

## Environment - Switzerland

### Overview (January 2010)

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#### Introduction

Global climate change has led to increased awareness of responsibilities regarding the need to resolve environmental issues. Since the end of the last century, these issues have increasingly been dealt with by different organizations, committees and conventions at international level. In turn, the importance of international guidelines has grown steadily so as to have a significant political and economic impact on national legislative processes. In Switzerland, the government, Parliament and Federal Supreme Court have thus been charged with finding legal solutions which address the need to reduce harmful emissions.

This overview summarizes various amendments to statutes and ordinances which came into effect in 2009 or are to take effect in 2010 and aim to pave the way for an environmentally friendly future, while also having a significant short-term impact. Many more changes are expected to be made to the legislation before 2014.

#### Amendments to Federal Statute on the Reduction of Carbon Dioxide

The Federal Statute on the Reduction of Carbon Dioxide Emissions<sup>(1)</sup> came into effect on May 1 2000 and stipulates that greenhouse gas emissions are to be reduced primarily by implementing measures relating to energy and traffic, in combination with other environmental, fiscal and voluntary measures. In accordance with the statute, a carbon dioxide tax is charged on the production and import of coal and other fossil fuels. This tax has led to increased energy costs for businesses and households.

In 2009 Parliament submitted a proposal to the government for the introduction of a scheme whereby some of the revenue generated by this tax will be reinvested into a national building restoration programme. The proposal aims to reduce carbon dioxide emissions and cut energy consumption in private households and the construction industry. Under the proposed scheme, landlords will be incentivized to invest in energy-efficiency measures. In light of the potential for making energy-saving improvements to existing buildings, this programme constitutes one of the key pillars of Swiss climate policy.

On June 12 2009 Parliament passed an amendment to the Carbon Dioxide Statute pledging annual investments of up to Sfr200 million from the funds raised by the fossil fuels tax into the restoration of buildings with energy-performance enhancing measures. The amendment is scheduled to enter into force in the course of 2010. According to the amendment, the scheme will last for 10 years and at least two-thirds of the investment will be put into the restoration of existing dwellings and service buildings. One-third will be invested into renewable energy, heating and building technology.

#### Amendments to Federal Ordinance on the Prevention of Air Pollution

The Federal Ordinance on the Prevention of Air Pollution<sup>(2)</sup> came into force on March 1 1986. Its purpose is to protect people, animals, plants, habitats and the land against harmful air pollution. A significant reduction in the levels of different air pollutants has been achieved by virtue of technical improvements and regulatory advances within the last decade. However, the air quality remains unsatisfactory due to the respective levels

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of respirable dust, active oxygen, nitrogen oxides and ammonium hydroxide.

On September 11 2009, as the result of a parliamentary motion, the government updated the concept of the prevention of air pollution. The motion's aim was to reduce air pollution levels further in comparison with previous years. In response, with a view to amending the Ordinance on the Prevention of Air Pollution, the government:

- appointed a committee to examine emission thresholds applied to industries, agriculture, heating, vehicles and other machinery, and propose adjustments to these thresholds in line with the state of technology;
- examined the possibility of creating monetary incentives for the introduction of clean vehicles and machinery; and
- sent delegates to engage internationally in support of the implementation of progressive emission thresholds in accordance with the best available technology.

On November 20 2009 the Federal Authority for Environment, Traffic, Energy and Communication opened a hearing with the aim of bringing the Ordinance on the Prevention of Air Pollution into line with EU regulations. In contrast to the United States and the European Union, Switzerland has no provisions regarding exhaust fumes emitted by machines such as lawnmowers and motor saws. The hearing will last until February 20 2010.

It is likely that a 2010 amendment to the Federal Ordinance on the Prevention of Air Pollution will include these new measures. The aim is to achieve a satisfactory standard in terms of health and environmental protection by 2020, provided that the above-mentioned measurements, technological progress and emissions reduction are also implemented at an international level.

### **Amendments to Federal Ordinance on Protection Against Non-ionizing Radiation**

The Ordinance on the Protection Against Non-ionizing Radiation<sup>(3)</sup> came into effect on February 1 2000. It provides for the protection of people against harmful non-ionizing radiation. In particular, the ordinance limits emissions of electric and magnetic fields caused by facilities such as mobile phone antennae.

The ordinance was amended on July 1 2009. The amendment was made mainly as a result of a legal dispute dating from 2007 involving various telecommunications companies. In 2007 the Federal Supreme Court considered the circumstances under which adjacent mobile phone antennae must be regarded as one unit in the course of granting construction permits.<sup>(4)</sup> The judgment affects the permissible magnitude of non-ionizing radiation.

The Supreme Court took into consideration two positions with respect to the definition of the relevant sites within the spatial proximity. First, the Federal Office for the Environment recommended that a model based on site perimeters be used. According to that model, all mobile phone antennae that reach a certain threshold of radiation within a defined perimeter are counted as one site. Thus, similar antennae may be assessed differently depending on the date on which they received their respective construction permits. Second, the court considered the position of the cantonal court of appeal, which partly overturned the above-mentioned recommendation giving priority to antennae which received construction permits first.

Essentially, the Federal Supreme Court upheld the Federal Office for the Environment recommendations, while also pointing out certain deficiencies. The court suggested either an amendment of the ordinance or a change in the assessment procedure. The government elected to make amendments to the ordinance, which entered into force on September 1 2009. As a result, the relevant sites are defined more precisely. In particular, the legislation does not depend on the order in which the construction permits are granted, thus providing a higher degree of legal certainty.

### **Amendments to Federal Ordinance on the Reduction of Chemical Risks**

The purpose of the Federal Statute on Chemicals<sup>(5)</sup>, in force since January 1 2005, is to protect the life and health of the population against the harmful effects of materials and preparations. The Federal Ordinance on the Reduction of Chemical Risks<sup>(6)</sup> entered into effect on August 1 2005 and prohibits the use of certain dangerous materials and preparations. On May 8 2009 the fourth Conference of the Parties of Stockholm drew up a list of nine new persistent organic pollutants to be included in the convention. Since the ordinance covers only six of these pollutants, the government is required to amend the ordinance in accordance with international law.

The amendment is planned to come into force during 2010 and to prohibit:

- the production and use of perfluorinated sulfonate;
- the production and use of flammable materials such as pentabrominated diphenyl ether and octabrominated diphenyl ether; and
- a list of halogenated organic compounds, such as trichlorobenzol, pentachlorobenzol

and hexachlorbenzol.

However, these prohibitions do not apply to the use of these materials for research purposes.

No negative effect on the economy is expected because these materials are not produced within Switzerland. Moreover, the European Union and its member states will also adjust their laws accordingly.

### Further Amendments

On November 11 2009 the government decided on the amendment of the Federal Ordinance on the Transportation of Waste<sup>(7)</sup> and of the Federal Technical Ordinance on Waste<sup>(8)</sup> in the fields of waste disposal. Both amendments entered into force on January 1 2010. In particular, the amendments clarify: (i) waste that can be disposed of in Switzerland; and (ii) the Swiss procedure for international transportation of waste, which is now in line with the laws of the European Community. This procedure is coordinated by the Federal Office for the Environment.

Finally, a new Federal Ordinance on the Declaration of Environmental Impacts of Motor Vehicles will be planned to come into force during 2010. According to this ordinance, the sale of new cars is permitted only when they are labelled with particular environmental stickers declaring how environmentally friendly that vehicle is in terms of its carbon dioxide emissions, energy use and environmental pollution.

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### Endnotes

(1) *Bundesgesetz vom 8 Oktober 1999 über die Reduktion der CO<sub>2</sub>-Emissionen* (CO<sub>2</sub>-Gesetz; SR 641.71).

(2) *Luftreinhalte-Verordnung vom 16 Dezember 1985* (LRV; 814.318.142.1).

(3) *Verordnung vom 23 Dezember 1999 über den Schutz vor nichtionisierender Strahlung* (NISV; SR 814.710).

(4) Federal Court Decision 1C\_40/2007, November 6 2007.

(5) *Bundesgesetz vom 15 Dezember 2000 über den Schutz vor gefährlichen Stoffen und Zubereitungen* (Chemikaliengesetz, ChemG; 813.1).

(6) *Verordnung vom 18 Mai 2005 zur Reduktion von Risiken beim Umgang mit bestimmten besonders gefährlichen Stoffen, Zubereitungen und Gegenständen* (Chemikalien-Risikoreduktions-Verordnung, ChemRRV; SR 814.81).

(7) *Verordnung vom 22 Juni 2005 über den Verkehr mit Abfällen* (VeVA; SR 814.610).

(8) *Technische Verordnung vom 10 Dezember 1990 über Abfälle* (TVA; SR 814.600).

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