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## Environment - Switzerland

### New Provisions on Clean-up of Contaminated Sites

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July 31 2006

#### Background Revised Provisions

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When enacted in 1985, the Swiss Environmental Protection Law contained only brief provisions on polluted areas. The cantons had significant discretion as to how to deal with waste, landfill sites and contaminated areas. However, this approach proved to be inadequate.

In 1997 revised regulations were enacted. Since then, four basic principles have applied:

- to avoid generating as much waste as possible;
- to recycle as much waste as possible;
- to dispose of waste in as environmentally friendly a manner as possible; and
- to dispose of waste within Switzerland to the furthest extent possible with reasonable effort.

The 1997 revision further contained provisions on the handling of polluted areas. The clean-up of such areas is mandatory if the pollution has harmful or inconvenient effects or if there is particular danger of such effects. Currently, the law states that the polluter bears the clean-up costs. This notwithstanding, it is often the owner of the site that ultimately pays, even though the contamination might have been caused by former owners or by third parties which never owned the site. The same applies to the costs of examining a site for pollution. If the parties involved do not agree on the distribution of costs, the party that is liable for the decontamination - usually the present owner - may request an administrative authority to allocate the costs.

##### Revised Provisions

As from November 2006, new provisions will cover the following issues.

If a building is located on a polluted site and the clean-up of that site becomes necessary only upon demolition (and before reconstruction) of the building, then two-thirds of the additional costs of examination and disposal of the contaminated material will be allocated to the original contaminator and to the former owners of the site, respectively, subject to the following conditions:

- The polluter did not pay special compensation or grant a reduction in price to the former owners;
- The construction works require the disposal of the harmful substances (ie, such recourse is not available in the case of voluntary restorations);
- The present owner acquired the site between July 1 1972 and July 1 1997; and
- No recourse will be granted after November 1 2021.

Civil courts are competent to settle disputes in this regard.

In addition, the new legal provisions will allow the authorities to conduct research, to monitor a site and

even to order a clean-up. The authorities may instruct third parties to execute these measures. In such case the costs are borne by the parties responsible for the clean-up.

Finally, the new provisions seek generally to accelerate the clean-up of polluted areas in Switzerland. To this end, they apply to the entire clean-up process (ie, preparation of the register of contaminated sites, examination, supervision and restoration).

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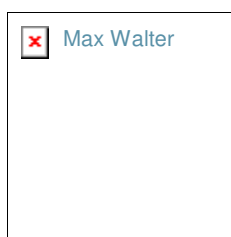
## Endnotes

(1) *Bundesgesetz über den Umweltschutz* (USG), SR Nr 814.01, from October 7 1983.

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