nature Agency.

**Section 4.** Before a decision is made in accordance with section 26(2), (3) and (5) of the Act, the application shall be presented to the Danish Directorate of Fisheries, the Danish Maritime Safety Administration as well as the Heritage Agency of Denmark for a statement.

*Subsection 2.* The Nature Agency may arrange with the authorities stipulated in subsection 1 that a statement on more detailed quantities or positions shall not be requested in each individual case.

**Section 5.** A permit may be granted for a period not exceeding five years.

*Subsection 2.* The permit shall contain the conditions for the use of the dumping area, the location of the dumping area marked in a chart or similar dimensionally accurate chart material with information about the position, information about the quantity of dumping in m<sup>3</sup> and tonnes and the period of validity of the permit. If a permit is granted for more than twelve months, a decision shall also be made whether to lay down requirements for regular sediment investigations.

*Subsection 3.* The permit may contain requirements for informing the Nature Agency about the start and end of the dumping as well as about the quantity in m<sup>3</sup> and tonnes of material dumped, cf. section 8.

*Subsection 4.* The permit may include conditions not to use the dumping area for parts of the period of validity of the permit.

*Subsection 5.* The Nature Agency may lay down supplementary conditions, requirements for control and safety measures as well as for subsequent investigations in the dumping area.

**Subsection 6.** A permit may be either changed or withdrawn when protection of the marine environment, safety of navigation or inconvenience of third persons so necessitates.

**Section 7.** The Nature Agency may inspect whether the conditions made are observed and whether the dumping as such is carried out appropriately. Furthermore, the conditions in the dumping area are inspected during and following the dumping.

**Section 8.** The Nature Agency shall be informed about the start of the dumping no later than eight days before the time when the dumping is planned to be started unless an earlier time is determined. The Nature Agency shall be informed about the end of the dumping as well as the quantity of the material dumped in m<sup>3</sup> and tonnes immediately following the end of the dumping.

*Subsection 2.* If the dumping is stopped for more than three months, the Nature Agency shall be informed again under subsection 1, the first sentence. The Nature Agency shall be informed about the quantity of material dumped in m<sup>3</sup> and tonnes at least once a year, no later than by 1 February. The information provided shall cover the previous calendar year. Information under the second and third sentences shall be provided though the permit has not been used for the previous calendar year.

**Section 9.** Unless more severe penalty is due under other legislation, anyone shall be liable to punishment by fine who:

- 1) carries out dumping or has dumping carried out without a permit, cf. section 2;
- 2) disregards the conditions of a permit; or
- 3) violates section 8.

*Subsection 2.* The penalty may be increased to imprisonment for a term not exceeding two years if the violation has been committed intentionally or grossly negligently and if:

- 1) the violation has caused damage to the environment or risk of such damage; or
- 2) the violation has produced or has been intended to produce financial benefits to the contravener or others, including cost savings.

*Subsection 3.* Subsection 2 shall not apply to violations committed from foreign ships unless the violation has been committed in inner territorial waters. For violations committed from foreign ships in outer territorial waters, the penalty may be increased to imprisonment for a term not exceeding two years in case of intentional and serious pollution of the marine environment.

*Subsection 4.* Companies, etc. (legal personalities) may be liable to punishment according to the provisions of chapter 5 of the Penal Code.

**Section 10.** This Order shall enter into force on 24 January 2011.

*Subsection 2.* Applicants submitted before 24 January 2011, but the consideration of which has not been finalised by this date, shall be finally considered by the Nature Agency under the provisions of this Order.

*Subsection 3.* Order no. 1406 of 7 December 2007 on the dumping of dug up seabed material shall be repealed.

*The Danish Ministry for the Environment, 7 January 2011*

Karen Ellemann / Helle Pilsgaard