

**Danish Environmental Protection Agency, DANCEE
and
the Ministry of Environment of Latvia**

DANCEE Project ref. No. M:128/023-004

Transposition and Implementation of the EU Water
Framework Directive in Latvia

**Technical Report No. 4
Water Resource Use Permits**

Final

June 2003

Published : September 2003
Project : 30.4480.02
Prepared : Lucija Konosonoka, Jesper Albinus, Loreta Urtane
Checked : Jesper Albinus
Approved : Mette Jeppesen

List of Abbreviations

CM	Cabinet of Ministers
CIS	Common Strategy on the Implementation of the Water Framework Directive
DANCEE	Danish Co-operation for the Environment in Eastern Europe
DEPA	Danish Environmental Protection Agency
ELV	Emission Limit Value
EIA	Environmental Impact Assessment
EPD	Environmental Protection Department
EU	European Union
LEA	Latvian Environmental Agency
LWM	Latvian Law on Water Management
MoE	Ministry of Environment
RB	River Basin
RBD	River Basin District
RBM	River Basin Management
RBMA	River Basin Management Authorities
REB	Regional Environmental Board
SEI	State Environmental Inspectorate
SGS	State Geological Survey
WFD	Water Framework Directive (2000/60/EC)
ToR	Terms of reference
TR	Technical Report
WG	Working Group
WRUP	Water Resource Use Permit
WQO	Water Quality Objectives

Table of contents:

1	INTRODUCTION.....	1
2	LEGAL FRAMEWORK.....	2
	2.1 Definitions and requirements in the WFD	2
	2.2 Existing Latvian Legislation	4
3	THE NEW CM REGULATION ON WRUP.....	6
	3.1 Approach.....	6
	3.2 Defining the content of CM.....	6
	3.3 Assessment of compliance with WFD of Latvian water management	7
	3.3.1 Groundwater	7
	3.3.2 Surface Water.....	8
4	OUTSTANDING ISSUES	9
	4.1 Amendment of other legislation	9

Annex 1 : Review on the existing legal situation and proposals for content of
CM on WRUP

Annex 2: Analysis of the outstanding issues and needed amendments in the existing
legislation

Annex 3: Draft CM Regulation on WRUP
(in Latvian, as submitted to the MoE)

1 Introduction

The present report is part of the reporting for the project financed by the Danish Environmental Protection Agency (DEPA):

Transposition and implementation of the EU Water Framework Directive in Latvia.

The report describes the WFD requirements to water use management, the approach which was chosen for elaboration of a new CM regulation on Water Resource Use Permits (WRUP) and the compliance of the Regulation with the WFD. The draft Regulation is enclosed in Annex 3 (Updated version in LV)

The report is No. 4 in the following list of reports:

Technical reports:

- TR 1A: Typology of surface water and procedure for characterisation of waters
- TR 1 B : Classification and presentation of status of waters
- Including proposal for surface water reference conditions and network
- Monitoring programmes for surface and groundwater
- TR 3: Draft Action Plan on how to define ecological status of fresh and coastal water
- TR 4: Revision of the draft Regulation on WRUP
- TR 5: Elaboration of a specification of requirements and ToR for a data management/information system



Outputs:

- A: Draft legal acts for the transposition of Annexes II and V of the WFD
- B: Assistance to MoE in preparation of information material on the WFD
- C: Specification of requirements and ToR for a data management/information system

The main basis for the note is the following articles in the WFD:

- Article 2.38 & 2.39: Definitions of Water Use and Water Services
- Article 4: Environmental Objectives
- Article 7: Water used for abstraction of drinking water
- Annex II, 1.4 & 2.1: Identification of pressures on surface water and groundwater
- Annex IV, 1(i): Protection of areas used for abstraction of drinking water

2 Legal framework

2.1 Definitions and requirements in the WFD

Regarding the use of water the Framework Directive contains the following relevant definitions in Article 2:

Art. 2.38:	Water services means all services which provide, for households, public institutions or any economic activity: (a) abstraction, impoundment, storage, treatment and distribution of surface water or groundwater, (b) waste-water collection and treatment facilities which subsequently discharge into surface water.
Art. 2.39:	Water use means water services together with any other activity identified under Article 5 and Annex II having a significant impact on the status of water. This concept applies for the purposes of Article 1 and of the economic analysis carried out according to Article 5 and Annex III, point (b).

The comprehensive Article 4 describes that environmental objectives shall be established for surface water and groundwater bodies. The water bodies shall be protected and enhanced and negative trends reversed in order to achieve good status of the water bodies within 2015, where this is not disproportionately expensive.

Thus, Article 4 is of direct relevance for all types of water use, and the CM regulation on Water Resource Use Permit (WRUP) can be seen as an important tool in the Latvian management of the water resources.

The Directive requires the following for drinking water abstractions:

Art. 7.1	Member States shall identify, within each river basin district: <ul style="list-style-type: none">• all bodies of water used for the abstraction of water intended for human consumption providing more than 10 m³ a day as an average or serving more than 50 persons, and• those bodies of water intended for such future use. (...)
----------	--

From Annex II of the WFD the following paragraphs concerns water use:

Surface water

1.4

Identification of pressures

Member States shall collect and maintain information on the type and magnitude of the significant anthropogenic pressures to which the surface water bodies in each river basin district are liable to be subject, in particular the following.

Estimation and identification of significant point source pollution, in particular by substances listed in Annex VIII, from urban, industrial, agricultural and other installations and activities (...)

Estimation and identification of significant diffuse source pollution, in particular by substances listed in Annex VIII, from urban, industrial, agricultural and other installations and activities (...)

Estimation and identification of significant water abstraction for urban, industrial, agricultural and other uses, including seasonal variations and total annual demand, and of loss of water in distribution systems.

Estimation and identification of the impact of significant water flow regulation, including water transfer and diversion, on overall flow characteristics and water balances.

Identification of significant morphological alterations to water bodies.
Estimation and identification of other significant anthropogenic impacts on the status of surface waters.

Estimation of land use patterns, including identification of the main urban, industrial and agricultural areas and, where relevant, fisheries and forests.

Groundwater

2.3

Review of the impact of human activity on groundwaters

For those bodies of groundwater which cross the boundary between two or more Member States or are identified following the initial characterisation undertaken in accordance with paragraph 2.1 as being at risk of failing to meet the objectives set for each body under Article 4, the following information shall, where relevant, be collected and maintained for each groundwater body:

- (a) the location of points in the groundwater body used for the abstraction of water with the exception of:
 - points for the abstraction of water providing less than an average of 10 m³ per day, or,
 - points for the abstraction of water intended for human consumption providing less than an average of 10 m³ per day or serving less than 50 persons,
- (b) the annual average rates of abstraction from such points,
- (c) the chemical composition of water abstracted from the groundwater body,
- (d) the location of points in the groundwater body into which water is directly discharged,
- (e) the rates of discharge at such points,
- (f) the chemical composition of discharges to the groundwater body, and
- (g) land use in the catchment or catchments from which the groundwater body receives its recharge, including pollutant inputs and anthropogenic alterations to the recharge characteristics such as rainwater and run-off diversion through land sealing, artificial recharge, damming or drainage.

Note, that for groundwater the registration of abstractions above 10 m³/day acc. to 2.3(a) above is required only for groundwater bodies at risk (of failing to meet the

objectives). Thus, if the groundwater body is not at risk, then registration – or permits – is strictly speaking not required. However, for the characterisation of groundwater bodies, the WFD, Annex II Art. 2.1 requires an analysis of abstractions and point sources of pollution, but the size of these in order to be included are not specified.

In consequence of the required characterisation and the possible need for further characterisation of bodies at risk, it is recommended that permits are required for abstractions above 10 m³/day.

The same abstractions will generally be followed by discharge into surface water or treatment plants, but for surface waters only a registration of *significant* point sources of pollution is required. Thus, there is no specific requirement to the amount of water discharged in order for it to be registered. A starting point could be 10 m³/day in order to have some consistency between abstraction and discharge, but it is up to the authority to decide the threshold.

2.2 Existing Latvian Legislation

The Latvian Law on Water Management (LWM) defines water use this way, in line with the definition in the WFD:

LWM Art. 1.20: use of water resources – use of surface and groundwater resources for the needs of population and national economy (water abstraction, impoundment, treatment, distribution and use, wastewater treatment and discharge into surface water bodies or into the ground), as well as other economic activities, including polluting activities, which may have significant impact on the status and quantity of surface and/or groundwater;

The duties of user of water resources comprise the following:

LWM Art. 7.6 to obtain all the permits for the use of water resources stipulated by the legislation;

The following activities require permits

LWM Art. 21 **Activities that shall obtain a water resources use permit**

(1) Regional Environmental Boards shall issue water resources use permits for the following activities, which have or may have an impact on water status, water quantity or ecosystems and which are not Category A or B polluting activities:

- 1) operation of hydro-technical facilities;
- 2) abstraction of surface water or groundwater;
- 3) artificial recharge and artificial discharge of groundwater, as well as related activities;
- 4) activities resulting in creation of an artificial or heavily modified water body;
- 5) other activities involving regular changes in surface water level or stream-flow regime.

(2) The Cabinet of Ministers determines conditions for the use of water resources, procedure for application for and issuing of water resources use permits [and the relevant] time frame, requirements on the monitoring and control of the permit conditions as well as an application form and a permit form.

(3) The Cabinet of Ministers determines the thresholds below which the impact on water status, water quantity or ecosystems, caused by the activities referred to in Paragraph one, shall be deemed insignificant and therefore they may be operated without a water resources use permit.

The abovementioned Article 21.2 and 21.3 are to be regulated by the CM regulation on WRUP drafted in this report, and this will replace the CM Regulation 155 from 1998¹.

The exception of category A and B polluting activities is addressed later, in chapter 3.3.2 and chapter 4.1.

Other most relevant legislation includes :

- CM Regulations 235 *on the Harmlessness Requirements of Drinking Water, procedure for monitoring and control*, 2003;
- CM Regulations 34 *on Emission of Polluting Substances to Surface Water*, 2002;
- CM Regulations 118 *on Surface Water and Groundwater Quality*, 2002
- *Law on Pollution*, 2001
- CM Regulations 294 *on announcement of category A, B, and C polluting activities and permitting of category A and B ‘*, 2002

- *Law on subsoil*, 1996
- CM Regulations 239 *on the use of subsoil*, 1997

Besides these legal acts should be mentioned legal acts related to the hydro technical installations, which are regulated by laws and CM regulations in the building area.

¹ CM Regulations 155 *on Water Use Permits*, 1998 (with amendments – Regulations 17, 1998, Regulations 437, 1998, Regulations 35, 2002 and Regulations 119, 2002);

3 The new CM Regulation on WRUP

3.1 Approach

Prior to the beginning of the present project the MoE set up a time schedule for elaboration of a number of CM Regulations with the aim of fully implementing the Water Framework Directive.

The Regulations mainly concern the Annex II and V of the WFD, and the one to be completed first was the CM Regulation on Water Resource Use Permits (CM-WRUP). Due to the tight time schedule the work with this regulation was initiated in December 2002 independently of the present project, but the draft was finalised as part of the Project during April - May 2003.

The preparation of the WRUP Regulation was done in close cooperation with the MoE, and during workgroup sessions and seminars the relevant institutions and organisations were involved so comments and questions from these could be incorporated during the elaboration.

The following working group meetings and meetings with separate stakeholders were organised:

1. Workshop with representatives from EPD, REB's, Environmental Inspectorate, EIA Bureau (13.02.2003);
2. Meeting with representatives from EPD (05.03.2003);
3. Meeting with representatives from EPD, EIA Bureau, Environmental Inspectorate Building Department, Building Inspectorate (11.03.2003)
4. Meeting with representatives from EPD (27.03.2003)
5. Meeting with representatives from Lielrīga REB (09.04.2003)
6. Meeting with State Geological Survey (09.04.2003)
7. Meeting with representatives from LEA (15.04.2003)
8. Seminar on first CM Draft on WRUP, 1, with representatives from EPD, EIA Bureau, Environmental Inspectorate, Building Department, Ministry of Agriculture, National Board of Fisheries, Ministry of Health, State Public Health Agency, Association of water suppliers, Association of small hydropower plants, representatives from other water users. (24.04.2003)
9. Meeting with Environmental Inspectorate and with Association of small hydropower plants (29.04.2003)
10. Meeting with representative from Latvian Institute of Fisheries (29.03.2003);

On the 30.04 the final draft Regulation was submitted to the MoE for commenting by the subordinated institutions, including the REB's which will be responsible of the enforcement of the Regulation.

3.2 Defining the content of CM

Initially it was planned to elaborate the CM-WRUP in line with the definitions in the LWM Art. 1.20, meaning that both the use of water and the discharge of wastewater should be covered by the Regulation.

However, some months into the discussions of the content of the CM-WRUP with the MoE, the Ministry decided that wastewater treatment and discharge should not be included in the CM-WRUP. The Consultant then proposed 3 scenarios for dealing with the issue of waste water discharge in relation to water use. (see attached Annex 1) . During workshop with representatives from EPD and other representatives from subordinated institutions of MoE it was decided by EPD that the most convenient scenario is nr.1. (see Annex 1)

The work therefore continued under the assumption that treatment and discharge of waste water would later be covered elsewhere in the Latvia legislation.

The main issues for the CM-WRUP was therefore as specified in the LWM Art.21.2:

- conditions for the use of water resources [**except discharge of wastewater**]
- procedure for application for and issuing of water resources use permits and the relevant time frame,
- requirements on the monitoring and control of the permit conditions
- application form and a permit form.

The threshold values, above which the permits are required, were also to be specified by the regulation, according to Art.21.3. **LWM**. When defining the conditions for water use and the threshold values, the practice in other countries (Denmark, UK, Sweden) has been taken into consideration, and where the existing Latvian legislation has already been in line with (or stricter than) the WFD, the relevant articles have been brought forward into the new Regulation.

3.3 Assessment of compliance with WFD of Latvian water management

Except for the Annexes II and V the content of the Water Framework Directive has already prior to this project been transposed by the Latvian Law on Water Management².

The scope of this project does not comprise a legal gap analysis, but in the following it is assessed whether the relevant Latvian legislation from the technical and operational point of view complies with the aims of the Directive, assuming that the draft CM-WRUP is adopted.

The existing legislation on water use has been analysed thoroughly during the preparation of the draft CM-WRUP and the findings have been discussed concurrently with the MoE (see Annex 2, where the outstanding issues are described) The compliance with the WFD before the CM-WRUP was drafted is not described in detail, unless where it is needed for the understanding of the resulting situation.

3.3.1 Groundwater

² Information given by MoE in the project preparation phase

The (ground)water use as defined in the Latvian Law on Water Management (LWM) Art. 1.20 is in compliance with the definition in the WFD Art. 2.38 and 2.39. The Regulations referred to in LWM Art. 21.2 therefore ought to cover the water use as defined in LWM Article 1.20 in order to obtain compliance with the WFD.

Until now this has been done in combination by the existing Regulations

- No. 155 on Water Use Permits,
- No. 63 on the Harmlessness Requirements of Drinking Water (since 29.04.2003 Replaced by the Regulation Nr.235) ,
- No. 118 on Surface Water and Groundwater Quality
- No. 294 on announcement of A, B, C categories polluting activities and permitting of category A and B, 2002

From the point of view of groundwater there is one important exception in the LWM that should be emphasised:

1. Category A and B polluting activities do **not** need a separate water resource use permit, according to the LWM Art. 21.1

The water use for these activities are covered by the Law on Pollution, but is related to the production, not the water abstraction. Therefore the use of groundwater may very well exceed 10 m³/day without being registered. However, for bodies at risk, such abstractions must be identified acc. to Annex II of the WFD, Art. 2.3(a).

In order to make further characterisation (of water bodies at risk) possible, it is recommendable to register all water abstractions exceeding 10 m³/day, i.e. a permit for water abstraction should be obligatory even for the category A and B polluting activities.

3.3.2 Surface Water

The (surface) water use as defined in the LWM Art. 1.20 is in compliance with the definition in the WFD Art. 2.38 and 2.39. The Regulations referred to in LWM Art. 21.2 therefore ought to cover the water use as defined in LWM Article 1.20 in order to obtain compliance with the WFD.

Until now this has been done in combination by the existing Regulations

- No. 155 on Water Use Permits,
- No. 34 on Emission of Polluting Substances to Surface Water,
- No. 63 on the Harmlessness Requirements of Drinking Water (since 29.04.03 replaced by CM regulation 235),
- No. 118 on Surface Water and Groundwater Quality
- No. 294 on announcement of category A, B and C polluting activities and permitting of category A and B, 2002

Besides these legal acts should be mentioned legal acts related to the hydro technical installations, which are regulated by laws and CM regulations in the building area.

However, two exceptions are important to emphasise:

1. Treatment and discharge of wastewater into surface water is not covered by the draft CM on WRUP, although the LWM Art. 1.20 defines wastewater treatment and discharge as being a water use.
2. Category A and B polluting activities do **not** need a separate water resource use permit, according to the LWM Art. 21.1

Due to these exceptions Annex II of the WFD will not be fully transposed until they are covered by other regulations.

The reason for exception No.1 is that the MoE decided to exclude wastewater from the CM-WRUP regulation, as mentioned in chapter 3.2 below.

The reason for exception No.2 is that category A and B polluting activities require **integrated** permits regarding emissions to air, water and soil³, and therefore a separate water resource use permit is not required. However, if the production is lower than a certain amount⁴, the water use is not considered or even registered, regardless of the amount of water used.

4 Outstanding issues

4.1 Amendment of other legislation

During the work with the CM-WRUP it has been found that some regulations contain articles, which are in conflict with the aims of the WFD, or which makes enforcement of the regulations unclear. Annex 2 of this Report summarises the outstanding issues and needed amendments in the existing legislation regarding waste water discharge and water abstraction .

Wastewater

As mentioned above, treatment and discharge of wastewater into surface water is not covered by the draft WRUP, although the LWM Art. 1.20 defines wastewater treatment and discharge as being water use.

This issue needs to be addressed in order to fully transpose Annex II of the WFD.

It is recommended that the treatment and discharge of wastewater into surface water be addressed in a separate regulation, either under the Law of Water Management or under the Law on Pollution.

Alternatively the existing regulation Nr 34 on emission limit values into waters could be amended in order to include this issue.

CM Regulation No. 118 on Surface Water and Groundwater Quality

³ According to Law on Pollution

⁴ The amount can be calculated in units per year or tonnes of metal per year etc., depending on the type of production

Annex 9 of this regulation contains a list of parametric quality requirements for groundwater. The list is confusing and redundant for three reasons:

1. The list is almost entirely based on the requirements to drinking water, which is not reasonable to use for groundwater, since the groundwater can be used for many other purposes.
2. A list of requirements to drinking water (treated surface water or treated groundwater) is already given in the Latvian Regulation 63 on the harmlessness of drinking water, in accordance with the EU Directive on Drinking Water.
3. There is no purpose in setting up quality requirements for untreated groundwater, since most groundwater in any case requires treatment to the necessary degree, depending on the use

In the near future the Daughter Directive on groundwater will be published, and this is expected to address the quality limits for classification of good and poor groundwater quality.

It is recommended that the list of quality requirements is removed from the Regulation 118. The list can be replaced by a list from the Daughter Directive on Groundwater, when this becomes available.

If deemed necessary, reference can be made to the Regulation 63 on Drinking Water.

Law on Pollution

In the Law on Pollution, CM No. 294 on category A, B and C polluting activities and permitting of category A and B activities the use of water is regulated in a different way than in the draft WRUP: Category A and B polluting activities do **not** need a water resource use permit, according to the LWM Art. 21.1. As mentioned above, the reason is that they need an integrated permit under the Law of Pollution, based on the size of production, not the amount of water used. In consequence of this there is a conflict between the threshold values on the amount of water used, and therefore water use above 10 m³/day may not be registered.

Transposition of Annex II of the WFD requires that this conflict be removed somehow.

It is recommended that the conditions for integrated permits under the Law on Pollution take the water use into consideration, so that water use above 10 m³/day is registered. Alternatively a water use permit for abstractions above 10 m³/day could be made obligatory for all category A&B activities by amending the Law on Pollution.

A link should be made to the treatment and discharge of wastewater into surface water from these polluting activities (see below).

As mentioned before, Annex 2 contains more detailed descriptions of the requirements, which need to be included in legal acts.