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Selected issues of the Czech legal regulation of stationary sources of air pollution

1. Introduction*

Air protection is an environmental topic of high importance. Three fundamental fields of air protection may be found in the legal theory: ambient air quality, ozone layer protection, and the protection of climate system.[1] These three are, of course, to some extent intertwined, but each area is different and needs its own regulation. This article deals with the topic of ambient air quality protection, focusing on the Czech legal framework for the operation of "stationary sources" of air pollution. According to the preliminary version of the new Czech report on air quality,[2] the air quality in the Czech Republic is gradually improving.[3] Some interesting data in this regard are included in the reports on air quality that the Czech Hydrometeorological Institute issues every year. The situation is bettering thanks to more factors; the administrative, legally regulated ones included. In the field of legal regulation, a very

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[1] See Damohorský et al., *Právo životního prostředí* [The Environmental Law], C. H. Beck, 2010, pp. 255–274.

[2] The Preliminary version of the Report on the Air Quality 2021 (hereinafter: the preliminary version) is in the Czech language: *Kvalita ovzduší na území České republiky v roce 2021* published by Český hydrometeorologický ústav.

[3] The preliminary version of the Air Quality Report 2021, p. 3.

important area is related to the so-called stationary sources of air pollution. The following text mainly discusses some of the administrative tools[4] related to the "stationary sources" and tries to familiarise readers with some of the most important issues of the legal regulation in this field in the Czech Republic and so to engage in the debate on the ways of successful air protection through legal instruments.

2. Legal background

In the Czech Republic, ambient air quality protection is mainly regulated by Act No. 201/2012 Coll., on Air Protection.[5] This act includes all the crucial administrative, economic, and conceptual tools related to air quality protection and is affected by the Directive on Ambient Air Quality and Cleaner Air for Europe.[6] To be complete, the ozone layer protection and regulation of fluorinated greenhouse gases is included in Act No. 73/2012 Coll., on ozone-depleting substances and fluorinated greenhouse gases, and the emission allowances trading is regulated by Act No. 383/2012 Coll., on the conditions for trading in greenhouse gas emission allowances. However, an analysis of these acts does not fall within the scope of this article.

In connection with the "stationary sources", a very important field of interest is the so-called realisation phase of urban planning,[7] meaning the procedure of placing a source and permitting a source. These procedures are primarily governed by "the Building Act"[8], and in the case of some projects "the Act on Environmental Impacts Assessment"[9] is also of great importance. Regarding the enumerated potentially very environmentally problematic installations,

[4] In the text, the categorisation of environmental protection tools in law according to M. Damohorský et al. is used. The main categories are administrative, economic, conceptual, and voluntary tools. Damohorský et al., *Právo životního prostředí* [The Environmental Law]..., pp. 36–47.

[5] Act No. 201/2012 Coll., on Air Protection. Hereinafter referred to as: the Act on Air Protection.

[6] Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on Ambient Air Quality and Cleaner Air for Europe OJ L 152, 11.6.2008, pp. 1–44. Hereinafter reffered to as: the Directive on Ambient Air Quality and Cleaner Air for Europe.

[7] M. Damohorský et al., *Právo životního prostředí* [The Environmental Law]…, pp. 209–211.

[8] Act No. 183/2006 Coll., the Building Act. Hereinafter referred to as: the Building Act.

[9] Act No. 100/2001 Coll., on Environmental Impacts Assessment. Hereinafter referred to as: the Act on Environmental Impacts Assessment.

Act No. 76/2002 Coll., on Integrated Prevention,[10] also plays its role as it provides the legal background for the integrated permit (IPPC) issuing procedure. After its placing and permitting, the operation of a "stationary source" is governed by the Act on Air Protection itself, with some more detailed regulations and requirements included in the ministerial decree.[11]

The Act on Air Protection recognises two main categories of sources of air pollution – mobile ones and stationary ones.[12] A mobile source is defined as "a self-propelled or another movable or portable technical unit, equipped with an internal combustion engine, if used for its own propulsion or built in as an integral part of technological equipment."[13] A stationary source is defined as "a technically indivisible stationary unit or activity that pollutes or could pollute, unless it is a stationary technical unit used only for research, development, or testing of new products and processes."[14] The Act on Air Protection is mainly directed at the regulation of stationary sources; however, some provisions related to mobile sources are also included (low-emission zones, regulatory order in the case of smog occurrence, requirements on fuels, etc.). In this article, the legal regulation of mobile sources is set aside as it is focused only on the legal aspects of the operation of stationary sources.[15]

Under the Act on Air Protection, two categories of stationary sources of air pollution materially exist.[16] These are those sources listed in Annex No. 2 to the Act on Air Protection and those unlisted in Annex No. 2 to the Act on Air Protection. Although these are not designated expressly in the Act on Air Protection as for example "small" and "large", the listed ones are those that in fact endanger the air quality potentially to a greater extent, as they are "large" when measured according to technical criteria. The material division is apparent from the text of the act as more duties are imposed on the operator of the source listed in Annex No. 2.[17]

[10] Act No. 76/2002 Coll., on Integrated Prevention. Hereinafter reffered to as: the Act on Integrated Prevention.

[11] Decree No. 415/2012 Coll., on the Permissible Level of Pollution.

[12] See Section 2 of the Act on Air Protection.

[13] Section 2 letter f) of the Act on Air Protection, unofficial English translation.

[14] Section 2 letter e) of the Act on Air Protection.

[15] On the topic of mobile sources see also: J. Vodička, I. Jančářová, *Vozidla s alternativním pohonem. Jsme na ně připraveni?* [Vehicles with alternative propulsion. Are we ready for them?], "České právo životního prostředí" [Czech Environmental Law] 2017, nr 4 (46), pp. 61–63.

[16] M. Damohorský et al., *Právo životního prostředí* [The Environmental Law]…, p. 267.

[17] J. Morávek, V. Tomášková, M. Bernard, O. Vícha, *Zákon o ochraně ovzduší. Komentář* [Act on Air Protection. Commentary]. C. H. Beck, Praha 2013, p. 219.

3. Placing, permitting, and operating a stationary source: administrative tools

According to the Czech law, if a building is to be located, it must get a planning decision[18] (if it is not stated otherwise[19] in the Building Act) and a building permit[20] (if it is not stated otherwise[21] in the Building Act). In some cases, so-called joint permit[22] also may be obtained. For better understanding, the two-step procedure leading to the issue of a planning decision and a building permit will be discussed. There are some possibilities for public administration bodies to get involved during the proceedings. Specialised public administration bodies that are to shield different public interests, such as the protection of air, water, land, nature, etc. are referred to as "concerned authorities". Generally, they may issue "statements" and, when grounded by a legal act, also so-called binding opinions. "Statements" are not strictly legally binding, and the authority making a decision may deviate from it (but it must be justified). In contrast, "binding opinions" are legally binding, and if a negative binding opinion is given, the following decision (e.g., planning decision) must not be issued.[23]

When a stationary source is to be placed and permitted in a planning and permitting procedure, the need for obtaining two different binding opinions must be considered. According to Section 11 of the Act on Air Protection, a binding opinion must be issued when a stationary source is to be placed, regardless of whether the source is listed in Annex No. 2 or not. A binding opinion is provided into the planning (or permitting) procedure when a planning decision (or a building permit) is required in order to place a building. When the source is listed in Annex No. 2, the binding opinion is issued by a regional office. In contrast, when it comes to small ones, the opinion is issued by the municipal office of the municipality with extended powers. In the case of the listed sources, another binding opinion of the regional office must be obtained in the building permit proceedings (i.e. after the planning decision is issued). A binding opinion does not need to be extensive in formal terms, but it must contain a binding statement (i.e., a formal expression of an opinion) and some justification.[24]

[18] See Section 76 of the Building Act.

[19] Cases in which a planning decision is not issued are listed mainly in Section 78 of the Building Act. Mainly these are situations when the planning consent is obtained.

[20] See Section 115 of the Building Act.

[21] See mainly Sections 103–105 of the Building Act.

[22] See Section 94j of the Building Act.

[23] J. Morávek, V. Tomášková, M. Bernard, O. Vícha, *Zákon o ochraně ovzduší. Komentář…*, p. 110. Also D. Hendrych, *Správní právo* [Administrative Law], 3rd ed., C. H. Beck, Praha 2016, p. 195.

[24] See Section 149 (2) of the Administrative Procedure.

The binding opinion may also contain some conditions (such as burning only dry clean wood, no usage as a source of heat, etc.) that must be obeyed, otherwise the binding opinion may not be positive, and so the building permit may not be issued. In practice, the binding opinions issued by the municipal offices of the municipalities with extended powers are quite common as they are given, for example, when new family houses[25] with wood burning stoves, wood boilers, gas boilers or fireplaces with a fireplace insert, etc. are installed. Another binding opinion must be obtained when a "stationary source" listed in Annex No. 2 is in the process of being permitted. This binding opinion is issued again by a particular regional office (as well as the permit for an operation that is discussed further in the text). In order to provide a binding opinion, the competent authority must get an expert opinion as documentation for its decision-making.[26] What is also important is that an expression of the principle of public information and public participation appears in legal regulation. Under Section 30 of the Act on Air Protection,[27] the concerned authorities have a duty to publish information about issued binding opinions and permits actively.[28] From these obligatory statistics, it is not complicated then to get information about the number and kind of stationary sources operating in a particular locality.

Another binding opinion that may be needed when someone applies for a planning decision is the one resulting from the environmental impact assessment process (EIA process). Naturally, this is not a case for small stationary sources but for larger, more risky ones. As to which projects need to get through the EIA process is governed by the Annex No. 1 to the Act on Environmental Impact Assessment. When it comes to ambient air quality issues, some projects listed in the Annex, such as, for example, installations for burning fuels with a heat output or facilities for waste disposal or recovery by burning, may be mentioned.

Another administrative tool that takes place in air protection is a "permit". A stationary source listed in Annex No. 2 must be operated only with a permit issued by a competent regional office. Such a permit contains mainly technical conditions for the operation of the source and specific emission limits (discussed further in the text), as well as methods, conditions, and frequency for ascertaining the level of emission. It is important that when assessing whether a source falls within the Annex and therefore needs a permit for its operation, so-called

[25] M. Tužinský, *Oblast teplárenství ve vztahu k ochraně ovzduší po přijetí nového zákona* [Heating industry and the environment after the adoption of the new act], "České právo životního prostředí" [Czech Environmental Law] 2012, nr 2 (32), p. 68.

[26] See Section 11 (8) of the Act on Air Protection.

[27] See Section 30 (1) f) of the Act on Air Protection.

[28] See also: J. Hak, *Poskytování informací o životním prostředí optikou povinných subjektů* [Providing environmental information through the lens of obligated entities], "České právo životního prostředí" [Czech Environmental Law] 2020, nr 3 (57), pp. 69–71, 79.

counting rules apply. They mean that if more sources are in a business premise, their technical parameters are added together and then, afterward, it is decided whether they fall within the scope of the Annex or not.[29]

To be complete, in the case of the riskiest facilities, an obligation to get an integrated permit (IPPC) may also occur. An integrated permit is obligatory, for example, for incinerators from a given limit (the facilities are listed in the Annex No. 1 to the Act on Integrated Prevention).[30] When IPPC is issued, it substitutes some other administrative acts – decisions, permits, and also some binding opinions. In the case of ambient air quality protection, the permit to operate a stationary source listed in Annex No. 2 is replaced by the IPPC as well as the binding opinion given in the building permit proceeding. The binding opinion required in planning permit proceedings is not substituted as it is needed in an early phase of the procedures.[31] In the integrated permit more conditions are laid down than in the permit in the meaning of the Act on Air Protection. As IPPC is based on the idea of subject-matter integration, many environmental aspects together are taken into consideration at the same time to create an environmentally most favourable solution.[32] What is also significant is the usage of the so-called BAT – the best available techniques.

4. Requirements for the operation of a stationary source

When a stationary source is operated, it must comply with given emission limits. Emission limits are an important administrative tool of air protection in Czech law, together with emission ceilings and immission limits. Emission limits and emission ceilings are linked to "active polluting" by sources, while immission limits express "the state of pollution". Different categories of emission limits exist. There are (i) general emission limits set by a ministry decree; (ii) specific emission limits set by a ministry decree; and (iii) specific emission limits laid down in the permit for operating a particular stationary source listed in Annex No. 2. General emission limits are determined for polluting substances and their groups in Decree No. 415/2012 Coll., on the Permissible Level of Pol-

[29] V. Tomášková, *Nový zákon v oblasti ochrany ovzduší* [The new act in the air protection area], "České právo životního prostředí" [Czech Environmental Law] 2012, nr 2 (32), p. 22.

[30] See for example point 5.2 of the Annex No. 1 to the Act on Integrated Prevention.

[31] See Section 40 (2) of the Act on Air Protection.

[32] L. Dvořák, *Historie legislativy na ochranu ovzduší na území ČR* [History of air protection legislation in the Czech Republic], "České právo životního prostředí" [Czech Environmental Law] 2012, nr 2 (32), p 12.

lution.[33] Specific limits are set in the same regulation, but not related to pollutants and their groups but to stationary sources. As was already mentioned, other specific limits related to the specific stationary source are set in the permit obtained to operate a stationary source. The emission limits given in the permit are special. They so have priority and according to the Act on Air Protection, the specific limits set in the permit must not be the same or higher than the specific one laid down by the Decree on the Permissible Level of Pollution. The aim of the requirement to include specific limits in the permit is to assess every case with its own specifics. If the authority decides not to determine specific emission limits, it must refer to the values in the Decree expressively.[34]

Emission ceilings express the highest admissible cumulative pollution level during one calendar year. The Act on Air Protection establishes five kinds of emission ceilings[35]: for a stationary source, for a group of stationary sources, for a group of mobile sources, for a whole business premises or in a particular given area.[36] They therefore may be included in the permit and the ceilings for an area are included in important conceptual documents[37] – the Air Quality Improvement Programmes. In relation to stationary sources, the air protection authorities must consider them when deciding on placing and permitting a stationary source in a particular area.

Immission limits indicate the highest permissible levels of pollution.[38] They are laid down directly in the Act on Air Protection, in its Annex No. 1. There are of two types: immission limits for the protection of health and immission limits for the protection of ecosystems and vegetation. When an immission limit is exceeded, some legally predetermined consequences occur.[39] Regarding immission limits in connection to the stationary sources, they are not directly binding for operators, but they must be respected by the State. As a result, the competent bodies issuing binding opinions and permits must ground their decision to allow the operation of a source with regards to the immission limits.[40] In the case of some pollutants, they must issue their decision based on the immission limits

[33] Decree No. 415/2012 Coll., on the Permissible Level of Pollution and Implementation of Certain Other Provisions of the Air Protection Act. Hereinafter referred to as: "Decree on the Permissible Level of Pollution".

[34] J. Morávek, V. Tomášková, M. Bernard, O. Vícha, *Zákon o ochraně ovzduší. Komentář…* pp. 147–148.

[35] P. Bejčková, *Zákon o ochraně ovzduší. Komentář* [Act on Air Protection. Commentary]. Wolters Kluwer, Praha 2018, p. 27.

[36] See Section 4 (4) of the Act on Air Protection.

[37] V. Tomášková, *Nový zákon v oblasti ochrany ovzduší…*, p. 19.

[38] P. Bejčková, *Zákon o ochraně ovzduší. Komentář…*, p. 19.

[39] According to Section 9 of the Act on Air Protection, for example, when immission limits are exceeded – the Air Quality Improvement Programme must be formulated.

[40] J. Morávek, *Nový přístup k imisním limitům* [The new approach to the immission limits], "České právo životního prostředí" [Czech Environmental Law] 2012, nr 2 (32), pp. 42–43.

(i.e. higher level of legal binding), in the case of others, they must consider them. If the limits are exceeded, the competent authorities must demand some strict measures, or they cannot consent to the new source.[41] In the case of the sources marked with B in the Annex, the compensatory measures must be imposed. In the case of unmarked ones, some conditions that will lead to the improvement of the situation shall also be included.[42] Even already permitted stationary sources may be affected by immission limits as the content of the permit may be changed if a significant contribution to the limit exceeding is identified.[43]

Another criterion for assessing the level of pollution listed in Section 4 of the Act on Air Protection is the permissible smoke darkness as measured by the Ringelmann scale. The Ringelmann scale method is not so accurate in terms of today's world and the process of measuring is also quite demanding, especially on weather conditions (colour of sky suitable for measuring, wind, etc.). However, it may certainly serve as an identifier that the obligations set in the Act on Air Protection are probably not obeyed.

The operators of stationary sources unlisted in Annex No. 2 are subject to the general obligations (described in the following text), and general emissions limits apply to them. The stationary sources listed in Annex No. 2 primarily have to be operated in compliance with their permits. In the permit, the binding conditions for the operation are set, meaning specific emission limits, emission ceilings, methods and frequency of measuring, technical conditions for the operation (when they are not in an operating order), etc.[44] In the case of some stationary sources (those marked with the letter C in Annex No. 2), an "operating order" must be included. An "operating order" is a very detailed document[45] that encompasses technical and operating data as well as for example measures in case of accidents. Requirements for the content of an operating order are laid down in Annex No. 12 to the "Decree on the Permissible Level of Pollution". Also compensatory measures may be included in the permit in the case of some of the listed stationary sources (that marked with a letter B in the Annex). Compensatory measures are imposed if by the operation of a stationary source some immission limits would be exceeded.[46]

[41] J. Morávek, V. Tomášková, M. Bernard, O. Vícha, *Zákon o ochraně ovzduší. Komentář...*, pp. 147–148.

[42] Ibidem, pp. 122–123.

[43] Ibidem, pp. 23–24.

[44] See Section 12 of the Act on Air Protection.

[45] J. Morávek, V. Tomášková, M. Bernard, O. Vícha, *Zákon o ochraně ovzduší. Komentář...*, pp. 149–153.

[46] See Section 11 (5) of the Act on Air Protection.

5. Selected obligations of the operator of a stationary source

An operator is defined in Section 2 of the Act on Air Protection materially as a person who really operates the source.[47] Only if such a person does not exist or is unknown, subsidiarily an owner of a source is treated as the operator. The clarification of the term is essential as the obligations are binding for operators, sanctions are imposed upon an operator, etc. The Act on Air Protection contains many obligations imposed upon any operator of a stationary source. Some of the obligations apply to all stationary sources, some of the duties are connected just with the stationary sources listed in Annex No. 2, and some are binding only for smaller stationary sources (e.g. those located in family houses).

General duties that apply to all operators are mainly the following ones[48]: to respect the provisions of the Act on Air Protection; to operate the stationary sources in compliance with conditions given by the producer; to obey emission limits, emission ceilings, permissible smoke darkness, etc., and to use only such fuels that fulfill the requirements provided by law and that are determined for these purposes by the producer of the stationary source or in the permit for operation. Operators are also obliged to passively inform air protection authorities about the stationary source and its emissions. In order to control the compliance, an obligation to allow the persons authorised for inspection access to the stationary source and its accessories, used fuels and raw materials and related technologies is also set in Section 17 of the Act on Air Protection amongst general duties.

Regarding the stationary sources listed in Annex No. 2, the primary duty is to operate such a source only with a permit and comply with it. If a listed source is running without any permit, the Czech Environmental Inspectorate decides to halt its operation. If conditions laid down in the permit are not respected, the Czech Environmental Inspectorate first asks for redress within a reasonable time, and if the situation is not getting better, it may issue a decision requiring a cessation of operation. Based on the prevention principle, appeals against such decisions are without suspensive effect as the potential hazards arising from work of such a stationary source that does not comply with air protection legislation are very high.[49]

Another significant obligation imposed upon the operator of listed stationary sources is to ascertain the level of pollution caused by specified polluting substances by measurement (in the cases where a method of measure is impos-

[47] See Section 2 of the Act on Air Protection.
[48] See Section 17 (1) of the Act on Protection.
[49] See Section 22 of the Act on Air Protection.

sible to use, ascertaining through a calculation may be permitted[50]). The task of measuring the amount of pollutants is therefore vested in the operator. Inspectors of the Czech Environmental Inspectorate carry out its own measuring as a part of their inspections.[51]

An economic tool[52] also appears in connection with stationary sources listed in Annex No. 2.[53] The duty to pay an air pollution fee for emissions of polluting substances for which the operator has the duty to carry out measures is set by the Act on Air Protection. Emissions of substances that are subject to air pollution charges are those[54] of solid particles ("particular matter"), sulfur dioxide, nitrogen oxides, and volatile organic compounds (VOC). The fee is calculated as a product of three members: the base of the fee, which is the amount of emissions from a source or sources in tons; the fee rate and the emission level coefficient.[55] The resulting amount of the fee may also be reduced under the conditions laid down by law.[56] The income from air pollution fees is divided between the State Environmental Fund of the Czech Republic, the region, and the state budget.[57] In the case of regions, the income is determined for environmental protection purposes. In the case of the state, it is ascertained for activities carried out by the ministry on the basis of the Act on Air Protection.

Specific duties are imposed on solid fuel stationary combustion sources that serve as heat sources for hot water central heating systems, with a total rated thermal input of 10 to 300 kW. Sometimes these are, in a simplified way, referred to as "household boilers" as such sources are mainly used as house heating. In Section 17 of the Act on Air Protection states, that such sources must be operated only in compliance with minimum emission standards set in the Annex No. 11 to Act on Air Protection. It was planned that all such already working household boilers shall comply with the requirement in the Annex till 1st September 2022,[58] but the date was postponed to the 31st August 2024 in reaction to the current situation on the energy market and the growing energy prices. However, the change only applies to those sources that are used in households or buildings for family recreation. When the requirements for emissions from boilers are debated, usually so-called emission classes are considered. Under the

[50] Section 6 (2) of the Act on Air Protection.

[51] See Section 6 (6) of the Act on Air Protection.

[52] M. Damohorský et al., *Právo životního prostředí*..., pp. 42–47.

[53] M. Mrlina, I. Jančářová, *Poplatek za znečišťování – prokazování nároku na snížení či osvobození od poplatku* [Pollution charge – proving the right to a reduction or exemption from the fee], "České právo životního prostředí" [Czech Environmental Law] 2021, nr 3 (61), p. 65.

[54] See Annex No. 9 of the Act on Air Protection.

[55] See Section 15 (5) of the Act on Air Protection.

[56] See also: M. Mrlina, I. Jančářová, *Poplatek za znečišťování*...,pp. 68–76.

[57] See Section 15 (14) of the Act on Air Protection.

[58] See Section 41 (16) of the Act on Protection of Environment.

technical CSN norm,[59] five emission classes exist. The Act on Air Protection does not work with the term emission class, but in its Annex No. 11 it determines some values that must be respected. The values given in Annex No. 11 correspond to the emission class 3, therefore all such stationary sources in classes 1 and 2 shall be forbidden in the near future. All these stationary sources (with a total rated thermal input of 10 to 300 kW, serving as heat sources for hot water central heating systems) are also subject to an obligatory professional's technical condition check every three years.

Also, compliance with obligations in connection with "household boilers" must be controlled. Such a control, however, may interfere with the right to privacy, when households shall be subject to it. This potential conflict is resolved in the Act on Air Protection by a provision allowing an on-site inspection of a stationary source performed by a competent person (i.e. an inspector) on condition that the stringent requirements given by the law are complied with.[60] The provision was also reviewed by the Constitutional Court because of the potential conflict and was held constitutional.[61] An inspector is entitled to enter a household for the purposes of the said check and only for the purposes of such a check. Many requirements must be met before, however. First, a reasonable suspicion must arise that an operator of a source placed in a family house, a flat, or a house for family recreation (not for business purposes) breaches its obligation set by Section 17 of the Act on Air Protection and such a breach must be impossible to prove any other way than by a check of the source or used fuels. In such a case, the operator must be noticed by the municipal office and informed of his/her obligations and of the consequences of a repeated reasonable suspicion that may lead to an on-site inspection. If the reasonable suspicion arises again afterwards (repeatedly), then a competent inspector is allowed to perform the inspection.

6. Conclusions

Stationary sources of air pollution in the Czech Republic are mainly legally regulated by the Act on Air Protection and the related Decree on the Permis-

[59] CSN EN 3035:2012.

[60] See Section 17 (2) of the Act on Air Protection.

[61] Decision of the Constitutional Court of the Czech Republic No. 2/17 from 18th July 2017. See also: O. Vícha, *Vybrané ústavněprávní aspekty kontrol lokálních topenišť a plateb poplatků za komunální odpad* [Selected constitutional aspects of inspections of local heating plants and payments of fees for municipal waste], "České právo životního prostředí" [Czech Environmental Law] 2017, nr 2 (44), pp. 122–128.

sible Level of Pollution. The legal background is quite strong in connection to potentially more polluting stationary sources (those listed in Annex No. 2) as they must not be operated without a permit given by the proper regional office. In the permit, the technical conditions for operation are described and specific emission limits are set. An important part of the responsibilities of the operator is the measurement of the amount of polluting substances released by the source. Emissions of listed pollutants are also subject to the economic tool of air protection – the air pollution fees. Another significant part of the Czech legal regulation of stationary sources is regarding the smaller ones (unlisted in Annex No. 2), commonly used as the sources of heat in households. These sources are operated without a permit, but there are some obligations imposed upon their operators laid down by the Act on Air Protection anyway. Primarily, they must comply with the Act on Air Protection and with conditions given by the producer and they are also obliged to respect the general emission limits. As with any other environmental regulation, a significant issue connected with air pollution from stationary sources is the fulfillment of the duties imposed by law. Even if the legal background is solid, it can never have the right effect if it is not respected, and so it is very important to promote the protection of air quality in society.

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Tereza Fabšíková

Wybrane zagadnienia z czeskich regulacji prawnych dotyczących stacjonarnych źródeł zanieczyszczeń powietrza

Streszczenie

Regulacja prawna stacjonarnych źródeł zanieczyszczeń jest ważnym elementem prawnej ochrony powietrza. Artykuł niniejszy skupiony jest na wybranych zagadnieniach dotyczących umiejscowienia i użytkowania wszelkich stacjonarnych źródeł zanieczyszczeń powietrza w Republice Czeskiej, od tych mniejszych (umiejscowionych w domach) po większe. Prawna regulacja dokonuje się w tym zakresie głównie za pomocą wydawania wiążących opinii, pozwoleń na użytkowanie i przez określanie konkretnych limitów emisji. Na operatorów stacjonarnych źródeł nakładane są również szczegółowe zobowiązania, takie jak dostosowanie się do wymogów rozporządzenia dotyczącego użytkowania, a w wypadku niektórych źródeł zanieczyszczeń – także obowiązek uiszczania odszkodowań kompensacyjnych. W tekście niniejszego artykułu omówione zostały najważniejsze wątki prawne dotyczące stacjonarnych źródeł zanieczyszczeń powietrza.

Słowa klucze: ochrona powietrza, stacjonarne źródła, zanieczyszczenie powietrza, substancje zanieczyszczające, opłaty za zanieczyszczanie powietrza

Tereza Fabšíková

Selected issues of the Czech legal regulation of stationary sources of air pollution

Summary

The legal regulation of stationary sources of air pollution is an important part of the air protection in law. This paper is focused on selected issues of placing and operating all stationary sources in the Czech Republic, from the smaller ones (e.g. located in houses) to the larger ones. The regulation is mainly carried out by binding opinions and permits for operation and by the determination of some emission limits. Some obligations are also imposed on the operators of stationary sources and in the case of some stationary sources also compensatory measures and operating orders are required. In the text, the most important legal topics connected with stationary sources are discussed.

Keywords: air protection, stationary sources, air pollution, polluting substances, air pollution fees

Тереза Фабшикова

Избранные вопросы правовых норм Чехии, касающихся стационарных источников загрязнения воздуха

Аннотация

Правовые нормы, касающиеся стационарных источников загрязнения атмосферного воздуха, составляют важный элемент правовой охраны атмосферного воздуха. В этой статье рассматриваются отдельные вопросы распределения и эксплуатации всех стационарных источников в Чешской Республике, от небольших (например, расположенных в домах) до более крупных. Регулирование в основном осуществляется посредством заключений, обязательных к исполнению, разрешений на эксплуатацию, а также путем установления определенных лимитов выбросов. На операторов стационарных источников возлагаются также определенные обязательства, а для некоторых стационарных источников также требуются компенсационные мероприятия и оперативные распоряжения. В тексте обсуждаются наиболее важные правовые вопросы, связанные со стационарными источниками.

Ключевые слова: охрана атмосферного воздуха, стационарные источники, загрязнение атмосферного воздуха, загрязняющие вещества, плата за загрязнение атмосферного воздуха.

Tereza Fabšíková

Questioni selezionate dellaregolamentazione legale ceca delle fonti fisse di inquinamento atmosferico

Sommario

La regolamentazione legale delle fonti fisse di inquinamento atmosferico è una parte importante della protezione dell'aria nella legge. Il presente lavoro si concentra su questioni selezionate di posizionamento e funzionamento di tutte le fonti fisse nella Repubblica Ceca, da quelle più piccole (ad esempio, situate nelle case) a quelle più grandi. Il regolamento è attuato principalmente da pareri vincolanti e permessi di funzionamento e dalla determinazione di alcuni limiti di emissione. Alcuni obblighi sono imposti anche agli operatori di fonti fisse e nel caso di alcune fonti fisse sono necessarie anche misure compensative e ordini operativi. Nel testo vengono discussi i più importanti argomenti giuridici legati alle fonti fisse.

Parole chiave: protezione dell'aria, fonti fisse, inquinamento atmosferico, sostanze inquinanti, tasse sull'inquinamento atmosferico