

NEWS IN ENERGY LEGISLATION

The last several months have seen a number of developments that may or will have an impact on the energy business. We have put together a quick overview for your convenience:

1. Proposed amendment to the Agricultural Land Fund Protection Act

The Ministry for the Environment submitted for commenting a draft amendment of Act No. 334/1992, on agricultural land fund protection (the draft amendment hereinafter the “**Draft Amendment**” and the Act hereinafter the “**ALF Protection Act**”), which is available here: <https://odok.cz/portal/veklep/material/ALBSCNPDHVS/>).

The Draft Amendment should introduce the following changes:

- stipulating the conditions under which it is possible to implement agrovoltaic power plants on agricultural land provided that the photovoltaic power plant permits agricultural production. Currently the Draft Amendment anticipates agrovoltaic power plants only on land with certain permanent crops (vineyards, hop yards, orchards);
- introducing the institute of declaring plots of land part of the agricultural land fund, which allows non-agricultural plots to be placed into the ALF at the instigation or with the consent of the owner, with the goal of expanding the land in the ALF and offering it greater protection. Placing plots of land into the ALF can mean a lower tax burden for owners and more opportunity to draw on subsidies such as for building agrovoltaic power plants;
- increasing the levy for removing land from the ALF - the protection class coefficient is increasing for all protection classes, plus a proposal to increase the levy for retroactive permits for “illegal buildings” as well as for planned building projects designated for sales, production and storage that are not adjacent to built-up land in the municipality.

The Draft Amendment is currently in commenting procedures until February 17, 2023 and is set to take effect as of January 1, 2024.

2. Amendment to the Energy Act and RES Promotion Act

The Energy Act (Act No. 458/2000) and RES Promotion Act (Act No. 165/2012, which stipulates the conditions for aid for “green” sources of electricity, heat and biomethane) have both undergone significant changes.

The last major amendment to this legislation was [Act No. 19/2023](#), which took effect on January 24, 2023 and introduced the following changes:

- the installed capacity for a power plant not requiring an ERO license (when other conditions are met) is being raised from 10 kW to 50 kW; the conditions for installation from a safety standpoint will be stipulated in a new decree (a draft of which is available [here](#))

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- this change will relate to an upcoming change to the new Act No. 283/2021 proposing an increase in installed capacity for renewable energy structures that do not require a permit from the building authority (and thus can be performed by the builder on their own if the builder secures a construction manager or supervisor);
- it will be possible to place these plants outside the land reserved in the land use plan. This will avoid the need to change the land use plan in order to implement them;
- a RES power plant with a total installed capacity of 1 MW or more is established and operated in the public interest – along with changes in the Building Act this should simplify the permit process for power plants;
- for the purposes of the right to claim promotion pursuant to this act, CHP plants with installed capacity under 1 MW put into operation between January 1, 2022 and December 31, 2022 are considered put into operation as of January 1, 2023;
- the State Energy Inspection can now commence inspections ex officio even if a sector investigation did not find a risk of excessive promotion or if there is no concurrent promotion of RES energy and investment support. Until now the law has only permitted the SEI to commence such proceedings if the producer has combined operating and investment support;

Other legislation matters under preparation include:

- regulation of electricity sharing via an energy community meant to allow electricity sharing among its members. The electricity trade will be able to unilaterally change the contractual conditions for the electricity supply agreement or bundled electricity supply agreement made with a customer who begins sharing electricity.
- introducing the category of a “vulnerable customer”, meaning customers who are at risk especially due to health problems. It will only be possible to suspend or terminate supply or distribution of electricity to the offtake point for a “vulnerable customer” if the customer is informed at least six months in advance of the possibility of being disconnected and if the conditions set by law for terminating supply have been met at the end of that period.
- an expansion of the conditions under which the distribution grid operator or transmission grid operator can refuse a request to enter into a contract for transmission or distribution grid services, specifically when identifying data on the market participant is missing.
- a change in the assignment of production EANs for plants with installed capacity of up to 10 kW with continuous measurement. This will allow small photovoltaic power plant operators to make surplus purchase agreements with a trader other than the mandatory purchaser.

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3. Draft decree stipulating special rules for heating and hot water during a pre-emergency state or state of emergency.

This draft decree is not entirely new, as it was published in summer 2022. Its goal is to **set the general rules for heating** that the builder, building owner, owners' association or building management are required to follow when a **pre-emergency or emergency state is declared**, as only those entities can impact the volume of heat delivered to the building. If no such state is declared, **the rules for heating and hot water will still be governed by Decree No. 194/2007.**

We wrote about the decree in more detail in one of our previous [Newsalerts](#).

A reworked version of this decree is currently published in the electronic log of upcoming legislation reflecting comments made during the commenting procedure, during which process the draft saw certain changes, such as:

- the decree will now only apply to cases in which a pre-emergency or emergency state is **declared for the entire country pursuant to Section 88 of the Energy Act;**
- it will now apply to heating and hot water from heat supply grids and central heating **regardless of the fuel or energy source used;**
- the categories for which the decree stipulates the temperature have seen changes in categorization of the buildings to which they apply (e.g. the category "preschool/nursery" has been combined with the category "school") as well as an increase in certain temperatures;
- the temperatures were raised slightly in certain rooms (especially for schools, school facilities, and sanitary facilities in residential buildings).

For example, the decree does not affect theatres, cinemas, concert halls and other cultural venues, sports buildings, sports halls, swimming pools, saunas, winter stadiums, etc. Setting the temperatures for these facilities has been left up to the economic possibilities of the operators.

As the risk of insufficient gas is no longer imminent at the moment, passing the regulation has become less urgent.

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