

# Latest environmental legislation in effect and in the pipeline – 2021 overview



22 March 2021 | Contributed by Pestalozzi Attorneys at Law

Environment & Climate Change, Switzerland

- 🕒 **CO<sub>2</sub> reduction and revised CO<sub>2</sub> Act**
- 🕒 **Energy labels**
- 🕒 **Chemicals**
- 🕒 **Plant protection products**

This article summarises key amendments to Swiss environmental laws which either came into effect recently or will come into effect in the foreseeable future.

## **CO<sub>2</sub> reduction and revised CO<sub>2</sub> Act**

On 25 September 2020 Parliament adopted the completely revised CO<sub>2</sub> Act. The act sets the course for Switzerland to meet its commitments under the Paris Agreement. The revised CO<sub>2</sub> Act shall contribute to:

- keeping the increase of the average earth temperature to less than 2 degrees above pre-industrial levels; and
- limiting the global increase of temperature to 1.5 degrees.

To reach this goal, the revised CO<sub>2</sub> Act states that Switzerland shall halve its greenhouse gas emissions by 2030 as compared with emissions from 1990. Therefore, at least 75% of the reduction in greenhouse gas emissions must be achieved through domestic measures.

The revised CO<sub>2</sub> Act has faced resistance from various sides in Switzerland and a referendum has been launched. The voters are expected to vote on the act in June 2021. It is unclear whether and when the act will enter into force.

The controversial elements of the act include, among other things, the following new measures and levies.

### ***New levy on flight tickets and private jet flights***

A charge ranging from Sfr30 to Sfr120 shall be levied on every airline ticket, depending on the boarding class and travel distance. Airline companies are subject to the levy. Further, a levy ranging between Sfr500 and Sfr3,000 shall be imposed on flights with private jets with a maximum take-off mass of more than 5,700kg.

Of the revenue generated from these levies, 50% shall be reimbursed to the population (by way of credits on health insurance premiums) and the other 50% shall be paid into a climate fund. The resources generated in the climate fund shall be used to promote measures and technologies to prevent greenhouse gas emissions.

Due to this partial reimbursement mechanism, the CO<sub>2</sub> levy would primarily burden frequent flyers as they will pay more than they will get back through reductions in the health insurance premiums.

### ***Increased levy on fossil fuels***

The maximum rate of the CO<sub>2</sub> levy on fossil fuels shall be increased from Sfr120 to Sfr210 per ton of CO<sub>2</sub>. Therefore, the new possible range for the levy on fossil fuels shall be Sfr96 to Sfr210 per ton of CO<sub>2</sub>.

### ***Increase of gasoline price***

The revised CO<sub>2</sub> Act provides that producers and importers of fossil fuels must compensate for a larger part of CO<sub>2</sub> emissions and states in particular that at least 15% of the compensation must be carried out through domestic measures. After 2025, this compensation will increase to 20%.

The implementation of these new measures would have a direct impact on the price of gasoline and diesel in Switzerland. In order to avoid excessive prices for consumers, the revised CO<sub>2</sub> Act limits the surcharge on fuel to a maximum of 10 cents per litre until 2024 and a maximum of 12 cents per litre after 2025. Further, it gives the Federal Council the option to temporarily reduce the maximum surcharge in cases of economic necessity.

In order to ensure that Switzerland's climate policy continues to comply with the Paris Agreement after 2020, Parliament extended certain climate protection measures until the end of 2021 (for further details please see "Switzerland to extend certain climate protection measures until 2021"). In light of the unclear situation regarding the revised CO<sub>2</sub> Act, Parliament may have to further extend certain existing climate protection measures.

## **Energy labels**

### ***Devices***

The Energy Efficiency Ordinance aims to reduce the energy consumption of series-produced installations, vehicles and devices and increase their energy efficiency. **(1)** It applies to products that consume a significant amount of energy and that are placed on the market or supplied in Switzerland.

On 22 April 2020 the Federal Council amended the Energy Efficiency Ordinance in order to implement the stricter energy efficiency regulations of the European Union for series-produced installations and devices in Swiss legislation. This amendment requires new series-produced installations and devices from the following list to consume less energy:

- dishwashers;
- washing machines;
- refrigerators;
- refrigerators with a direct sales function;
- lighting;
- displays;
- transformers;
- motors;
- servers;
- power supply units;
- air heating products; and
- welding devices.

Thereby, the Swiss energy efficiency requirements for refrigerators and freezers remain stricter than those in the European Union.

Further, the European Union amended its energy label system (Categories A+++ to D) and reintroduced the original scale system with Categories A to G as of 1 March 2021. This is because the previous categories of A+++ to D led to significant confusion among customers. In addition, the European Union adapted the requirements for disclosing the energy consumption in sales documents and advertising. Switzerland will also implement these amendments and the new energy label categories of A to G in the revised Energy Efficiency Ordinance.

Most of the amendments – in particular, the revised energy label categories – entered into force on 15 May 2020 and 1 March 2021.

### ***New automobiles***

On 1 January 2018 the Ordinance on Information on the Energy Label of New Passenger Cars came into effect.**(2)** The Department of the Environment, Transport, Energy and Communication annually adapts the energy label on passenger cars to the latest technical developments to ensure, as in previous years, that only one-seventh of all new vehicle models fall into the best efficiency category (Category A).

As in the past, each new car sold must have an energy label indicating its fuel consumption, CO<sub>2</sub> emissions and energy efficiency in order to heighten the transparency and support the reduction of average fuel consumption (Categories A to G). Since 1 January 2020, the method for calculating the energy efficiency categories of new passenger cars has changed from the previous New European Driving Cycle (NEDC) method to the new Worldwide Harmonised Light-Duty Vehicles Test Procedure (WLTP) method. As a result, the calculation to define the energy label must be based on WLTP values, if such values are available (an exception applies to certain passenger cars which have only NEDC specifications and for which the WLTP values cannot be calculated (eg, stock vehicles)).

Since 1 January 2021, the statutory average CO<sub>2</sub> emission of passenger cars has been 169g per kilometre (km) under the WLTP method and 136g per km under the NEDC method. These values reflect the average emission of all new passenger cars registered for the first time in Switzerland.

The aforementioned values must be distinguished from the threshold for CO<sub>2</sub> emissions from passenger cars with which Swiss importers of passenger cars must comply in order to avoid a monetary penalty. These annual target values are defined and reduced annually. As a consequence of the change from the NEDC method to the WLTP values, the 2021 annual target value was increased from 95g of CO<sub>2</sub> per km to 118g of CO<sub>2</sub> per km for passenger cars and from 147g of CO<sub>2</sub> per km to 186g of CO<sub>2</sub> per km for light commercial vehicles.

### ***Tyres***

In 2020 the European Council and Parliament formally adopted a new regulation on the labelling of tyres for the purposes of fuel efficiency, increasing road safety and reducing noise pollution from traffic, which will apply as of 1 May 2021.**(3)** The new regulation will replace the existing Tyre Labelling Regulation and aims particularly to increase consumer awareness of the tyre label and improve market surveillance.

Tyres have an important impact on the environment. Due to their rolling resistance, they are responsible for around 20% of a vehicle's fuel consumption. Therefore, a better rolling resistance of a vehicle reduces both fuel consumption and CO<sub>2</sub> emissions.

According to the new European Council and Parliament regulation, suppliers of tyres for passenger and light-duty vehicles, as well as heavy-duty vehicles, must display the tyre label in all forms of purchase (including online sales). As a first step, the new tyre labels will include visual information about the tyre performance in snow and ice conditions (the information content may be adjusted at a later stage). Tyre labels will, via the visual information, provide customers with transparent information on the fuel efficiency, safety and rolling noise of tyres.

The revised Energy Efficiency Ordinance will implement the provisions of the new European Council and Parliament regulation in Swiss legislation. These amendments are expected to enter into force on 1 May 2021.

## **Chemicals**

The international trade of certain chemicals (import and export) is subject to the Rotterdam Prior Informed Consent (PIC) Convention, which was implemented in Switzerland by the PIC Ordinance (ChemPICO).**(4)** The ChemPICO established a notification and information system in Switzerland for the import and export of certain substances and preparations whose use is prohibited or subject to severe restrictions because of their effects on human health or the environment. Further, ChemPICO enables Switzerland to participate in the international notification procedure and international PIC procedure for certain dangerous substances and preparations in accordance with the Rotterdam PIC Convention.

The ChemPICO lists in Annexe 1 various substances (pesticides and industrial chemicals) which are prohibited or subject to severe restrictions in Switzerland. The import and export of such listed substances is subject to a prior notification to the Federal Office of the Environment.

In December 2020 the Federal Council added six active ingredients of plant protection products (carbendazim, fluzilazole, ioxynil, isoproturon, triasulfuron and triflumuron) and one industrial chemical (perfluorooctanoic acid, its salts and precursor compounds) to Annex 1 of the ChemPICO Ordinance. The revised ChemPICO Ordinance was approved by the Federal Council on 12 February 2020 and entered into force on 1 January 2021. The addition of the perfluorooctanoic acid, its salts and precursor compounds in Annex 1 of the ChemPICO Ordinance will take place on 1 June 2021.

## **Plant protection products**

The Chemical Risk Reduction Ordinance (ORRChem) prohibits or restricts the handling of particularly dangerous substances, preparations and objects and regulates the personal and professional requirements for such handling.**(5)**

Due to increasing and intensive debates regarding the international trade of hazardous pesticides in recent years, the Federal Council implemented new regulations for the export of certain hazardous plant protection products which may endanger human health or the environment. The new export regulations implement two significant changes and features:

- Certain particularly problematic plant protection products (Atrazin, Diafenthiuron, Methidathion, Paraquat and Profenofos), which are prohibited in Switzerland, have been subject to an export ban since 1 January 2021.
- The export of other plant protection products, which are not admitted for use in Switzerland, will henceforth be subject to an authorisation from the Federal Office of the Environment. The office will grant such authorisation and approve exports of plant protection products only if the importing country agrees to it and gives prior approval.

The revised ORRChem was approved by the Federal Council on 14 October 2020 and entered into force on 1 January 2021.

*For further information on this topic please contact Michael Lips or Larissa Rickenbacher at Pestalozzi Attorneys at Law by telephone (+41 44 217 91 11) or email (michael.lips@pestalozzilaw.com or larissa.rickenbacher@pestalozzilaw.com). The Pestalozzi Attorneys at Law website can be accessed at [www.pestalozzilaw.com](http://www.pestalozzilaw.com).*

---

## **Endnotes**

(1) Energy Efficiency Ordinance, SR 730.02.

(2) Ordinance on Information on the Energy Label of New Passenger Cars, SR 730.022.2.

(3) EU Regulation 2020/740 of 25 May 2020 on the labelling of tyres with respect to fuel efficiency and other parameters, amending EU Regulation 2017/1369 and repealing EC Regulation 1222/2009.

(4) Ordinance of 10 November 2004 on the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Chemicals in International Trade (PIC Ordinance, ChemPICO), SR 814.82.

(5) Chemical Risk Reduction Ordinance, SR 814.81.

The materials contained on this website are for general information purposes only and are subject to the disclaimer.

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription.



Michael Lips



Larissa Rickenbacher