



MINLEX - Denmark Country Report

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TABLE OF CONTENTS

- 1. DENMARK..... 2
 - 1.1. Summary of findings 2
 - 1.2. General introduction 4
 - 1.3. Legislation governing mineral exploration and extraction..... 5
 - 1.4. Authorities governing mineral exploration and extraction 10
 - 1.5. Licensing procedures for exploration 13
 - 1.6. Licensing procedures for extraction 16
 - 1.7. Court cases on permitting procedures 22
 - 1.8. Success rates of exploration and extraction permits 24
 - 1.9. EU legislation impacting permits and licenses for exploration and extraction..... 24

1. DENMARK

1.1. Summary of findings

Mineral resources in Denmark are composed mainly of industrial minerals and mineral fuels. Denmark has no active mines, and lacks economically exploitable metallic mineral resources although recent surveys have led to the designation of a minor area potential for heavy mineral exploitation. The country has reserves of non-metallic materials such as chalk, clays, bentonite and kaolin, lime, salt, granite, dimension stone as well as marine aggregates and loose aggregate (the last constitute the majority). The extraction occurs from gravel pits and quarries on land or are pumped or sucked from the seabed. Denmark is the only European commercial producer of Mo-clay (moler), which is a natural mixture of diatomite and smectite and, due to its porosity and absorption capacity, used for the manufacturing of such diverse things as insulation bricks and cat litter. The terrestrial resources belong to the landowner whereas the marine resources (sea bed and continental shelf) are owned by the State.

The exploration and extraction of Danish non-energy minerals is mainly governed by the Raw Material Act of 2017 and by the Act on the Use of the Danish Subsoil of 2018. Another important regulation is the Government Regulation No. 1680 of 2018 on Marine Raw Materials. Other relevant laws are the Drilling Act, the Water Supply Act, the Environmental Protection Act, the Nature Protection Act, Museum act among others. **Denmark has a decentralised permitting regime for land-based minerals and a centralised regime for offshore ones. Denmark has a "one-stop shop" for the issuing of permits (exploration, extraction) related to land and marine-based minerals.** In the case of land-based minerals, when the Regional Council¹ receives an application it acts as a "one-door-authority" and thus has the responsibility of sending the application in hearing among the public entities affected by the application so that the information provided can be assessed in parallel (**under a principle known as the "Coordination Obligation"**). The Regional Council must therefore cooperate with the Municipal Council on municipal license after, for example, the Water Supply Act or the Nature Protection Act, which fall within the respective municipality's authority. **This system facilitates the process for applicants and enables the permits to be issued faster while at the same time it avoids administrative duplication.** Each public entity can either grant permission without further demand or request additional information that the applicant must fulfil for the authority to decide on the matter.

Concerning exploration for land-based raw materials, a permit is not required when the expected number of extracted samples is less than 200 m³ (per year) and the samples are not used commercially. If the amount of sample material exceeds 200 m³ (per year) the Regional Council has to be notified and can, within a period of four weeks, set up specific requirements (including demands for reclamation) for the exploration activity. **The exploration of land-based raw materials is a subject primarily governed by a contract between the landowner and the explorer.** According to §5 in the Danish Raw Material Act, it is the responsibility of the Regional Councils to conduct exploration for raw materials on land. Anyone (companies or private persons) are free to make surveys for raw materials though, as long as the legislation is kept.

Concerning raw material extraction permits there is a division of the authority depending on where the raw materials are situated: the one-door authority issuing the permit for land-based materials is the Regional Council whereas for marine-based materials is the Danish Environmental Protection Agency, an organisation under the Danish Ministry of

¹ Denmark is divided into five regions which are responsible for the administration of the terrestrial raw material. In the case of the island of Bornholm it is the Municipal Council that has the authority according to the Raw Material Act, i.e. there are six authorities responsible for the land-based raw materials, the five regions and the municipality of Bornholm.

Environment and Food. **It is the responsibility of the Regional Council or of the Environmental Protection Agency to assess whether or not an Environmental Impact Assessment should be made for the intended extraction activity.** Specific conditions related to the extraction (such as size and time period etc.) that require an impact assessment are listed in the Environmental Impact Assessment Act. An extraction permit (or extraction license) is normally valid for a period of 10 years, after which it can be renewed, which often happens if the resource is not finished in order to receive the most sustainable extraction. The specific conditions listed in the extraction permit are publicly available information. Besides the extraction permit, other permits (or "dispensations" from prohibitions, i.e. permission) required depend on each case, but generally may involve permission after the Water Supply Act ("Water Extraction licence"), a dispensation after the nature protection act, permits after the Environmental Protection Act, and dispensation from the Museum and/or Public Roads Acts. The Regional Council manages the land-based raw material permits from each of the competent authorities issuing the relevant permits/licences under the coordination obligation. A 4-week period of appeal is implemented after the extraction permit has been issued. **The average length to get an extraction permit (for land-based materials) is estimated to be between six months and one year.**

The respective authorities are also responsible for surveying raw materials within their respective jurisdictions and planning for their extraction and supply. **The Regional Councils develop a plan for extraction and supply of raw materials in their particular region of Denmark based on the survey and expectation of demands for raw material.** The plan covers a 12-year period and every 4th year the Regional Councils are obliged to review the plan in order to assess the need for adjustments or review. An 8-week public hearing process is connected to each update of the plan, where everyone can provide comments or reservations towards the content of the plan. When a company wishes to extract raw materials on land it has to send an application to the specific Regional Council that covers the area of interest.

According to §18 in the Danish Raw Material Act it is the responsibility of the Danish Environmental Protection Agency to conduct exploration for marine-based raw materials and the results forms the basis for the definition of areas for extraction activities. However, it is possible for a company to explore for marine-based raw materials following the rules in the Government Regulation No. 1680 of 22. December 2018.

In relation to permitting success rates, no rates exist for land-based exploration permits as largely no permits are necessary (the exploration of land-based raw materials is a subject primarily governed by a contract between the landowner and the explorer and authorities must be notified four weeks before starting). **No statistics on permitting success rates for land-based extraction permits could be obtained. However, such rate is considered to be very high (approximately 100 %) because in DK it is well defined where it is possible to obtain an extraction permit and permission is usually granted when applied within the designated areas.** Such areas are those where it is permitted to extract raw materials (in Danish: *råstofindvindingsområder* or *graveområder*) and areas safeguarded for future extraction called "areas of interest" (in Danish *interesseområder*).

In order to illustrate which kinds of appeals and complaints in relation to the Raw Materials Act are processed by the Environmental Board of Appeal, 20 appeals issued between 2011 and 2016 have been inspected from rulings of The Board. Most appeals were made by companies (7) related to restriction in the permit and most appeals made by neighbours (11) related to dust, noise and working hours. The complaints by landowners (2) reflected claims to stop the excavation.

1.2. General introduction

The terrestrial area of Denmark covers 43.000 km² (not including the self-governing regions of Greenland and the Faroe Islands). The marine territory covers about 105.000 km². The land areas of Denmark consist of the peninsula of Jutland and an archipelago of 406 islands, 73 of which are inhabited. Denmark's population is around 5.7 million. Some 87% live in towns and urban areas (with more than 200 inhabitants) while 13% live in the countryside and small villages. Almost one third of the population live in the greater Copenhagen area.

Denmark is divided into five regions (The North Denmark Region, Central Denmark Region, The Region of Southern Denmark, Region Zealand, and The Capital Region of Denmark), each controlled by a Regional Council consisting of 41 elected members.). The island of Bornholm goes under the Capital Region of Denmark but undertakes some of the regional authorities. The island has a special status as Regional Municipality and the Municipal Council fulfils the role of both municipality, in the same way as the other municipalities in Denmark (which is 98 in total) and the role as a region as just mentioned.

Denmark has a simple and clear spatial planning system with a strongly decentralized division of responsibility. The municipality councils are responsible for overall land-use regulation at the local authority level, which is binding for the council and the administration in regards to planning and landuse. The municipality councils are also responsible for district planning, which are legally binding guidelines for property owners. The Regional Councils prepare strategic plans for development in each region. The Minister for the Environment is responsible for protecting national interests through national planning. According to the Planning Act, the Regional Councils have to prepare regional raw material plans for the extraction and supply of raw materials.

Mineral ownership

The land-based materials belong to the landowner, marine resources on the sea floor (sea bed and continental shelf) are owned by the State.

1.3. Legislation governing mineral exploration and extraction

The planning and administration of the exploration and extraction of non-energy minerals is mainly governed by the Danish Raw Material Act (Act No. 124 of 2017), especially with regard to mineral raw materials extracted from open quarries on land or from the seabed, such as sand, gravel, stones, granite, lime and chalk, clay, moler (mo-clay) and peat, and the less common materials: flint, marl, bog iron ore and sandstone. Another important regulation is the Government Regulation No. 1680 of 2018 on Marine Raw Materials. The Raw Material Act does not apply in the Faroe Islands and Greenland.

Table 1: Denmark. Legislation relevant to exploration and extraction permitting.

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
mining, minerals management, technical safety, concession	DK-L1	Act No. 124 of 2017 on Raw Materials	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Mining law
	DK-L2	Act No. 1717 of 2016 on Working Environment	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Working Environment Act
	DK-L3	Act No. 412 of 2017 on Royalties on Waste-and Raw Materials	www.retsinformation.dk	Y	Y	N	Y	N	N	N	N	Royalty calculation
	DK-L4	Act No. 788 of 2014 on Concession	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Concession rules
	DK-L5	Government Regulation No. 1680 of 2018 on Marine Raw Materials	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Rules regarding exploration and exploration of marine based raw materials

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	DK-L6	Government Regulation No. 1260 of 2013 on Drilling and sealing of boreholes and wells (Drilling Act)	www.retsinformation.dk	Y	Y	Y	Y	N	Y	Y	Y	Rules regarding drilling
environment	DK-L7	Act No. 241 of 2015 on Environmental Protection	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Environmental protection act
	DK-L8	Act No. 1225 of 2019 on Environmental Assessment	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Environmental Assessment principles
	DK-L9	Act No. 115 of 2017 on chemical safety	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Chemical safety rules
	DK-L10	Government Regulation No. 121 of 2019 on EIA	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Impact assessment rules
	DK-L11	Government Regulation No. 1759 of 2018 on waste	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Waste management rules
	DK-L12	Government Regulation No. 1596 of 2018 on noise	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Rules regarding mapping of noise and mitigation

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	DK-L13	EUM Ministerial Regulation No. 1907/2006 on dangerous substances procedures	www.arbejdslsynet.dk	Y	Y	Y	Y	Y	Y	Y	Y	REACH registration
nature conservation, forestry	DK-L14	Act No. 240 of 2019 on Nature Protection	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Nature conservation law
	DK-L15	Act No. 315 of 2019 on Forest protection	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Forests conservation rules
	DK-L16	Government Regulation No. 945 of 2016 on Natura2000 sites	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Natura2000 sites rules
	DK-L17	Government Regulation No. 1595 of 2018 on nature conservation	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Nature conservation rules
	DK-L18	Government Regulation No. 1466 of 2018 on animal- and plant protection	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Rules regarding conservation of animal- and plant species
	DK-L19	EU Council Directive 92/43/EEC of 21 May 1992 on Habitats	www.eur-lex.europa.eu	Y	Y	Y	Y	Y	Y	Y	Y	Conservation of natural habitats and of wild fauna and flora

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
water management	DK-L20	Act No. 241 of 2019 on Water Supply	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Groundwater protection act
	DK-L21	Act No. 127 of 2017 on Surface water	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Surface water act
	DK-L22	Act No. 126 of 2017 on Water management	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Water law
land use planning, spatial development, soil management	DK-L23	Act No. 287 of 2018 on land use planning	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Land use planning rules of permitting
	DK-L24	Act No. 282 of 2017 on Contaminated Soil	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Soil contamination protection act

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
transportation, construction, catastrophe protection, police, military	DK-L25	Act No. 1520 of 2014 on Public roads	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Road construction and maintenance law
	DK-L26	Act No. 1178 of 2016 on Construction Permitting	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Construction permitting rules
culture heritage	DK-L27	Act No. 358 of 2014 on cultural heritage and archaeological sites (the 'Museum Act')	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Rules for declaration of protection

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
public administration, court procedures	DK-L28	Act No. 1284 of 2018 on code of civil procedures	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	Rules and procedures of the courts
	DK-L29	Act No. 1156 of 2018 on criminal code	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	General conditions for punishing procedures
	DK-L30	Act No. 606 of 2013 on Access to Public Administration Files	www.retsinformation.dk	Y	Y	Y	Y	Y	Y	Y	Y	General rules regarding access to Public Administration Files

1.4. Authorities governing mineral exploration and extraction

Denmark has a “one-stop shop” for the issuing of permits (exploration, extraction) related to land and marine-based minerals. For land-based the authority are the Danish Regions, an autonomous organisation governed by its members, the Regional Councils (from 1 July 2014 permitting responsibility has been taken over by the Regional Councils where the exploration/extraction is going to take place) and for marine-based the Danish Environmental Protection Agency, an organisation under the Danish Ministry of Environment and Food. The Regional Councils are also responsible for surveying raw materials and planning for their extraction and supply.

Table 2: Denmark Relevant authorities in exploration and extraction permitting.

	Code	Name of entity (in Danish)	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
First instance permitting (local, regional, central, national)	DK-E1	Region Nordjylland	The North Denmark Region (Regional Council)	Niels Bohrs Vej 30, 9220 Aalborg Ø, Denmark / www.rn.dk	One-door authority for land based raw materials	Y	Y	Y	Raw Material Act	more than 3 competence
	DK-E2	Region Midtjylland	Central Denmark Region (Regional Council)	Skottenborg 26, 8800 Viborg, Denmark / www.rm.dk	One-door authority for land based raw materials	Y	Y	Y	Raw Material Act	more than 3 competence
	DK-E3	Region Syddanmark	The Region of Southern Denmark (Regional Council)	Damhaven 12, 7100 Vejle, Denmark / www.regionsyddanmark.dk	One-door authority for land based raw materials	Y	Y	Y	Raw Material Act	more than 3 competence
	DK-E4	Region Sjælland	Region Zealand (Regional Council)	Alléen 15, 4180 Sorø, Denmark / www.regionsjaelland.dk	One-door authority for land based raw materials	Y	Y	Y	Raw Material Act	more than 3 competence
	DK-E5	Region Hovedstaden	The Capital Region of Denmark (Regional Council)	Kongens Vænge 2, 3400 Hillerød, Denmark ww.regionh.dk	One-door authority for land based raw materials	Y	Y	Y	Raw Material Act	more than 3 competence

	Code	Name of entity (in Danish)	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DK-E6	Bornholms Regionskommune	Regional Municipality of Bornholm	Landemærket 26, 3700 Rønne, Denmark / www.brh.dk	One-door authority for land based raw materials	Y	Y	Y	Raw Material Act	more than 3 competence
	DK-E7	Miljøstyrelsen	Danish Environmental Protection Agency	Tolderlundsvej 5 5000 Odense C, Denmark/ www.mst.dk	One-door authority for marine based raw materials	Y	Y	Y	Raw Material Act	more than 3 competence
Second instance permitting (regional, central, national)	DK-E8	Miljø- og Fødevareklagen ævnet	Board of Appeal of Environment and Food	Nævnenes Hus, Toldboden 2, 8800 Viborg / www.naevneneshus. dk	Central board of appeal for all matters relating to nature, planning and the environment	Y	Y	Y	Raw Material Act	None
Court jurisdiction	DK-E9	Danmarks Domstole	Courts of Denmark	Domstolsstyrelsen, Store Kongensgade 1-3, 1264 København K, Denmark / www.domstol.dk	The courts deal with appeals raised from the Environmental Board of appeal	Y	Y	Y	Act No. 1139 of 2013 on code of civil procedures + Raw Material Act	None

1.5. Licensing procedures for exploration

Summary of all the different permitting procedures for exploration

In general, the exploration of land-based raw material in Denmark is a subject primarily governed by a contract / agreement between the landowner and the explorer provided that:

- the sampled material is of limited size and not used commercially;
- the results are reported to the national geological survey (GEUS) and the Environmental Protection Agency within 3 months;
- the investigations are conducted in accordance with other relevant regulations such as the Drilling Act (see DK-L6 in Table 1).

The Regional Councils in Denmark are obliged to conduct mapping of raw materials on land for designating and planning of dedicated extraction areas and areas reserved for use in the future. To ensure that this task can be performed The Regional Councils can access private land without the owner's consent, something which rarely happens.

Differences for the different types of mineral deposits

The Danish mineral industry includes extraction of loose aggregate, limestone and chalk, different types of clay, salt and granite. Aggregates are mainly derived from either glaciofluvial deposits or from Late- and Postglacial marine deposits. Marine deposits are more mature than glaciofluvial deposits and usually contain smaller amounts of reactive grains that are harmful to constructions. In addition, older deltaic and fluvial deposits of pure quartz sand are found in central Jylland and on and around the island of Bornholm. Extraction of granites in Denmark are confined to Bornholm. The excavated clays are mainly of glaciolacustrine or marine origin. Among these Paleogene marine clay deposits are particularly fine-grained and rich in smectite. Limestone and chalk are marine formations of Cretaceous and early Cenozoic age. The salt resources in Denmark are Permian in age and related to evaporates now found in relatively shallower diapirs at depths of 200–300 m.

The mineral exploration and extraction activities are regulated based on the present physical environment where the deposits / rocks are found i.e. land-based or marine-based. The land-based deposits are administered by the Regional Councils in Denmark and the marine-based deposits are administered by the Danish Environmental Protection Agency.

Description of the permitting procedures

As the regulation of the raw materials sector in Denmark is divided between two authorities, there are slight differences in the permitting procedures whether it relates to exploration of land-based or marine-based raw materials.

The basic public planning on land

According to §5 and §42 in the Danish Raw Material Act it is the responsibility of the five Regional Councils and the Municipal Council of Bornholm to conduct exploration for raw materials on land. The Regional Councils develops a plan for extraction and supply of raw materials in their particular region of Denmark based on the survey and expectation of demands for raw material. New extraction areas and areas with raw material potential are

partly selected on the basis of an overall assessment of the planned developments in a region and partly on the basis of considerations relating to other matters, such as Nature and Environment protection areas, groundwater extraction areas, archaeological preserved areas, infrastructure and town development areas and other land use planning areas. Besides designation of extraction areas and potential areas (where permission are not to be expected within the period of validity of the plan) the Regional Council establishes general guidelines for the extraction of raw materials. Every 4th year the Regional Councils are obliged to review the plan in order to assess if the plan needs to be adjusted.

First, the Regional councils start a public hearing for 8 weeks, in which citizens, landowners or the extraction companies, are inviting ideas and suggestions for new areas of interest in regards to extraction of raw materials. On the basis of this public hearing, the regional council make the final decision on whether the plan has to be reviewed. If the plan needs to be reviewed, the process starts in regards to investigations of the environmental factors both in favour of exploration and against exploration. The final decision on which areas will be a part of the plan for extraction, ends with an 8 week long public hearing.

Until now all Regional council, except Bornholm, has decided that the plan needs reviewing. Bornholm has one time decided that a review was not necessary.

Exploration in general

Exploration for land-based raw materials in the amount of less than 200 m³ (per year) needs no permission (although the relevant legislation has to be respected). Non-commercially exploration or extractions of sample material exceeding 200 m³ (per year) has to be notified to the Regional Council four weeks before commencement. The authority can, within this period, set up specific requirements (including demands for after-treatment) for the exploration activity.

Raw materials in excess, in relation to projects within the building sector, for example infrastructure, landscaping or house building, can be utilized or sold without exploration permits, as long as the project does not hold the signature of professional exploration

Guidelines for raw material exploration in Denmark

After the adoption of the first detailed Raw Materials Act of 1977 specific guidelines for the exploration and mapping of different mineral resources, of aggregate, clays etc. in Denmark were produced in the early eighties by the Danish Environmental Protection Agency (formerly the *Forest and Nature Agency*). They are to a great extent still relevant though new especially geophysical methods have been adopted since then.

Marine-based raw materials

It is possible for all companies, who follow the rules specified by the Government Regulation No. 1680 of 22. December 2018, to explore for marine-based raw materials. However, according to §18 in the Danish Raw Material Act it is the responsibility of the Danish Environmental Protection Agency to conduct exploration for marine-based raw materials as well and the results forms the basis for the definition of areas for extraction activities.

Public entities involved in the process

According to The Drillers Act (or Drilling Act) the local municipality must be notified before drilling commences and the drilling logs and samples must be sent to the Geological Survey of Denmark and Greenland (GEUS) within three months after the exploration. According to the Raw Materials Act results of an exploration for raw materials (including geophysics and sample analyses) must be reported to GEUS and the Danish Environmental Protection Agency within three months after the exploration.

Timeframes

Regarding land-based materials the respective authority has 4 weeks after being notified to set up specific requirements for the activity including demands for reclamation. Results are to be reported to GEUS and the Danish Environmental Protection Agency within three months after the exploration.

The processing of an application to explore for marine-based materials takes about 2-6 months depending on the type of designated area (auction, shared territory or contractor area, see under the section: Description of the permitting procedures).

Geographic areas covered by the permit

There are no specific limitations for a land-based permit except for the amount in m³ as long as the landowner approves and other regulations are met. However, in a number of specific protection areas or areas with numerous conflicting interests' exploration for raw materials will be risky since permits for extraction probably cannot be issued.

Permits for marine-based materials are limited strictly by coordinates and amount of permitted m³.

Rights and duties of the licensee

The results from the activity should be reported to the National Geological Survey of Denmark and Greenland (GEUS) and The Danish Environmental Protection Agency no later than 3 months after completion.

Legal nature of the rights

Since there is no need for issuing permits there are no specific rights to consider.

Links between the exploration permit and a future license for extraction

In general, extraction must take place within the designated areas. Private exploration outside these may however lead to the designation of a new area in the future. During the scheduled review of assessment of the regional raw material plans every fourth-year private companies are encouraged to suggest new areas based on their explorations.

Average length to get an exploration permit

In regard to land-based extraction, permits are not necessary (according to the provisions previously mentioned) unless the amount exceeds 200 m³ (per year). In that case, it can take up to 4 weeks before the exploration can begin.

Concerning marine-based exploration permits, exploration in a shared territory area (areas where extraction already is permitted or prior have been an extraction permit) is allowed earliest four weeks after the Danish Environmental Protection Agency have been noticed and received an adequate application. Exploration for a new auction area or contractor's area needs to apply for an exploration permit in accordance with § 3 in Government Regulation No. 1680 of 2018 on Marine Raw Materials. This process is typically longer than the four weeks required when noticing the authorities about exploration in a shared territory area.

Main problems or major modifications related to exploration permitting

At present, no specific problems with regard to investigations are known. It is therefore assumed that the opportunities for exploration for mineral raw materials in Denmark are adequate.

1.6. Licensing procedures for extraction

Summary of all the different permitting procedures for extraction

Prior to an extraction of land-based raw materials, the applicant must apply for an extraction permit. In some cases, it is also necessary to prepare an environmental impact assessment (EIA). An application for an extraction permit (in Danish: *Tilladelse til raastofindvinding*) also counts as application for permission under other laws necessary for the extraction of raw materials (the so-called *coordination obligation*). The Regional Council must therefore cooperate with the Municipal Council on municipal license after for example the Water Supply Act, Nature Protection Act and Environmental Protection Act, which fall within the respective municipality's authority. The Regional Council must in some cases cooperate in the same way with state authorities. A standardized application chart has been prepared which must be completed by an applicant. The application also has to be accompanied by a reclamation plan. The Regional Council sets terms for extraction of raw materials, the reclamation of the area and the extraction plan (graveplan).

Within a manageable time, the application system will be changed to the so-called RIT, which is a joined IT system between the regions, which will replace the current manual application system.

Applications for extraction at sea need the same kind of information in the application as on land but it is not necessarily mandatory to prepare an after-treatment plan and no demand of coordination obligation of the competent authority. Both authorities of the respective territory, however, act as one-door entrance to exploitation for raw materials. It is thus the responsibility of the authorities to coordinate and send the application in hearing amongst other relevant authorities.

Differences for the different types of mineral deposits

Denmark is divided into five regions, each controlled by a Regional Council consisting of 41 elected members. The board is appointed for a four-year period, and reflects the political affinities of the members of the Regional Councils (The North Denmark Region, Central Denmark Region, The Region of Southern Denmark, Region Zealand, and The Capital Region of Denmark). The island of Bornholm goes under the Capital Region of Denmark but undertakes some of the regional authorities (e.g. regarding raw material, see also below). The island has a special status as Regional Municipality and the Municipal Council fulfils the role of both municipality, in the same way as the other municipalities in Denmark (which is 98 in total) and the role as a region as just mentioned. The main task of the regions is the provision of health care, but also has environmental tasks by the management of soil pollution and raw material planning and responsibility for the establishment of transport companies. Furthermore, the region is responsible for the regional development of the environment, nature and education.

In Denmark, mineral extraction activities are regulated based on the physical environment where the deposit is found i.e. land-based or marine-based. The land-based deposits are administered by the Danish Regions (the Regional Councils) and the Regional Municipality of Bornholm, and the marine-based deposits are administered by The Danish Environmental Protection Agency.

Description of the permitting procedures

Land-based raw materials

If a company wishes to extract raw materials on land it has to send an application to the specific Regional Council that covers the area of interest. A standardized application form can be found on the website of the relevant Regional Council. The applicant should among others include information on the company, the location of the extraction area, ownership of the area, type and thickness of the deposit, duration of operation, annual production, contemplated use of the raw material (in order to get an idea of the quality of the raw material), use of equipment and machines, actions arranged in order to mitigate dust and noise production, waste production, draft of an after-treatment plan, etc. In the application, it must be informed if the company plans to extract water for the treatment of the raw material or maybe to lower the groundwater table in order to extract the raw material.

When the Regional Council receives an application, it acts as "one-door-authority", and thus has the responsibility of sending the application in hearing among the public entities affected by the application (see below under the section "Coordination Obligation").

Each public entity can either grant permission without further demand or request additional information that the applicant must fulfil in order for the authority to decide on the matter. It is the responsibility of the Regional Council to assess whether or not an Environmental Impact Assessment should be made for the applied extraction activity. Specific conditions related to the extraction (such as size and time period etc.) that require an impact assessment are listed in the Environmental Impact Assessment Act. An extraction permit (or extraction license) is normally valid for a period of 10 years, after which it can be renewed, which often happens if the resource is not finished in order to receive the most sustainably extraction. The specific conditions listed in the extraction permit are public available information. A 4-week period of appeal is implemented after the permit has been issued.

Besides the extraction permit, other permits (or "dispensations" from prohibitions, i.e. permission) required depend on each case, but generally may involve permission after the Water Supply Act ("Water Extraction licence"), a dispensation after the Environmental Protection Act, and dispensation after the Museum and/or Public Roads Acts. It is the Regional Councils (the one-door authority) who manages the permits from each of the competent authorities issuing the relevant permits/licences under the coordination obligation.

The "Coordination Obligation" in the Danish system for permits for extraction of raw materials on land

The planning and administration of the extraction of raw materials is mainly governed by the Danish Raw Material Act (Act No. 124 of 2017). The Act addresses especially raw materials extracted from open quarries on land or from the seabed, such as sand, gravel,

stones, granite, lime and chalk, clay, mo-clay and peat, and the less common materials: flint, marl, bog iron ore and sandstone².

Permits for raw materials extraction on land are granted by the Regional Council for the region where the extraction is going to take place. Under Section 8 of the Danish Raw Material Act, the Regional Council has a duty to present the application to other relevant authorities, responsible for issuing separate permits in case this is required according to other legislation, so that the information provided can be assessed in parallel. I.e. an application for permission to extract raw materials also applies as an application for permission under other legislation to extract raw materials in the ground. This is known as the "Coordination Obligation" (in Danish *samordningspligt*).

In more words: Extraction of raw materials will typically require permits or dispensations for a number of laws other than the Raw Materials Act. E.g. it is the case if the extraction must take place within a protected area such as within the coastal protection line, or there might be a biotope protected area within the applied extraction area or area with forest. It is also possible that it is necessary or desirable to have extraction, lowering or drainage of groundwater or the extraction requires a dispensation from a district plan. In order to ensure efficient and proper conduct of procedure of the applied extraction project, the application for extraction also constitute an application by other laws, cf. Raw Materials Act § 8 about the so-called *coordination obligation*. While ensuring an efficient process, the coordination obligation also ensures that the region does not give an extraction permit, which subsequently cannot be reconciled with other necessary permits. Coordination obligation thus creates procedural framework that automatically ensures that the relevant authorities have the ability to prevent the planned extraction or countering harm, by providing the necessary conditions and terms of exploration.

Therefore, the region has to forward the application to other relevant authorities immediately upon receipt of a fully informed application. This system facilitates the process for applicants and enables the permits to be issued faster.

The obligation for the regions to coordinate with other authorities, in case the extraction needs permits under other legislation than the Raw Material Act, has existed since the 1972.

Other legislation that might affect the authorisation of extraction is, for instance, the Museums Act (dealing with protected cultural heritage), the Act on Environmental Protection (e.g. waste water), the Forestry Act (e.g. protected forests), the Planning Act (e.g. local planning for the area), the Nature Protection Act (protected areas, habitats, species) etc. It is therefore important that the different authorities with authorisation responsibility are able to coordinate the treatment of applications. Coordination not only facilitates the process and makes it faster for those who apply for permits, it is also a way to avoid administrative duplication.

It should be kept in mind, however, that the coordination obligation only covers the permits necessary for the raw material extraction itself – any other permits that might be needed in connection with the planned work (e.g. access to a public road, or personnel caravans) are not automatically covered.

There is also an obligation for the region to consult certain other authorities responsible for interests that have to be taken into account by the region when granting a permit under the Raw Material Act, e.g. utility owners. The consultation of other authorities has to be

² The extraction of raw materials such as oil, natural gas, salt and geothermal energy are covered by the Act on Danish Subsoil Exploitation (Act No. 960 of 2011 with later amendments).

organised immediately upon receipt of a correctly completed application and the consulted authorities normally have a deadline of four weeks to provide their response statement.

When the region forward the application to relevant co-authorities, the applicant must be informed that the applied (by assessment of the region) requires permission after other legislation and that the application dossier is forwarded to those authorities and the region is now awaiting these authorities on the matter referred. In case the consulted authorities oppose the application and are not able to grant their permits, the region has to inform the applicant and provide them with information on how to complain/lodge an appeal. Permits granted by other authorities should be sent to the region so that they can be sent out together with the permit issued under the Raw Material Act. Conditions set by the other authorities must be included in the permit issued under the Raw Material Act. The system in effect functions like a "one-stop-shop".

Marine-based raw materials

With regard to extraction on the seabed the Danish Environmental Protection Agency is responsible for issuing permits due to the Raw Material Act. The agency involves other relevant authorities in the permitting process but there is no need for a system like the coordination obligation on sea, as the number of necessary permits is much lower.

Three types of licenses exist when a company wants to extract marine-based raw materials: an auction license, a shared territory license and a contractor's license. Only the auction and contractor's licenses are exclusive and can be granted for a period of up to ten years for the production license area and one year for the Contractor's license area. There are various production royalties and annual area fees connected to the three license types.

The application for extraction at sea must include information about the applicant's name and address and other business information. A description for application purposes must be provided as well as information of total raw material volume, composition and quality of the raw materials intended to be recovered, and documentation of the occurrence, desired quantity extracted material each year, extraction methods, documentation showing the results of exploration have been reported to the Geological Survey of Denmark and Greenland (GEUS), etc. The desired info entries are stated in the Raw Materials Act Sec. 3. The application also often need to include an environmental impact assessment.

Public entities involved in the process

As mentioned above the land-based deposits are administered by the Regional Councils in Denmark and the marine-based deposits are governed by the Danish Environmental Protection Agency. Both authorities, however, act as one-door entrance to exploration for raw materials in Denmark. It is thus the responsibility of the two authorities to coordinate with other legislation and forward the application in hearing amongst the municipalities and any other authority that will be affected by the activity. It is also the responsibility of the two permission authorities to perform inspections of the activity and they have the mandate to order an enforcement notice or to stop the activity if it contradicts with any law or the specific terms set out in the permission. Board of Appeal of Environment and Food handle any complaints.

Timeframes

Land-based raw materials

From the time the authority has sufficient information concerning the application and until the extraction can begin it can take from 6 months and up to a year. If it is necessary with an Environmental impact assessment, report, the process can take up to 2 years. The length of the procedure of permission can in general be estimated to be about 10 months but it depends on how many conflicting interests there are in the designated extraction area, e.g. how many other co-authorities have to be involved and how strong are their interests. It also depends on whether or not the region assesses the need for an EIA.

The *coordination obligation* involving other authorities entails the museums of cultural heritage have a hearing deadline of 4 weeks, which is also the duration for the local authorities in the case of consulting concerning the screening process within the Environmental Impact assessment Act.

According to the Raw Material Act of 2017, the municipal council need to be heard in regards to reclamation before the final decision is made in regards to land based permit of exploration. The duration of this hearing is at least 4 weeks.

reclamation of the area. Otherwise there are no time limits in the respective laws that have to be taken into consideration by other authorities when they have to be involved which they always have to be to some extent. I.e. there are no legal timeframe for issuing extraction permits but according to the Danish rules of good governance it should be within reasonable time.

Marine-based raw materials

An extraction application within a shared area takes up to 2 weeks to issue.

An application for exploration in a new area can be either an auction area (auction is held 2 times a year), a new shared area (the so-called primary license for a shared area) or a contractor area (which can be applied as needed by major construction projects). All of these licenses require a preliminary exploration, which again also requires exploration permit. It takes probably about 1½-2 years from the time you submit exploration application until it is possible to sail out to extract the material.

Geographic areas covered by the permit

Land-based raw materials

The Regional Councils are responsible for the development of a plan for extraction and supply of raw materials in Denmark, in which extraction areas and areas with raw material potential in the future is being designated. A company can thus immediately apply for an extraction licence within the areas designated as "extraction areas" and to some extent expect to get a permit but with certain terms regarding other interests inside the area. Exceptionally permits are granted outside the designated "extraction areas", e.g. in cases of extraction of special raw materials or raw materials that locally are hard to find. It can also be granted in cases where there is a residual resource, e.g. from earlier extraction or in order to finish or improve the after-treatment in the area. As a rule, though, it is only in the geographically designated extraction areas within the raw material plan of the respective territory that extraction can take place.

Marine-based raw materials

There are 3 types of areas where a company can exploit raw material deposits: a specific area defined by an auction license, a shared territory license area and a contractor's license area. The auction licence can in principle be granted everywhere on the Danish marine shelf as long as the area is not in conflict with §19 in the Government Regulation No. 1680

of 2018 on Marine Raw Materials. The shared territory licence area is defined by the Danish Environmental Protection Agency. The contractor's license area is typically located in the vicinity of a large-scale building project e.g. extension of a harbour area where landfilling is required, coastal protection areas or the building of a large bridge i.e. the Øresunds (the Sound)- and Storebælts (the Great Belt) bridges, where massive landfilling (and/or dredging) is required.

Rights and duties of the licensee

Land-based raw materials

The duties related to the specific license are listed in the license text. In general, the licence owner must carry out specified noise and dust protection precautions, not work outside specific working hours, excavate and reclaim the area in an agreed order and report the yearly production to The Regional Council etc. After the extraction activities have been terminated, the licensee should finalise the reclamation of the affected area to a state described in the initial reclamation plan that has to accompany the extraction permit and possible later agreed adjustments of this. The extraction permit is given to the property, which means that whom ever owns the property at any given time, has the right to extract under the given terms described in the permit. The property owner often lease the permit and the land to an extraction company.. There must be provided a deposit in the bank or warranty in connection with a permit - the amount depending on the specific case, which allows the authorities to finish reclamation for example in case of bankruptcy, and it will be given free when the authority has approved the final reclamation of the extraction area. The amount of the bank deposit or warranty will depend on size, depth, risks and the calculated cost of reclamation.

Marine-based raw materials

The rights and duties of a licensee are described in Chapter 4 and Appendix 4 in the Government Regulation No. 1680 of 2018 on Marine Raw Materials.

Legal nature of the rights

Danish Raw Material Act No. 1218 of 28. September 2016.

Government Regulation No. 1680 of 2018 on Marine Raw Materials.

Danish Environmental Impact Act No. 1225 of 25. October 2018.

Links between the exploration permit and a future license for extraction

Land-based raw materials

Everybody can apply for extraction of raw material. The applicants need no proof of skills and are not obliged to invest in exploration as long as the area of application falls within the designated extraction area of the raw material plan.

Marine-based raw materials

In the case of extraction from sea it requires huge investments in equipment which excludes laymen in applying for extraction permit. In shared areas, everyone can, in principle apply for permission to explore and afterwards apply for permission to extract. Everyone can get a license to extract in already issued shared areas, as it is only required to lead an exploration by the so-called "primary licence" holder who initiates the issuing of the area. In auction areas, companies have the option to obtain exclusive rights to

extraction in an area by bidding at an auction (held by the Danish Environmental Protection Agency every six months). Permission for extraction is given on the basis of a completed exploration and environmental assessment. In contractor areas, the building owner for larger backfilling assignments or for coastal protection may be authorized to explore or extract in an area without prior auction.

Average length to get an exploitation permit

10 -12 months depending on the complexity regarding conflicts with other interests. If it is necessary to make an EIA it adds about 6 months.

Integrity Assessment

No lack of transparency, no cases of unequal treatment and no corruption is reported from Denmark. Exploration data becomes public through GEUS' websites. All permits are available to the public which means that everybody can look in to the terms set up for the permission. During the procedure of issuing a permit there is a stakeholder consultation and the permission will be sent into public hearing with a guide on how to appeal.

Main problems or major modifications related to extraction permitting

Extraction permits demands very good and close cooperation between especially the municipality and the regions concerning land-based materials. The municipalities are the competent authority when it comes to a lot of the authority areas which come into play (e.g. ground water, protected dykes, biotope protected areas etc.) when an extraction license has to be issued. The municipality, on the other hand, has no incentive to expedite the procedure whatsoever as the extraction business is not a popular business neither for the neighbours nor the local politicians (depending on the vote of the neighbour on the next election). The extraction business is an unpopular business in general, and the type that operates in Denmark does not create many jobs.

1.7. Court cases on permitting procedures

The procedural and institutional framework of court appeals

An appeal against a permission relating to an extraction permit must be submitted electronically to Board of Appeal of Environment and Food. The plaintiff (appellant) must pay a fee of d.kr. 900 for private persons and 1800 for companies and organisations (correspond to approximately 120 and 240 euro, respectively). The complaint will then be sent via the Portal of Appeal to the authority that issued the decision. The appeal period is 4 weeks from the date on which the permission is announced. If the permission is publicly announced the complaint deadline is always counted from the public announcement. An appeal has suspensive effect unless Board of Appeal decides otherwise. Processing of the appeal takes a minimum of 6 months.

Quantitative data or expert assessment of the last 20 years in minerals permitting cases

It is not possible on the website of the Board of Appeal to search further back than 2011. From 2011 to today there have been processed 101 cases according to the Raw Material Act at The Environmental Board of Appeal. The complaints come from the applicants and often deal with complaints about the refusal of dispensation or terms specified in the

permission, or they come from neighbours and often involve the genes that extraction entails.

Most decisive and representative court judgements

Extraction of raw materials on beaches is now not very common, but there are a few principal decisions that can serve to illustrate management practices.

With regard to the distinction between non-commercial and commercial extraction there also are a number of examples and principal decisions.

In case of judgments that may have principal interest or general importance for the administration of the Raw Material Act, The Danish Environmental Protection Agency orients all relevant authorities.

Land-based raw materials

In order to illustrate which kinds of appeals and complaints in relation to The Raw Material Act that are processed by the Nature and Environmental Board 20 appeals issued between 2011 and 2016 have been inspected from rulings of The Board available on their website³.

7 appeals have been made by Raw Material Companies

11 appeals have been made by neighbours including one waterworks

2 appeals have been made by landowners

Most appeals made by companies were related to restriction in the permit

1 appeal led to a repeal of the permit because of an error made by the authorities

3 appeals were rejected because they did not meet the formal requirements

3 appeals were rejected because the restrictions were found to be relevant / normal

Most appeals made by neighbours are related to dust, noise and working hours.

3 complaints were rejected because they did not meet the formal requirements (timing, other legislation etc.)

7 complaints were rejected because the requirements in the permit was found to be sufficient

1 complaint led to a reprocessing of the permit because of a formal error had been made by the authorities

The two complaint for landowner reflected claims to stop the excavation as soon as possible

One complaint was referred to private lawsuit between the owner and the company

³ <http://www.nmknafoerelser.dk/> (only in Danish) (Accessed 24 August 2016)

One complaint was rejected since the time limits given in the permit was found to be reasonable

Conclusions

It is easy and quite inexpensive to complain. This is both good and bad. Good because it is safeguarding the democratic and transparent process of the work of the authorities but bad in the sense of delaying the permission procedure with a minimum of half a year all that an appeal has suspensive effect.

1.8. Success rates of exploration and extraction permits

The success rate is considered to be 100 %. In Denmark, it is well defined where it is possible to get extraction permit and permission is usually granted when applied within the designated areas. Although there can be some restrictions due to other interests that prevents the full resource to be extracted. It is very easy to explore for new raw material on land as it is only necessary to notify the authorities for weeks before start. Exploration permit takes longer time on sea.

1.9. EU legislation impacting permits and licenses for exploration and extraction

- 1) Does your country have any restrictive regulation on the private or legal entities performing the duties of an exploration or extraction concessioner, operator and/or holder of mineral rights as compared to the Services Directive (2006/123/EC)?

No.

- 2) Does any of your permitting documentation require the involvement/signature of a geologist or mining engineer? If yes, which are these permits? Does it require a BSc or MSc or PhD or chartered (certified) professional?

No.

- 3) Do you have legislation on financial guarantees (with regard to the Extractive Waste Directive, Art. 14)? Is the cost calculation of this guarantee done by an independent third party?

Yes, to the first and no to the last part of this question.

- 4) Is there a list of inert mine waste published in your country in accordance with Art. 1(3) of Comm. Dec. 2009/359/EC?

Not relevant for Denmark

- 5) Do you use the risk assessment of 2009/337/EC Commission Decision of 20 April 2009 on the definition of the criteria for the classification of waste facilities in accordance with Annex III of Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries for abandoned sites as well?

No

- 6) Has your country applied the waiver of the Landfill Directive paragraph 3 of Art. 3: MS may declare at their own option, that the deposit of non-hazardous non-inert mine waste, to be defined by the committee established under Art. 17 of this Directive can be exempted from the provisions in Annex I, points 2, 3.1, 3.2 and 3.3 (location screening, multiple barriers, leachate collection)?

No

- 7) Does a mine operator has to prepare and submit both a general waste management plan and a mine waste management plan as well? To the same or separate authorities?

How eventually waste has to be manage will be part of the permission in the form of terms

- 8) Has your national legislation transposed the Accounting Directive (2013/34/EC), with special regards its Art. 41-48 on the extractive industry? Do these rules on financial reporting appear in the concession law or mining act either?

Not known by the respondent

- 9) Has your national legislation transposed the Transparency Directive (2004/109/EC, 2013/50/EU), especially Article on the extractive industry? Do these rules appear in the concession law or mining act either?

Not known by the respondent

- 10) Does your competent authority ask for or check the CE marks of the exploration or extraction equipments when permitting or when having on-site inspections? Does the mining authority have a regulatory/supervision right in product safety/market surveillance in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance?

Not known by the respondent

- 11) Do you have national or regional guidance document or a piece of legislation specific to the Environmental Impact Assessment (EIA) on mineral extraction (incl. mineral processing, waste management, closure)? If yes, please provide link and/or text in English and/or in original language.

Appendix 3 in Government Regulation No. 1680 of 2018 on Marine Raw Materials is the legislation specific for the EIA on marine-based mineral extraction.

*For the land-based mineral extraction: Current document: Guide to Environmental Impact Assessment, 2009
https://naturstyrelsen.dk/media/nst/9948968/vvm_vejledning2.pdf*

New document in hearing, 2018: Instructions to Environmental Impact Assessment Act <https://prodstoragehoeringspo.blob.core.windows.net/0788eaa9-b6cf-45dd-a5ab-b2f8c9606c05/Vejledning.pdf>

- 12) Could you please specify that at which permitting stage (value chain stage, e.g. non-penetrative prospection, exploration, setting mining plot, approving technical operation plan, starting extraction) is a detailed EIA is required in your country?

In regards to land based extraction permits, the Regional Council will make individual assessments in each case. Factors that determine whether or not a detailed EIA is required is for example, cumulative impacts, size of the applied extraction area, environmental impacts on for example groundwater and protected areas such as Natura 2000.

If an EIA is determined to be required, the EIA preceeds the extraction permits, which then replace the EIA in regards to the terms and parts of the permit, which is governed by the Regional council.

For the marine-based activities, it is the applied amount of material for extraction, which determines whether an EIA is required. However, extraction in international protected areas such as Natura 2000 areas is always subject to a mandatory EIA.

- 13) Does your country apply the option of Article 4(b) of the EIA Directive (2011/92/EU) („... for projects listed in Annex II, Member States shall determine whether the project shall be made subject to an assessment in accordance with Articles 5 to 10 ... through thresholds or criteria set by the Member State”) for mining projects? If yes, under what criteria?

Not relevant for Denmark.

- 14) Was there any case in your country when Article 10 of the EIA Directive (2011/92/EU) was applied („limitations ... with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest”)? Which were these exclusions, if any?

Not known by the responder

- 15) Do competent authorities in your country apply the IPPC permit and the Extractive Waste BREF for mining under the scope of the Industrial Emissions Directive?

Not relevant for Denmark.

- 16) Do you have national BREF(s) (Best Available Technique Reference Document(s)) specific to the whole (or stages or subsectors) minerals extractive sector?

No, neither concerning marine- or land-based extraction.