

# Germany

*This is the 13th in a series of articles summarizing various countries' government and SH&E legislative processes. It is intended to serve as a useful planning tool for SH&E professionals preparing to conduct business in the profiled country. Previous profiles have included Australia, Brazil, Chile, China, India, Ireland, Italy, Japan, Mexico, Singapore, Spain and the U.K. All country profiles are provided courtesy of AECOM and are available on ASSE's International Practice Specialty website at [http://www.asse.org/practicespecialties/international/country\\_overviews.php](http://www.asse.org/practicespecialties/international/country_overviews.php). Direct requests for additional country information to Halley Moriyama at [hmoriyama@ensr.aecom.com](mailto:hmoriyama@ensr.aecom.com); +1 (978) 589-3233; or Jack Fearing, CPEA, at [jack\\_fearing@aon.com](mailto:jack_fearing@aon.com); +1 (973) 463-6240.*

**G**ermany is a federal republic consisting of 16 states (Länder). The constitution, which is referred to as the Basic Law (Grundgesetz) of May 23, 1949, divides authority among three different branches: the legislature creates laws, the executive branch administers and enforces the law, and the judiciary settles disputes concerning the laws. The states maintain a parallel structure of governmental organization.

*The implementation of federal and state environmental laws and regulations, including enforcement, is generally left to the individual states.*

The federal legislature is composed of a bicameral parliament, which consists of two houses, the Bundestag and the Bundesrat. The Bundestag is a lower house; it is currently composed of nearly 600 seats and whose occupants are elected by popular vote under a system that combines direct and proportional representation. Half of the representatives are directly elected while the other half is chosen on the basis of proportional representation. The Bundesrat or Federal Council consists of representatives from each of the 16 states, with each state having between three and six votes depending on population size.

The executive branch consists of the chancellor, who is elected by the Bundestag to a 4-year term following a proposal from the federal president, who acts as the ceremonial chief-of-state and is elected to a 5-year term of office. The chancellor is the country's chief executive official and is responsible to the Bundestag which may vote the chancellor out of office by a simple majority, but only if a successor candidate holds a majority of the votes. The president, based on the proposal of the federal chancellor, appoints the various federal ministers.

The highest tribunal under the basic law is the Federal Constitutional Court, which oversees the constitutionality of federal and state administrative acts and statutes as well as reversing judgments of other courts in cases where constitutional issues are involved. Six other important national courts each have jurisdiction over

specified matters: the Federal Court of Justice, which has jurisdiction over ordinary matters (civil and criminal); the Federal Administrative Court; the Federal Labor Court; the Federal Social Court (which has jurisdiction over the social insurance

system, unemployment insurance, and other defined areas of social law); the Federal Tax Court; and the Federal Patent Court. Environmental disputes normally fall under the jurisdiction of the regional general administrative courts. Only in limited areas, especially where environmental liability determinations or environmental crimes are involved, does jurisdiction of the general civil and criminal courts apply.

With the exception of the state and federal constitutional courts, the German legal system is not divided into a federal court system having jurisdiction over federal law and a state court system having jurisdiction over the law of the states. Instead, each branch of jurisdiction is composed of lower courts, higher courts and a Supreme Court (e.g., labor court, state labor courts, federal labor court). Higher courts are entitled to reverse decisions of lower courts. Parties have the right to file an appeal with at least one court above (appellate court).

## LEGISLATION & ADMINISTRATION

Germany is a federal state where the responsibilities for legislation and administration (including enforcement) are divided between federal (Bund) and state authorities (Länder). In practice, the federation has the lead role for policymaking and legislation. The Länder take part in the legislative process through the Bundesrat. They have legislative powers only in certain areas, e.g., nature conservation and water management. According to the constitution, the Länder have the main responsibility for the enforcement of environmental law.

Legislation in the areas of air quality, waste management and hazardous substances is guided by EU law provisions and stems predominantly from the federal authorities. In general, the Länder are authorized to supplement federal statutes. Such concurrent authority generally exists in areas where the regulation of one state may affect the interests of another or where there is a





broader need to ensure consistency across the country. Recent constitutional amendments have restructured the laws so that framework legislation no longer exists. Instead, the Länder have the authority to pass regulations that diverge from federal acts in environmental areas of overlapping authority such as nature conservation and water resources. Consequently, federal acts in these areas can generally only come into force 6 months after their promulgation.

The implementation of federal and state environmental laws and regulations, including enforcement, is generally left to the individual states. Each state has a popularly elected assembly, which selects a minister-president, or in the case of the three city-states of Berlin, Hamburg and Bremen, a first mayor. The states are subdivided into counties, municipalities and communes, with the exception of the city-states of Berlin, Hamburg and Bremen.

In the environmental area, several commonly used legislative instruments include laws, ordinances and administrative rules. Laws are adopted on the basis of federal or state legislation, and require various approvals of the legislative bodies before coming into effect. Ordinances are adopted by the executive branch of either the federal or state governments with the authority to issue the ordinance specified in a law. In some cases, ordinances require the consent of a legislative body, while in other cases such formal legislative approval is not required. Administrative agencies adopt administrative rules at both the federal and state level. These rules are intended to provide guidance to competent authorities, though they may be adopted as part of an ordinance, in which case they have a binding effect on individuals and companies.

Many basic principles are expressed in German environmental law:

- The Polluter Pays Principle: those who cause an environmental damage are responsible for its remediation.

- The Protection Principle: measures should be taken to avoid or limit the occurrence of environmental damage.

- The Precautionary Principle: measures should be taken beforehand to avoid or limit the occurrence of potential environmental damages; efforts should be made not only to protect the environment, but to improve it.

- The Cooperation Principle: consultation between the public and private sectors will take place regarding the formulation of regulations and procedures to protect the environment.

- State of Technology Principle: procedures for protecting the environment must consider technologic feasibility; technological improvements should be used to the benefit of the environment.

Proportionality Principle: environmental protection measures must be proportional and economically justifiable.

### **FEDERAL ENVIRONMENTAL AUTHORITIES**

At the federal level, the key environmental authority is the Ministry for the Environment, Nature Conservation

and Reactor Safety [Ministry for the Environment—Das Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit (BMU)]. Created in 1986, this ministry is responsible for proposing and promulgating environmental legislation. It has no enforcement authority except with regard to the Nuclear Act. Environmental management is also conducted by authorities of other departments such as agriculture, transport, and mining.

Overall scientific support to the Ministry for the Environment is provided by the Federal Environmental Agency (Umweltbundesamt), which is also responsible for environmental research and planning. This office maintains an information system for environmental planning and performs tasks in the fields of environmental measurement, monitoring, and public education.

### **FEDERAL SAFETY & HEALTH AUTHORITIES**

Following the federal elections in September 2005, the newly constituted federal Ministry for Labor and Social Order (Bundesministerium für Arbeit und Soziales) was identified as the principle national policy-making authority for safety and health issues. For this purpose, the ministry is subdivided into the following areas:

- labor market policy and planning, unemployment insurance and foreign workers;
- labor law, occupational safety and health;
- retirement and workplace accident insurance;
- accident prevention and rehabilitation;
- handicapped citizens issues;
- European and international labor and social issues.

Supporting this ministry is the Federal Institute for Occupational Safety and Health [Bundesanstalt für Arbeitsschutz und Arbeitsmedizin (BAuA)], a public body responsible for research and analysis concerning workplace conditions. This institute is also responsible for the registration of chemical substances under the Chemicals Act and operates as the national helpdesk for European Union Regulation REACH issues.

### **STATE SH&E AUTHORITIES**

The larger Länder usually have three levels of authorities: the ministry (superior state authority), intermediate authorities, and the lower authorities. Relative to environmental matters, the superior state authority in most states is the Environmental Ministry. Depending on the respective state laws, the upper state authorities are represented either by regional or county authorities or by specialized agencies, such as the trade inspection offices or the state agency for nature and the environment. The municipalities or county authorities usually act as lower authorities, unless their tasks are not assigned to specialized agencies.

As a matter of principle, the Länder define the responsibilities of authorities and the administrative procedures of their authorities. The structure of the authorities varies between the Länder. In general, intermediate-level authori-



*The Cupola of the Reichstag Building in Berlin underwent reconstruction led by internationally renowned architect Norman Foster. After its completion in 1999, it became the meeting place of the modern German parliament, the Bundestag.*

ties perform all environmental tasks of supralocal importance. Only certain matters of special importance are addressed by the upper state authorities, which in addition supervise the lower state authorities.

The same

organizational pattern exists relative to occupational health and safety law. Relative to occupational safety and health matters, the superior state authority in most states is the Environment Ministry. The competent authority at the state level is the trade inspection office, which is part of the respective state ministry (e.g., the State Environmental Ministry and the State Ministry for Social Issues, Women Family and Health in the State of Lower Saxony). Established within each state, this authority is responsible for implementing industrial hygiene legislation. Occupational health and worker safety legislation is largely a federal function; the Länder have developed little legislation. The trade inspection offices (Gewerbeaufsicht) and state work inspections (Staatliche Ämter für Arbeitsschutz) implement federal safety and health legislation.

The 26 German Berufsgenossenschaften (BGs), or institutions for statutory accident insurance and prevention for trade and industry, are divided according to the branch of industry with which they are concerned (i.e., mining; quarrying; ceramics and glass; gas and water; construction; metals; chemicals; wood; paper; printing; textile and clothing; foods; building and civil engineering; retail trade; services; commerce; transportation; and health services).

Occupational health insurance associations, as the bearer organizations of the statutory professional accident insurance program, are vested with regulatory powers in the field of industrial accident prevention and medicine. Every company must be a member of one of these associations. As such, the associations can issue accident prevention regulations (UVV or BGV) that have absolute and binding legal authority with respect to the particular industry in question. In this capacity, the associations have issued many accident prevention regulations and are responsible for their enforcement through their technical supervision officers. This protocol covers only those accident prevention regulations that have general applicability across all industry sectors.

In practice, administration of the accident prevention regulations is closely linked with the enforcement of the general occupational health and safety rules by the trade inspection offices (Staatliches Amt für Arbeitsschutz und Sicherheitstechnik; or “Gewerbeaufsichtsamt,” depending on Länder).

Besides the control of compliance with accident prevention regulations, the occupational health insurance associations advise business owners and operators in establishing and maintaining good practices with respect to accident prevention and industrial hygiene.

#### **OTHER SUPERVISING ORGANIZATIONS**

While various governmental agencies have enforcement responsibilities, inspections related to facility operating permits are generally performed by a commercial supervisory agency [Gewerbeaufsicht (trade inspection)]. Equipment and installations, such as underground storage tanks, are often subject to regular inspections by an authorized nongovernmental organization, such as one of the technical supervisory associations (Technische Überwachungsvereine or TÜV). Other supervisory activities are delegated to officially recognized experts (Sachverständige), such as an expert defined according to §19i WHG for the inspection of specific installations containing substances hazardous to water or according to §29a BImSchG for safety inspections of permit requiring installations.

#### **IN-HOUSE ORGANIZATION FOR ENVIRONMENTAL & SAFETY ASPECTS**

A particular feature of German law is the requirement for media-specific, in-house officers at many industrial facilities (Abfallbeauftragte-Beauftragte). The stipulated duties of the appointees go well beyond ensuring that the facility complies with the relevant regulatory requirements. Such officers are mandated for facilities that conduct certain types of permit-requiring activities, such as refineries and cement plants (Immissionsschutzbeauftragte), or where stipulated thresholds, such as volume of waste water discharge, are exceeded (Gewässerschutzbeauftragte). Requirements exist regarding officers for waste management, water protection, process safety, air quality protection, and transport of dangerous goods.

These employees are afforded special statutory protection relating, for example, to access to the necessary resources to perform their duties and limitations on termination of their employment. These officers prepare annual reports to company management detailing the implementation of their duties during the year. Management is also required to solicit the input of the appropriate officer on investment decisions that could impact his or her area of responsibility. Notification in writing to the responsible authorities is required for the assignment of some officers (e.g., waste management officer).

Related to the occupational safety and health organization, every company (with one or more employees and a member of one of the mandatory BG) is obliged to appoint a safety officer, safety representatives and a company physician. In addition to the safety officer and the company physician, the in-house safety representatives and the worker council belong to the company’s safety organization.

## **ENFORCEMENT OF SH&E REGULATIONS**

### ***Administrative Actions***

If a party violates environmental laws or regulations, the environmental authority may order it to comply with the relevant requirements. In general, such obligations can be enforced through imposing financial penalties. In certain cases, the authority may also punish the company, its managing directors, and the persons who committed the infringement by imposing an administrative penalty of up to \$66,012. In addition, the agency may collect any excess profits gained as a result of the violation. For major offenses, criminal sanctions may be imposed.

### ***Civil Liability***

Private parties who have an interest that is protected under the German civil law system can also initiate civil actions, including recovery for damages. For a cause of action to be successful, there must be a tortious act (contravention of a law/regulation, breach of duty of care), damages must be sustained, a causal relationship between the tortious act and the damages must be established, and the defendant must have acted intentionally or in a negligent manner. Even if a facility is operating in a manner that is consistent with permit requirements, under certain circumstances, it may be held liable for environmental damages, according to the Environmental Liability Act.

The party that has suffered damages must take action within 3 years of becoming aware of an impact to the environment and the identification of a responsible party. A private party cannot claim damages to the environment unless the individual has been directly affected.

In recent years, the federal Supreme Court has increased the liability of managing directors and persons within a company whose duty it is to observe that the business complies with SH&E legislation.

### ***Criminal Sanctions***

Criminal penalties apply to serious breaches of environmental law and normally require that at least negligence be involved. Only individuals (managing directors, company officers and other persons who must observe SH&E legislation in their work) can be subject to criminal prosecution and punishment. A legal entity, such as a company, cannot be subject to such prosecution.

The German Penal Code and some environmental statutes contain a series of specific references to detailed rules on criminal acts involving or affecting the environment (see paragraphs 324 onward of the Penal Code, <http://wings.buffalo.edu/law/bclcg/germind.htm>). These acts include pollution of the water, soil, and air; disposal of waste in a harmful way; and operation of installations without a permit. Each of these offenses carries a penalty of up to five years imprisonment. In serious cases, the period of incarceration can be up to ten years. Fines may also be involved, with the amount depending on the seriousness of the offense and the offender's financial situation.

### ***Strict Liability***

Historically, strict liability only applied to certain ultrahazardous operations, including operation of certain types of pipelines and nuclear power stations. However, the Environmental Liability Act of Dec. 10, 1989 (which came into force in 1991), provided for strict liability for environmental effects that may be caused by a wide variety of industrial installations, including discontinued ones. More than 100 different types of facilities are subject to this act, including several facilities requiring a permit under the Federal Emission Control Act as well as landfills requiring a permit under the act for closed substance cycle waste management and waste disposal.

Among the facilities subject to this act are thermoelectric, mining and energy industries; nonmetallic mineral, glass, ceramics and building materials industries; steel, iron and other metal industries; chemical, pharmaceutical and oil industries; plastics industry; timber industry; waste industry; and storage of dangerous substances.

Under the Environmental Liability Act, facility owners are liable for damages, with the presumption that the environmental damage was caused by a specific installation, "if, taking into account the circumstances of each particular case, an installation is found to have been capable of causing the ensuing damage" (§6 Sect.1 Environmental Liability Act). However, this presumption does not apply if the facility is found to be operating within the limits established by applicable permits (Section 2.0).

The owner of the installation is liable for damages under the Environmental Liability Act if a person is killed or injured, or if property damage ensues. Liability for death and bodily injuries is limited to \$112,582,755; the same limitation applies to property damage. Additionally, the facility owner may be required to restore any ecological damage.

On Nov. 14, 2007, the Environmental Damage Act (Umweltschadensgesetz-USchadG) entered into force. This act serves to implement European Directive 2004/35/EC of April 21, 2004, on environmental liability. Germany is one of the first EU member states to integrate the directive into its body of national laws. The Environmental Damage Act defines the obligations of responsible parties in the event that protected species and natural habitats, bodies of water, or soil suffer considerable damage or are at immediate risk of suffering such damage as a result of an occupational activity.

The law includes stipulations for strict liability in connection with specific potentially dangerous activities defined in the regulation. Potentially dangerous activities include operation of a power plant or a landfill site, transport of hazardous goods on roads, or discharge of substances into bodies of water. If damage to the environment as a result of an occupational activity is imminent, the responsible party must resort to any and all measures to contain the damage. However, if the damage has already

occurred, the responsible party must remediate the damage and assume the costs of the remediation. The competent authority may order remedial measures and is responsible for monitoring the responsible party's activities.

The act accords associations and nongovernmental organizations an important role, for it is their competence and experience that allows them to identify grievances and to ensure that necessary remedial measures are implemented. They, as well as affected parties, may, therefore, be included in the process of determining remedial measures. The act also enables affected parties and environmental associations to initiate action with the competent authorities against an alleged party responsible for an incident of environmental damage. Moreover, affected parties and environmental associations may also take legal measures to force the competent authorities to take the appropriate measures. Currently, many liability insurance associations are investigating the possibilities for and limits of insuring against violations of the USchadG.

The federal Water Resources Act [Wasserhaushaltsgesetz (WHG)] also contains a strict liability clause (§22 WHG) relative to any damage arising from a water pollution incident that affects another person. This would apply to anyone causing water pollution or anyone who operates a polluting facility. Amendments to §22a of WHG reference strict liability according to the Environmental Damage Act. WHG stipulates that a person causing water pollution is obliged to remediate any environmental damage if the pollution occurred in connection with one of the potentially dangerous activities listed in the Environmental Damage Act.

#### **Comments on Enforcement Practices**

In Germany, the most important instrument for enforcement of environmental law is the "permitting procedure." Nearly all environmental statutes provide that certain environmentally relevant installations and activities require one or more permits. By assessing the preconditions for issuing the permit, the authorities aim to prevent environmental damage and avoid hazards.

Usually, the permitting authorities make extensive use of these options by thoroughly checking the environmental soundness of an installation or activity. As a result, permitting procedures tend to be complicated and

lengthy. German industrial and commercial associations have identified the lengthy permitting process as a significant deterrent for investors. In the late 1990s, several acceleration statutes were introduced to address this problem and have been subsequently renewed ever since.

Complicated permitting procedures can occupy the authorities' scarce human resources. Therefore, it is not unusual that insufficient staff is available to supervise existing facilities and to take corrective action where necessary, a problem commonly known as the *enforcement deficit*. As a result, many authorities concentrate their monitoring efforts on large or particularly hazardous installations, whereas smaller and less significant businesses usually will be less strictly supervised.

Essentially, the intensity of enforcement does not depend either on the type of industry involved or on the origin of the operating company (domestic or foreign). Both private enterprises and enforcement authorities usually choose a cooperative approach to solve environmental disputes.

#### **CONTAMINATED LAND**

German legislation governing the cleanup of contaminated sites separately deals with contaminated soil and contaminated groundwater. Soil contamination also considers subsurface water that has been created by infiltration, although the latter is not considered groundwater in the conventional sense. Groundwater in the usual sense is regulated by state law.

#### **Soil Contamination**

At the federal level, the main regulatory vehicle for preventing and/or remediating soil pollution is the Soil Protection Act [Bundes-Bodenschutzgesetz (BBodSchG)], which came into force on March 1, 1999. The complete title of the act is Act on the Prevention of Harmful Effects on Soil and on the Cleanup of Contaminated Areas. This title reflects the legislative goal to sustainably restore or safeguard the natural functions of the soil by preventing harmful effects or further deterioration of soil quality and implementing cleanup of polluted land according to national quality standards or threshold values valid throughout Germany. Together with the Ordinance on the Prevention of Harmful Effects on Soil and on the Cleanup of Contaminated Areas Act [Bundes-Bodenschutzverordnung (BBodSchV)], which came into force on July 17, 1999, this act contains principles for cleanup standards and for liability in case of soil contamination.

Accordingly, the Soil Protection Act imposes on users and owners of land a general duty to take precautions against harmful effects, to remove actual hazards, and to remediate contamination occurring in connection with the former uses of the land. If the competent authority (e.g., environmental agency) suspects that a soil contamination problem exists, it will conduct a soil, air, and/or groundwater investigation. If that investigation identifies an exceedance of check limits (Prüfwerte), which are provided for the different exposure paths (ingestion or direct contact; plant absorption; and leaching of contaminants into soil or

## **Soil Contamination**

According to the BBodSchG (Soil Protection Act), a harmful soil change is an impairment of the soil functions that can lead to increased risk, applicable disadvantage or a considerable nuisance for a single person or for the general public. The existence and extent of a contaminant, or the combination of different contaminants, in a soil leads to an impairment of soil functions. This depends on the type of substance or the combination of substances respectively (substance-specific properties) as well as, on its concentration, soil properties and the respective use of soil.

into subsurface water that has been created through infiltration) in the Ordinance on the Prevention of Harmful Effects on Soil and on the Cleanup of Contaminated Areas, a more detailed hazard assessment will then be performed to assess the potential for a hazard to a protected media, taking into consideration the type of soil, the use of the property and the mobility of the pollutants through the soil. While public funds may be used to complete these investigations, the competent authority can require the polluter or the owner of the land to undertake the hazard assessment and to more thoroughly define the nature and the extent of the pollution.

In general, a cleanup will be mandatory if hazardous substances on the ground or in the groundwater exceed threshold values, which are defined as “action levels” (Maßnahmenwerte, only one action level has been defined so far for the ingestion /direct contact exposure pathway (dioxin/furan) in Annex 2 of the Soil Protection Ordinance). Exceedance of an action level is defined as contamination. Once contamination is identified, an investigation to determine the necessity of remediation and the development of a remediation plan are required. The concerned owner or user of the property can agree on a remediation plan with the competent authority, who can impose binding remediation limits.

The benefit of this approach is that the scope and the cost of the remediation can be evaluated beforehand because both parties, the owner or user of the property, as well as the agency, will be bound to the stipulations within the remediation plan, unless unforeseeable factual changes occur.

In general, the extent of a cleanup will depend on the subsequent use of the property. Thus, a continuing industrial use will require less extended remediation than would be necessary should the subsequent use be residential. The competent authority can establish limits on the use of the property. The party responsible for the remediation must inform the owners of the concerned properties, the other users, and the concerned neighborhood about the planned remediation. Important documents regarding the planned remediation must be provided to the abovementioned parties.

The legal responsibility for cleanup is imposed on each party directly responsible for the occurrence of the contamination either by action or by omission (disturber by conduct) or their respective successors and on each party who has or gains actual physical control over the property (disturber in fact). Not only the owner of the land, but also the tenant or lessee or any other user can be obliged to remediate as a disturber in fact. Former owners of property who sold their property after March 1, 1999, and knew or should have known about the contamination are also defined as being legally responsible for cleanup. In cases where there are multiple potentially responsible parties, the competent authorities will decide on which parties the duty of cleanup is imposed. There is no legal principle to pursue the original polluter as the



*The Act on the Prevention of Harmful Effects on Soil and on the Cleanup of Contaminated Areas reflects the legislative goal to sustainably restore or safeguard the natural functions of the soil by preventing harmful effects or further deterioration of soil quality and implementing cleanup of polluted land according to national quality standards or threshold values valid throughout Germany.*

primary responsible entity. The decision is left to the discretion of the authorities and will be guided by an assessment of the general capacity (e.g., the financial situation) of every single polluter to quickly and efficiently mitigate the hazards.

The action levels listed in the Soil Protection Ordinance are valid throughout Germany, but generally are less stringent than existing limits in informal state acts (most of the states have developed their own remediation standards and still refer to these standard lists if federal action levels are missing).

### **Groundwater**

Remediation of groundwater is addressed at the state level. Each state has its own procedures and standards.

### **Property Transfer Legislation**

For persons or companies engaged in the purchase or sale of a business or property, no statutory legal requirement to undertake pretransaction environmental investigations exists. Nor is there any special legislation in effect that requires sellers of businesses or property to provide the potential buyer with any document or statement concerning the environmental condition of the property.

German courts have ruled that the property seller, under certain circumstances, may have the obligation to report known contamination to the potential buyer. Similarly, the courts have ruled that a potential buyer of industrial property should be aware that such types of properties may be contaminated. It is not unusual for parties involved in property or business transactions to seek, by way of contract negotiations, to obtain warranties and indemnities and to receive environmental disclosures in respect of potential or known contamination.



## Germany List of States (Länder)

Baden-Württemberg (Baden-Württemberg)	(Mecklenburg-Vorpommern)
Bavaria (Bayern)	North Rhine-Westfalia (Nordrhein-Westfalen)
Berlin (Berlin)	Rhineland-Palatinate (Rheinland-Pfalz)
Brandenburg (Brandenburg)	Saarland (Saarland)
Bremen (Bremen)	Saxony (Sachsen)
Hamburg (Hamburg)	Saxony-Anhalt (Sachsen-Anhalt)
Hesse (Hessen)	Schleswig-Holstein (Schleswig-Holstein)
Lower Saxony (Niedersachsen)	Thuringia (Thüringen)
Mecklenburg Pomerania	

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### REGULATORY INFORMATION

Most lawyers and other professionals still use text-

### REPORTING OBLIGATIONS

#### *Accidental Spills & Releases*

Notification of accidents that have polluted or may pollute the environment is required under §19 of the Ordinance on Accidents (12th Ordinance of the Federal Emission Control Act-Störfallverordnung). Additionally, licenses granted under the Federal Emission Control Act (and, therefore, any future IPPC licenses), as well as licenses or permissions granted under the Water Resource Act, normally contain a requirement to notify the competent authorities in the event of an accident, including those resulting in releases of hazardous substances.

#### *Contamination Identified During Sampling*

Generally, in federal environmental law, no reporting obligation exists in the event that soil or groundwater contamination is identified during the course of conducting a sampling program independent of an accident or spill incident (e.g., Phase II sampling as part of due diligence). However, several states have established or plan to establish such a requirement in their soil protection acts (e.g., Sec. 1 Pt. 1 of the Soil Protection Act of Hamburg). On the other hand, if the sampling was in response to a reportable accident or incident, the competent authorities may require transmittal of the results.

### KEY FEDERAL AGENCIES

Federal Minister for the Environment, Nature  
Protection and Nuclear Reactor Safety  
Berlin  
Alexanderstrasse 3  
D-10178 Berlin  
(+49) 30 18 305-0  
Fax: (+49) 30 18 305 4375

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Robert-Schuman-Platz 3  
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## Public Holidays

National holidays are noted as follows; this is a working guide only. Dates should be verified prior to undertaking any visit. When holidays fall on a Saturday or Sunday, commercial establishments may be closed the preceding Friday or the following Monday.

Public Holidays	Fixed Date
New Year's Day	Jan. 1
Feast of Epiphany*	Jan. 6
Good Friday	
Easter Monday	
May Day	May 1
Ascension Day	
Whit Monday-Pentecost	
Corpus Christi*	
German Unity Day	Oct. 3
Christmas Day & Boxing Day	Dec. 25 and 26.

\*Not celebrated in all states.

A complete list of public holidays throughout Germany, including state holidays, can be found at <http://www.buyusa.gov/germany/en/holidays.html>.

# SH&E Professional Development Opportunities



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books as their source of information on SH&E regulations. The more important texts on the subject, which also include full text copies of the legislation, are as follows:

- Kloepfer, Umweltschutz, Loseblatt. C.H. Beck'sche Verlagsbuchhandlung, München (as of November 2003). (looseleaf subscription service covering environmental legislation).

- Umweltrecht, Beck'sche Texte im dtv, Deutscher Taschenbuchverlag (15th ed., 2003) (environmental legislation).

- Nipperdey II, Arbeitssicherheit, Loseblatt, C.H. Beck'sche Verlagsbuchhandlung, München (as of October 2003) (looseleaf subscription service covering safety and health).

The publishers of these texts, C.H. Beck'sche Verlagsbuchhandlung and Deutscher Taschenbuchverlag, can be contacted as follows:

C.H. Beck Verlag	Deutscher Taschenbuch-Verlag
Wilhelmstrasse 9	Friedrichstrasse 1 A
80801 München	80801 München
(+49-89) 3 818 90	(+49-89) 3 816 70
Fax: (+49-89) 3 818 9402	Fax: (+49-89) 3 464 28

In addition, the Bundesministerium der Justiz (BMJ) in cooperation with juris GmbH, provides most federal legislation free of charge on the Internet (<http://bundesrecht.juris.de/bundesrecht/index.html>). This also provides an update service with links to the legislation. Most relevant materials concerning SH&E legislation can be accessed on the Environment Ministry's website at <http://www.umwelt-online.de>. Registration is required to receive complete documents. The annual fee is \$126. The website is operated by UWS Umweltmanagement GmbH:

UWS Umweltmanagement GmbH  
Röhlenend 59  
D-41751 Viersen, Germany  
(+49-2162) 949090  
Fax: (+49-2162) 949091

At <http://www.umweltdigital.de>, it is possible to subscribe to a free electronic newsletter that gives periodic information about new environmental legislation, literature and jurisdiction.

Lastly, the regulations and publications of the Occupational Health Insurance Association can be ordered through Carl Heymanns Verlag KG, Luxemburger Strasse 449, 50939 Köln; (49-221) 94 373-0; fax (49-221) 94 373-901. ☪

## **2009 InterConstruct 09**

May 19-20, 2009  
Edinburgh, Scotland  
<http://www.iosh.co.uk/files/events/InterConstruct%2009%20main%20brochure.pdf>

## **2009 AIHce**

May 30-June 4, 2009  
Toronto, Canada  
<http://www.aiha.org/aihce09/default.htm>

## **2009 ASSE PDC & Expo**

June 28-July 1, 2009  
San Antonio, TX  
<http://www.asse.org/education/pdc09/>

## **2009 ACHMM National Conference**

Aug. 30 to Sept. 2, 2009  
San Diego, CA  
<http://www.achmm.org/sandiego2009>

## **ABSA 52nd Annual Biological Safety Conference**

Oct. 18-21, 2009  
Miami, FL  
<http://www.absaconference.org/>