



Ekolagen Miljöjuridik

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About me

- Doctor in Environmental Law.
- Uppsala University, faculty of Law (1989-2004).
- Lawyer, local environmental supervisingboard, municipality of Uppsala (1999-2006).
- Lawyer at National Swedish Food Administration 2007
- Lawyer on my own (2007-).
 - University courses.
 - Supports 10-15 local environmental supervising boards.
 - Acts in Courts.
 - Official Reports and Analysis.
 - *Possibilities to increase the environmental demands on drugmanufacturing plants, domestic, in EU and in third countries.*
 - Legal expert on National Knowledge Centre for small Sewages

The Swedish legal regime

On Use and Reuse of Natural
Resources

Case: Sewage Systems



Three generations

Sewage treatment legislation

- Health Care, 1870.
 - "Water well not to close to the dunghill."
- Environmental Care, 1942.
 - Discussion in official reports, 1900.
 - Example Discharges from tannery.
- Save resources and energy, 1999.
 - Discussion in official report 1983.



Ecoloop: The Third generation Environmental legislation

- **Conclusions:**
 - In this Case, the Swedish legislation is in the front.
 - But the ecoloop-section is seldom applied to in court cases.
 - Why?



Sewage Treatment Plants

- **Large Size** (\approx 500 - person equivalents)
 - Owned and run by the municipality or a company owned by municipality.
- **Medium Size** (\approx 10-200 person equivalents)
 - Often owned and run by a private association (samfällighet).
- **Small Size** (\approx 1-15 person equivalents.)
 - Owned and run by the houseowner.



Sewage Legislation

- Environmental Code.
 - With ordinances.
- the Public Water Supply and Wastewater Systems Act (SFS 2006:412)
- Planning- and Building Act.



Environmental Code

- Health- and environmental standards for all sewage treatment plants.
- Environmental licence / notification.
- Responsibility for water and sewage treatment supply on the house owner (1-20 houses).



the Public Water Supply and Wastewater Systems Act

(SFS 2006:412)

- When is the municipality obligated to arrange for public water / sewage?
 - Water and Sewage: Responsibility on the municipality when over \approx 20-30 houses.
 - Inside an Area for Public Responsibility on water and Sewage” (verksamhetsområde)”
- House owners right to use the system in the area.
- House owners obligation to pay the fees.



the Public Water Supply and Wastewater Systems Act

(SFS 2006:412)

- *The public operator are obliged to arrange for water / sewage....*
- *...if there, in a larger context, is a need for water supply or sewage treatment, according to human health or to the environmental protection...*
- Environment protection includes use of natural resources



the Public Water Supply and Wastewater Systems Act

- No ban on small water / sewage solutions inside an area for public solutions.
- But: Very hard not have to pay the fees.
 - You must show that the small solution in some aspects are better than the large one.
 - Human health, environment protection (including use of resources?)



Planning- and Building Act.

- No compulsory Water and Sewage planning as such.
- Water and Sewage planning should be a part of the city-plans.
 - Often a part of the *Comprehensive Plan*.
 - On the municipality, board of planning and building.
- You can not get a building permit until You show that it is possible to arrange for water and sewage.

The Swedish Environmental Code (EC)

Entered into force 1999



The area of application of the Environmental Code

- Use of Natural Resources (Not extracting),
- Nature Conservaction, biological diversity,
- Flora and Fauna (Measures Relating to Protected Species) Act,
- Environmental Protection (discharges to air, water and soil),
- Health Protection,
- Water constructions,
- Agricultural Land Management,
- Genetically Modified Organisms, GMO,
- Use of Chemical Products (besides REACH),
- Biological Pesticides (Advanced Testing),
- (Spreading of Pesticides over Forest Land,
- Fuels (Sulphur Content),
- Public Cleansing, waste,
- Dumping of Waste in Water,
- Liability for Environmental Damage,

OBJECTIVES AND GUIDELINES Ch 1-6

Ch 7 Nature conservation

Ch 9 Env. Protection Health

Ch 11 Water operations

13 kap GMO

15 kap Waste

Ch 8. Nature conservation

Ch 10 Polluted areas

Ch 12 farmlands

Ch 14 kap Chemicals

Common rules Ch 16 - 32



OBJECTIVES AND GUIDELINES

Ch. 1 Objectives

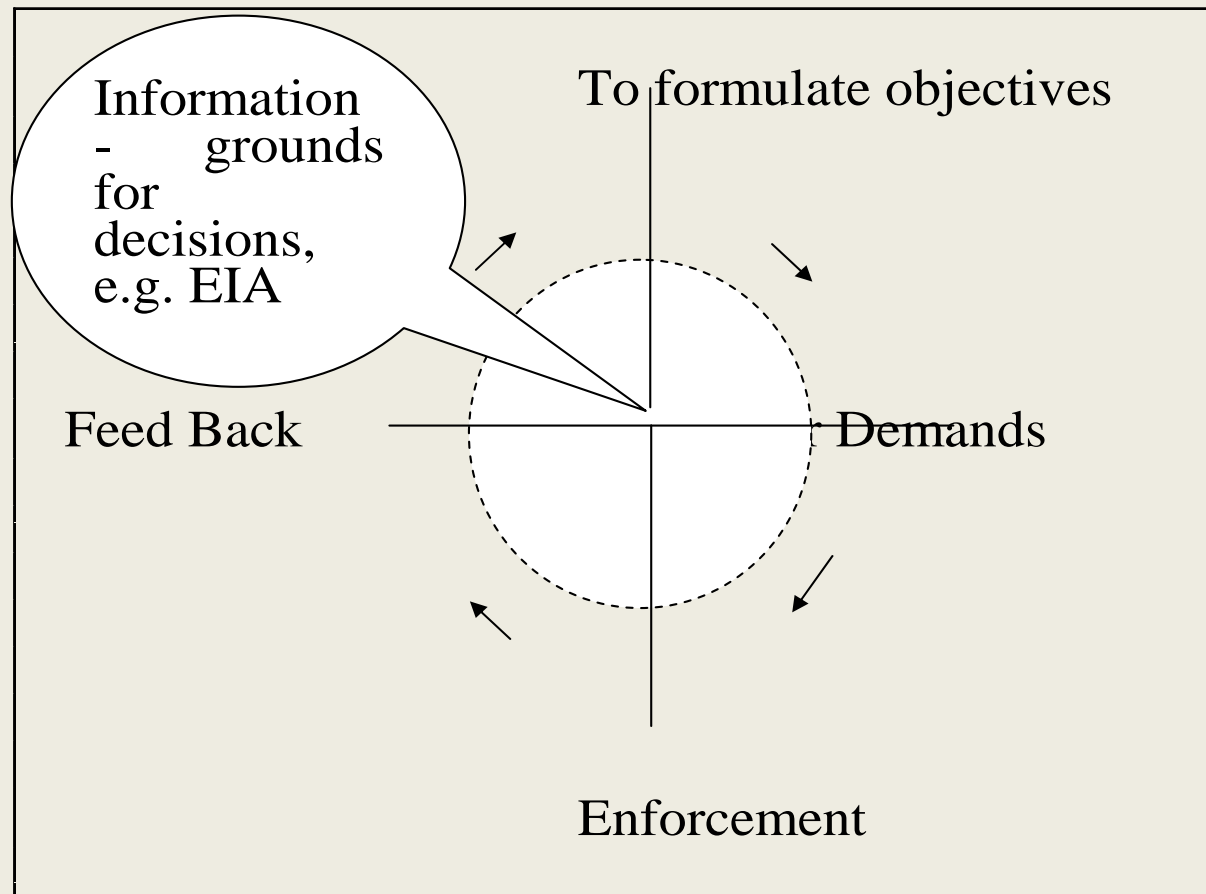
Ch. 2 General rules of consideration

Ch. 3-4 Provisions concerning land management

Ch. 5 Rules on environmental quality standards

Ch. 6 Rules on environmental impact statements

Functions in a legal system; important for policymaking



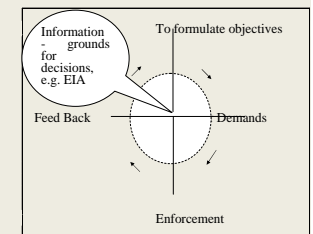
Figur A4:4.



Functions in a legal system

1. To formulate objectives, for the purpose of..

2. To Govern human behaviour.
3. To Control, Support, Enforce, Entice.
5. Information - grounds for decisions, e.g. EIA.



Figur A1-4.



The Aim of the Code

Ch 1 Sec. 1 (1:st part)
Environmental Code

The purpose of this Code is to promote sustainable development which will assure a healthy and sound environment for present and future generations. Such development will be based on recognition of the fact that nature is worthy of protection and that our right to modify and exploit nature carries with it a responsibility for wise management of natural resources.



The Aim of the Code

Ch 1 Sec. 1 (2:nd part)
Environmental Code

The Environmental Code shall be applied in such a way as to ensure that:

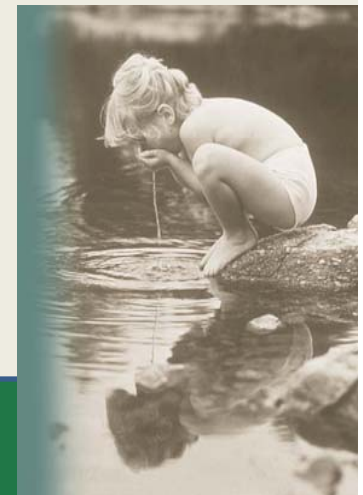
- 1. human health and the environment are protected against damage and detriment, whether caused by pollutants or other impacts;
- 2. valuable natural and cultural environments are protected and preserved;
- 3. biological diversity is preserved;
- 4. the use of land, water and the physical environment in general is such as to secure a long term good management in ecological, social, cultural and economic terms; and
- **5. reuse and recycling, as well as other management of materials, raw materials and energy are encouraged with a view to establishing and maintaining natural cycles.**



16 Swedish National Environmental Quality Objectives

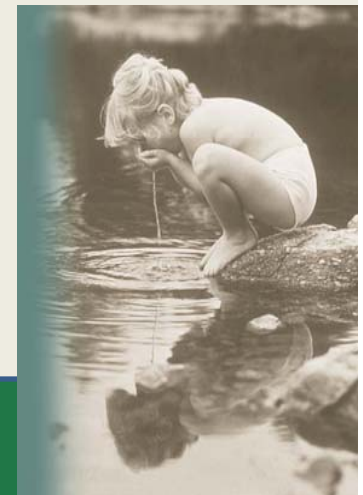
Reduced Climate Impact
Clean Air
Natural Acidification Only
A Non-Toxic Environment
A Protective Ozone Layer
A Safe Radiation Environment
Zero Eutrophication
Flourishing Lakes and Streams
Good-Quality Groundwater
A Balanced Marine Environment,
Flourishing Coastal Areas and Archipelagos

Thriving Wetlands
Sustainable Forests
A Varied Agricultural Landscape
A Magnificent Mountain Landscape
A Good Built Environment
A Rich Diversity of Plant and Animal Life



16 Swedish National Environmental Quality Objectives

- There is no Quality Objective focusing on reuse, recycling or energy consumption as such.
 - There are sub-objectives on these matters.





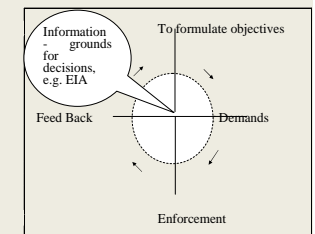
Functions in a legal system

1. To formulate objectives, for the purpose of..

2. To Govern human behaviour.

3. Feed back, system analysis.

5. Information - grounds for decisions, e.g. EIA.



Figur A1-4.

Ch 2

”General rules of consideration”

- Applicable for all kinds of activities:
 - Sewage treatment plants for Singel family houses, as well as...
 - Large scale sewage treatment plants.
- BAT (best available technology) only för commercial (professional) activities.



Ch 2

General rules of consideration

- Sec. 1. Reversed burden of proof.
- Sec. 2. Burden of knowledge.
- Sec. 3. (Traditional) precautionary measures.
- Sec. 4. Localization principle.
- Sec 5. Principles on Householding and ecocycle.



Principles on householding and ecocycle

- Persons who pursue an activity or take a measure shall conserve raw materials and energy and reuse and recycle them wherever possible.
- Preference shall be given to renewable energy sources.
- Ch. 2 sec. 5.



Reasonableness rules

- The requirement of consideration contained in the rules of consideration described here apply to the **extent that it may not be regarded as unreasonable to satisfy them**. When making this assessment, the benefit of the precautionary measures is compared with the expense of such measures. Balancing these must not mean that an environmental quality norm is neglected. It is the task of the party conducting the operation to show that the expense of the measure is not environmentally justified or that it is unreasonably burdensome.
- Ch. 2 sec. 7.

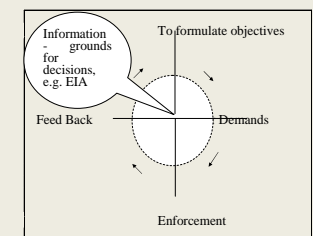


Functions in a legal system

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Figur A1-4.



Operators self control

- The operator of the activity shall continually plan and control the operation to prevent damage and nuisance.
- Furthermore, for environmentally hazardous activities that are subject to a permit obligation, an environmental report must be submitted annually to the supervisory authority.
- Ch. 26. sec. 19.



Authorities

- **Supervision:**
 - Municipalities (290) (example: small sewage treatment plans)
 - County board (21) (Example: large scale sewage treatment plans)
 - State authorities (EPA).
- **Licenses**
 - Municipality boards, county boards and environmental courts



License?

- **Discharges** – (“Environmentally hazardous activities”). License only when listed in the law
- **Water constructions** – (“Water operations”) License is the principle rule.
- **Compulsory notice of consultation** where an activity is liable to have a significant impact on the natural environment.



The Environmental Code 10 years

- Ch. 2 sec 5 was, from my perspective, the most important news in the Code
- A very important contribution to the legislation.
- Ch. 2 sec. 5 Env. Code is used very seldom.
- Why?



Important Court Decisions on 2:5?

- No there are hardly any interesting cases on Ch. 2 sec. 5. Environmental Code.
- One old Case, *indicates*: Not possible to Claim eco-loop if there are no obvious use for the product?



Court Decision

Vänerns Environmental Court 2004-10-21

- Cements AB. Cement works.
- OK to burn sewage sludge in the cement oven, without phosphorus separation.
 - Cements AB had to write a plan for energyconsumption
- The County Council and the Local Supervision Board Pledge Against.



Why?

- Lack of incitaments?
 - Difficult to see results in the Nature from resource saving?
- Bad knowledge on ecooop solutions?
- Difficult to balance use of resources and economy?
- Difficult to motivate higher costs?
 - Are the costs higher?
- Belief that Ch. 2 sec. 5 Env. code has a lower rank than other parts of the code?
- Must show that there is a use for the separated resource.



Questions to be asked

- 1 g. (P) person/day.
- 1,12 kg (P) / year emitted from average household.
- How much (money) may the supervision board demand from a single person to separate the (P) from the sewage water?
- How much is future generations need of (P) valid?



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Thank You for listening!

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Member of



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Urine Separation

