

Delivering expert knowledge to global counsel


[Home](#) | [About](#) | [Newsletters](#) | [OnDemand](#) | [Deals](#) | [Directory](#) | [Awards](#) | [Partners](#) | [My ILO](#) | [Log out](#) | [Bookstore](#)

Environment & Climate Change - Switzerland



Key legislation in effect and in the pipeline

Contributed by **Pestalozzi Attorneys at Law**

February 09 2015

Aarhus Convention
Carbon Dioxide Ordinance
Energy Ordinance
Polluted sites
Chemicals
Major Accident Ordinance

This update summarises key amendments to Swiss environmental statutes and ordinances which either came into effect in 2014 or will come into effect in 2015.

Aarhus Convention

On June 1 2014 the Federal Council enacted certain amendments to the Environmental Protection Act,⁽¹⁾ the Waters Protection Act⁽²⁾ and the Gene Technology Act.⁽³⁾ The amendments relate to ratification of the Aarhus Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters.⁽⁴⁾ Also on June 1 2014, the Aarhus Convention entered into force in Switzerland.

Before the introduction of these amendments, Switzerland fulfilled most requirements under the convention. However, with regard to information on environmental matters, certain amendments were necessary. Information on environmental matters falls within the scope of the Environmental Protection Act and other legislation on:

- the protection of nature and cultural heritage;
- landscape protection;
- water protection;
- protection against natural hazards;
- forest conservation;
- hunting;
- fishing;
- gene technology; and
- climate protection.

A new provision of the Environmental Protection Act (Article 10e) specifies the information that the authorities must provide to the public. The public must be adequately informed about environmental protection and levels of environmental pollution, although the overriding private and public interest in confidentiality and manufacturing and business secrecy is reserved. Environmental protection agencies should also advise authorities and private individuals on environmentally sound behaviour and recommend measures to reduce environmental pollution, including:

- littering;
- recycling;
- climate protection;
- energy-saving measures; and
- use of renewable resources.

The amended act also obliges the cantons to provide public access to information (ie, access to relevant documents about environmental matters, including reports, studies, plans and programmes). At federal level, the Freedom of Information Act⁽⁵⁾ already provides this right. Since 20 out of 26 of the cantons have implemented or will soon implement an act on freedom of information, the effects of the amendments to the Environmental Protection Act are minor. Those cantons that do not yet have a freedom of information act should apply the federal Freedom of Information Act by analogy

Authors

Anne-C Imhoff



Michael Lips



Actions

[Comment for author](#)

[Advanced search](#)

[Send to colleague](#)

[Updates for this firm](#)

[Updates for this jurisdiction](#)

[Updates for this workarea](#)

[Print](#)



in environmental matters.

The amended Waters Protection Act includes a specific provision on publication information relating to waters protection, while the Gene Technology Act refers to the Environmental Protection Act for information rights.

Carbon Dioxide Ordinance

On December 1 2014 an amendment to the Ordinance for the Reduction of Carbon Dioxide Emissions⁽⁶⁾ entered into force. The ordinance has been in force since January 2013. Based on experiences since then, some technical adaptations have been made to the ordinance, concerning the following topics in particular:

- certificates for projects and programmes to reduce domestic emissions;
- provisions regarding carbon dioxide emissions from new passenger cars;
- the Emissions Trading Scheme;
- exemption from the CO₂ tax for companies not participating in the Emissions Trading Scheme;
- technology funds for the placing of guarantees; and
- the Swiss emissions trading register.

With regard to the Emissions Trading Scheme in particular, the ordinance has been amended to include provisions for hardship cases. These provide a solution for companies which are obliged to participate in the Emissions Trading Scheme, but are unable to buy sufficient emissions rights at economically affordable prices on the Swiss market because the Swiss Emissions Trading Scheme is not yet linked to the EU Emissions Trading Scheme.

On request, the Federal Office for the Environment may increase the maximum amount of creditable non-Swiss emission reduction certificates, provided that the respective company commits to buying European emission rights to the same amount.

If the Swiss and European systems are to be linked before December 31 2018, the certificates will be replaced by European emission rights tradable on the international market. If the systems are not to be linked, the companies may use non-Swiss certificates and sell the European emission rights on the European market.

Energy Ordinance

Photovoltaic

Due to high demand, there is a long waiting list (approximately 36,000 facilities) for cost-covering feed-in compensation for new photovoltaic facilities. It takes several years between filing a request and obtaining compensation. Amendments to the Energy Ordinance⁽⁷⁾ aim to promote electricity production from renewable energy quicker and more cost-efficiently. The amendments entered into force on January 1 2015.

In particular, the Federal Council reduced the photovoltaic compensation rate for cost-covering feed-in compensation, as well as the one-time compensation, in two steps as from April 1 2015 and October 1 2015. The reduced rate will allow more requests to be processed each year, which will help to shorten the waiting list for feed-in compensation. As a result, from October 1 2015 the compensation rates will be as follows:

- Large facilities (>1,000 kilowatts (kW)) – approximately 12% below the existing compensation rate;
- Medium-sized facilities (30 kW to 1,000kW) – approximately 18% below the existing compensation rate; and
- Small facilities (<30kW) – approximately 23% below the existing compensation rate.

For integrated photovoltaic facilities, the existing 15% surcharge will continue because such facilities involve higher investment costs.

From April 1 2015 the category of free-standing facilities will be removed and the compensation rate for built-on facilities will apply. Different compensation for free-standing and built-on facilities is no longer considered to be justified.

Photovoltaic facilities that receive a decision on cost-covering feed-in compensation as from 2015 must enter operation within 15 months of receipt of the decision (previously 24 months).

Waiting list management

There are now two different waiting lists for cost-covering feed-in compensation:

- wind, small hydroelectric, biomass and geothermic facilities; and
- photovoltaic facilities.

For photovoltaic facilities, the 'first come, first served' principle will apply. For facilities on the other list, certain preferences will apply to facilities that have already obtained a legally effective construction permit or are already in operation. Thus, compensation for such facilities will no longer be blocked by other facilities which are still far away from obtaining a construction permit.

Electricity labelling

Power supply companies must inform end users about the energy sources from which the delivered electricity originates. This data must be published on a common website.

From January 1 2015 both the percentage values and total amount of delivered electricity must be published. This is expected to improve comparability among suppliers.

Additional regulations for power-saving devices

The Federal Council has implemented stricter efficiency regulations for various electrical devices – for example:

- certain light bulbs;
- computers and servers;
- water pumps;
- air conditioners;
- ventilators;
- dishwashers; and
- vacuum cleaners.

Also, new mandatory energy labels have been introduced for:

- coffee machines;
- tyres; and
- household kitchen hoods.

The amended Energy Ordinance entered into force on August 1 2014. To give market participants sufficient time to adapt to the new requirements, producers and importers were allowed to place non-compliant products on the market until December 31 2014. In addition, such products may be sold to consumers for a transition period ending in 2016 or 2017, depending on the product.

Polluted sites

As from March 2015, the Ordinance on the Remediation of Polluted Sites⁽⁸⁾ will be amended with regard to the mercury-concentration value for assessing the need for remediation of soil that is situated in private gardens and allotments, children's playgrounds and other facilities where children play regularly. The value will be reduced from 5 milligrams (mg) to 2 mg of mercury per kilogram (kg) of soil material.

As a result, clean-up measures will also be required for sites with a concentration value between 2mg and 5mg per kg. Under the existing regime, such sites are not subject to clean-up, but the authorities must order restrictions of use in the case of specific endangerment of human beings, animals or plants.

The amendment is the consequence of widespread soil contamination with mercury that was detected in the Canton of Valais in 2010. The affected area includes farmland and residential areas. Recent studies show that health risks for children are possible in the case of mercury concentrations in soil at 2mg per kg or higher.

Pursuant to previous amendments to the Environmental Protection Act, since November 2013 polluters may be required to provide security for the costs of cleaning up a contaminated site. Also, since July 2014, the sale or parcelling of certain contaminated sites is subject to approval (for further details please see "[Polluted sites – federal Environmental Protection Act amended](#)").

Chemicals

The Globally Harmonised System for the Classification and Labelling of Chemicals (GHS) is an international set of rules agreed by the United Nations in 1992. The GHS rules provide for the classification, labelling and packaging of chemicals, which must be implemented in national law to become legally effective. In Switzerland, the implementation took place in several steps with the amendment of existing ordinances.

Through the latest amendments to the Chemicals Ordinance,⁽⁹⁾ the Federal Council completed the main steps for introducing the GHS in Switzerland. The various steps can be summarised as follows:

- Since February 1 2009, chemicals may be placed on the Swiss market for trade and industry applications if they are classified, labelled and packaged according to the rules of the European CLP Regulation.⁽¹⁰⁾
- Since December 1 2012, pure chemicals may be placed on the Swiss market only if they are classified, labelled and packed in accordance with GHS.
- For mixtures, the GHS will be mandatory from June 1 2015. In the meantime, producers may choose between the previous system and the GHS.
- Pure chemicals or mixtures that have been labelled before the above deadlines may still be put on the market for a transition period (ie, until November 30 2014 (pure chemicals) and May 31 2017 (mixtures)).

In addition to classification and labelling according to the GHS, the material data safety sheet must include the classification and labelling of the previous system until the end of the transition period (ie, May 31 2015).

Major Accident Ordinance

In line with implementation of the GHS, and since chemicals will be classified and labelled by the global and unified system, the Major Accident Ordinance⁽¹¹⁾ shall be amended as of June 1 2015.

The scope of application for establishments with substances and mixtures is regulated by the threshold quantities according to substance qualification. As the classification system will be amended and the GHS will apply, certain follow-up amendments to the Major Accident Ordinance are necessary.

Further amendments to the Major Accident Ordinance concern safety measures which shall be applied more systematically, and stronger administrative controls and public information provisions. Also, in view of the long-term experience with the ordinance, certain facilities shall be excluded from its scope of application and the remaining facilities will be controlled more precisely.

For further information on this topic, please contact [Anne-C Imhoff](#) or [Michael Lips](#) at Pestalozzi Attorneys at Law by telephone (+41 44 217 91 11), fax (+41 44 217 92 17) or email (anne-c.imhoff@pestalozzilaw.com or michael.lips@pestalozzilaw.com). The Pestalozzi Attorneys at Law website can be accessed at www.pestalozzilaw.com.

Endnotes

- (1) Environmental Protection Act, SR 814.01.
- (2) Waters Protection Act, SR 814.20.
- (3) Gene Technology Act, SR 814.19.
- (4) Aarhus Convention, SR 0.814.07.
- (5) Freedom of Information Act, SR 152.3.
- (6) SR 641.711.
- (7) SR 730.01.
- (8) SR 814.680.
- (9) SR 813.11.
- (10) EU Regulation 1272/2008. The CLP Regulation implements the GHS in the European Union and has been in force since January 20 2009.
- (11) SR 814.012.

Comment or question for author

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. Register at www.iloinfo.com.

Online Media Partners



© Copyright 1997-2015 Globe Business Publishing Ltd



[Follow us on Twitter](#) | [Contact](#) | [Disclaimer](#) | [Privacy Policy](#)