

Main Features of Sewage Disposal law in Germany

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Erftverband

A public corporation for regional water management

Wastewater

treatment plants

Stormwater basins

Pumping stations

Wastewater volume

Sewer system networks

Watercourse length

43 = 1.06 Mio. p.e.*

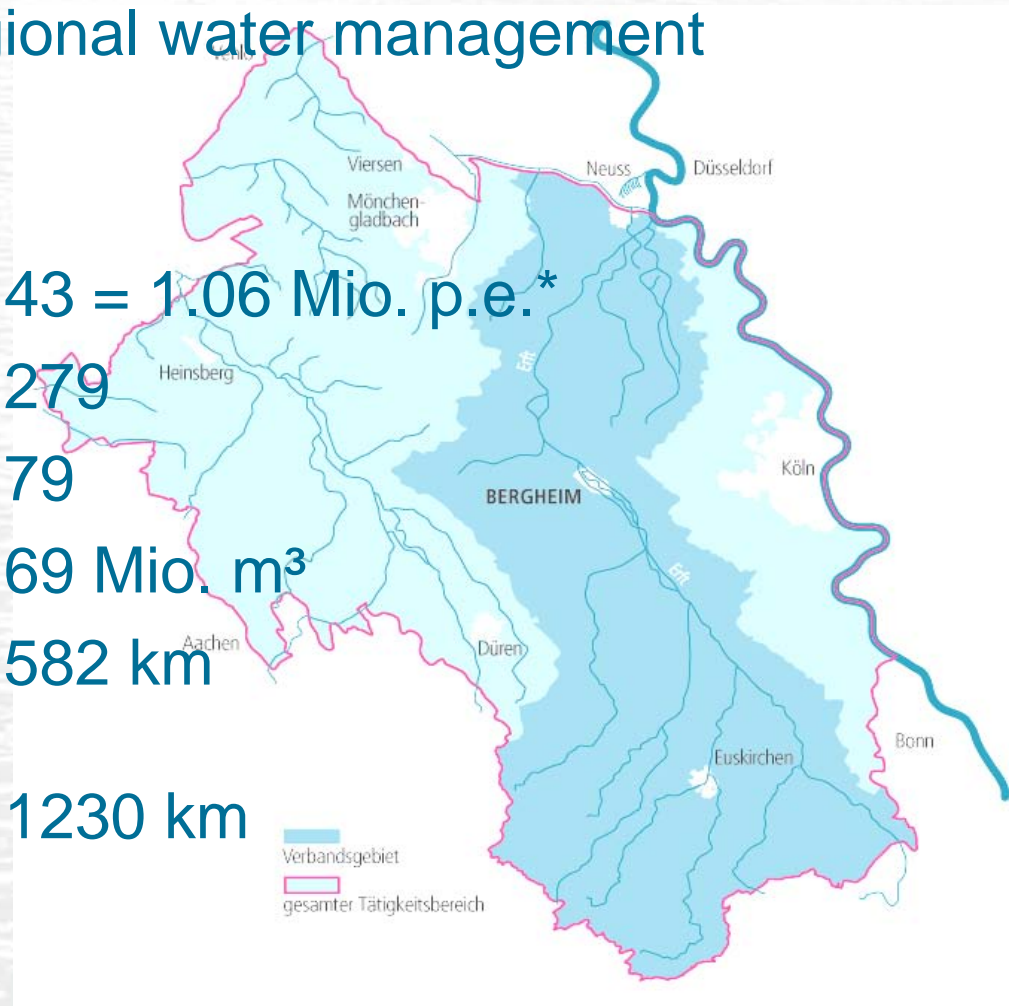
279

79

69 Mio. m³

582 km

1230 km



* people equivalents

Agenda

- Basics
- Federal Water Act and Länder laws
- Permits and licenses
- Environmental assessment
- Wastewater charges
- Liberalization / Privatization

Basics

- The use of waters shall require a prior permit or license :
- **Withdrawal** and diversion of water from surface waters
- **Damming** or drawing-down of surface waters
- **Withdrawal** of solid material from surface waters, where this affects the properties of such waters
- Introduction or discharge of substances into water bodies
- **Withdrawal, conveyance to the surface or diversion of groundwater.**

Basics

- A permit shall confer a **revocable authority** to use a body of water for a specific purpose, in a specific way and to a specific extent
- A licence shall confer the **right** to use a body of water in a specific way and to a specific extent, revocable for the reasons cited in the Administrative Procedure Act
- Permits and licenses shall be refused if harmful , unavoidable **harmful changes of water** are to be feared and this cannot be prevented by imposition of conditions

Basics

- Harmful changes of water shall mean changes to water properties that negatively affect public welfare, **in particular public water supply**
- If the use is not likely to cause harmful changes of water authorizations are at the discretion of the competent authority (**management discretion**)
- Water bodies shall be **sustainably** managed, particularly with the aim of preserving or creating existing or future opportunities for use, **particularly for public water supply**

Federal Act or Länder laws

- Divided legislative competence between State and the Länder
- New Federal Water law in force since March 2010
- Federal law: detailed provisions on authorizing wastewater discharges, mainly on the basis of BAT and **emission standards**

Federal law or Länder laws

- Länder laws: Additional conditions on water management by **immission standards** - i.e. EQS - no authorization when discharge are likely to endanger EQS
- Consequence: Operator has to invest in more treatment
- Existing authorizations to be adapted
- Federal law and Länder laws are sometimes inconsistent - careful case by case examination

Wastewater - definition, § 54 WHG

- Wastewater is water, the properties of which have been changed by domestic, commercial, agricultural or other uses,
- and the water drained together with it during dry weather conditions (**polluted water**), as well as
- water running off and collected from built-up or paved or asphalted surfaces following precipitation (**rain water**).

Wastewater disposal - definition, § 55 WHG

- Collection, further distribution, treatment, discharging, leaching, spraying and irrigation of wastewater
- Drainage of sewage sludge in conjunction with waste water disposal
- Disposal of sewage sludge is subject to waste law or – in case of agricultural use – agricultural law

Direct dischargers

- Legal definition of direct dischargers (discharges into waters)
- Only permits and not licenses
- Treatment according to BAT Standards, following mandatory European standards if any
- Ordinances for more detailed requirements referred to certain public and industrial branches, e.g. UWWTP, wastewater from drinking water purification

Indirect dischargers

- Discharges into sewers
- Dischargers have to apply for prior permit if the source of the wastewater is subject to one of the annexes of the Wastewater Ordinance
- Approval for an indirect discharge may only be granted provided ... compliance with the requirements governing direct discharge is not at risk
- Local ordinances may lead to stricter requirements

Wastewater installations

- Wastewater installations shall be constructed, operated and maintained in such a way that the requirements governing the disposal of wastewater are met
- In addition, wastewater installations may only be constructed, operated and maintained in accordance with standard rules
- Two technical standards: The more expensive BAT standards and the less expensive standards

Environmental assessment

- The construction, operation and significant modification of a wastewater treatment installation may be subject to mandatory environmental impact assessment under the Environmental Impact Assessment Act
- Active participation of public bodies and private persons

Self-monitoring

- Operators of UWWTP discharging wastewater into a water body or a wastewater installation are required ...
- ... to have the wastewater analyzed by expert personnel or by a suitable agency
- ... to self-monitor the plant condition, correct functioning, maintenance and operation as well as the nature and quantity of the wastewater and its constituents

Privatization

- wastewater shall be disposed of by the legal public authorities who are obligated to do so under Länder laws
- They are **not allowed to delegate** to private operators
- The parties responsible for wastewater disposal **may mandate** the services of third parties in order to meet their obligations

Privatization

- The Länder may stipulate the criteria under which wastewater disposal is the responsibility of (private) bodies other than those cited in sentence 1
- Consequence: wastewater service will be **taxable in the whole land**, whether or not there is competition
- ongoing discussion within DG Comp
- VAT is 19%

Privatization

- As long as do delegation possible competition non taxation of wastewater disposal is **no infringement of EC law**
- As long as **no delegation is possible** there is **no market**
- ECJ states that public procurement rules are not applicable to inter-municipal cooperation

Water charges

- A charge (wastewater charge) shall be paid for discharging wastewater into a water
- The charge shall depend upon the noxiousness of the wastewater,
- determined on the basis of the oxidizable substances, of phosphorus, of nitrogen, of the organohalogens, of the metals mercury, cadmium, chromium, nickel, lead, copper and their compounds, as well as of the toxicity of the wastewater to fish eggs

Water charges

- The annual rate levied per unit of noxiousness shall be 35.79 €
- Urban and industrial wastewater dischargers pay appr. 260 million €/year*
- The charge shall be levied by the Länder
- The revenue accruing from wastewater charges shall only be used for specific purposes connected with measures for maintaining or improving water quality

* Source: Gawel Developments of wastewater charges p .112
www.ufz.de/data/ENDBERICHT_WNA_201114364.02.06.pdf

Water charges - exceptions

- Dischargers may notify the competent authority that they will observe a value lower than the monitoring value laid down in the permit for at least less three months, then the number of pollution units for this period of time shall be determined in accordance with this value
- If UWWTP are constructed or enlarged, the operation of which may be expected to reduce by at least 20 per cent of the load of one of the hazardous substances, the expenses incurred for construction or enlargement of the plant may be set off against the charges due for this discharge

Water charges - exceptions

- The Länder may determine the conditions under which the discharge of rain water shall be exempt in whole or in part from wastewater charges
- No charge as long as all installations comply with BAT requirements

Water charges - example

- Key figures Erftverband (in millions €)

wastewater 2.0

rain water 2,6

Construction of plants - 0,3 Mio. €

No charge for rainwater - 2,3 Mio. €

Lower values / smaller volumes - 0,6 Mio. €

Questions?

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Advice:

Source of english textes: unoffical translations of German
Environmental law drafted by the federal ministry of
Environment