

# Key environmental legislation in effect and in the pipeline

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This update summarises key amendments to Swiss environmental statutes and ordinances, which either came into effect in 2015 or will come into effect in 2016.

## Emissions

### *Air pollution control*

On November 16 2015 certain amendments to the Ordinance on Air Pollution Control reflecting the latest technical improvements, particularly in the field of air filters, came into effect.<sup>(1)</sup> The revised ordinance sets lower limits on the emission of harmful substances for stationary combustion engines, gas turbines and thermal fuel.

In addition, the ordinance has been amended to conform with the latest emission limits introduced by the Convention on Long-range Transboundary Air Pollution of the United Nations Economic Commission for Europe. Although the Swiss provisions already complied largely with these requirements, certain new limits had to be introduced regarding the emissions of stationary installations (eg, waste incinerators and incinerators for hazardous waste, electric steel plants and cupola ovens).<sup>(2)</sup>

The revised ordinance also improves control at the Swiss border for customs on the import of thermal and motor fuels (eg, petrol, diesel or heating oil). The ordinance introduces an additional control when thermal and motor fuels are sold on the domestic market.

Further amendments which have entered into force include the following:

- Wooden waste that is affected by lead compounds (eg, wooden windows from building demolitions) are no longer allowed to be burnt in scrap-wood furnaces, but only in waste incinerators or cement plants; and
- International quality requirements are now adopted in the ordinance regarding wooden pellets and wood briquettes.

### *Reduction of CO2 emissions*

On January 1 2016 certain amendments to the Ordinance for the Reduction of Carbon Dioxide (CO<sub>2</sub>) Emissions came into force, in particular there was an increase of the CO<sub>2</sub> tax from Sfr60 per ton to Sfr84 per ton on fossil thermal fuels.<sup>(3)</sup> In order to reduce CO<sub>2</sub> emissions in the fuel sector, the Swiss customs administration imposed a CO<sub>2</sub> tax on all fossil thermal fuels. Motor fuels are not affected by the CO<sub>2</sub> tax. The CO<sub>2</sub> tax is determined by the carbon content of the energy source. The Federal Council can raise the CO<sub>2</sub> tax if the interim goals (defined in Article 94 of the CO<sub>2</sub> ordinance) are not met. The interim goals of 2014 and 2015 were not met thus, the Federal Council increased the CO<sub>2</sub>

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tax for 2016. Another amendment of the CO2 tax is possible if the interim goals fail to be met again in 2016 and 2017, and would enter into force on January 1 2018.

## **Environmental compatibility**

### ***Environmental impact assessment***

On October 1 2015 certain amendments to the Ordinance on Environmental Impact Assessment came into force.(4) The ordinance contains a list of industrial facilities that must undergo an environmental compatibility test in case a listed facility is newly built or substantial changes are made to an existing facility. This list has been extended to additional types of industrial facility, such as facilities for surface treatment of metals and installations for smelting mineral materials. With the extension of this list, Switzerland has adapted its rules to the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters.

### ***Right to appeal***

Also effective as of October 1 2015, the Ordinance on the Designation of Organisations Allowed to Appeal in the Area of Environment Protection and Nature Protection and Cultural Heritage has been amended.(5) The Swiss Soil Science Society is newly allowed to appeal.

## **Disposal of waste**

### ***Prevention and disposal of waste***

On January 1 2016 the Technical Ordinance Concerning Waste was replaced by the new Ordinance on the Prevention and Disposal of Waste.(6) The new ordinance focuses on the prevention, reduction and recovery of waste in order to enhance a sustainable management of resources. The ordinance sets new requirements for:

- the recovery of biogenic waste;
- disposal sites, in particular the procedure after the closing of a disposal site;
- phosphorous recovery from sludge, animal and bone meal;
- the handling of recovery of waste in cement plants; and
- reporting, information and education.

In the scope of this revision, further minor amendments to other ordinances entered into effect on January 1 2016. Those affected include:

- the Ordinance on the Charge for the Remediation of Contaminated Sites;
- the Ordinance on the Burden on Soil;
- the Ordinance on the Environmental Impact assessment; and
- the Ordinance on the Disposal of Animal Byproducts.(7)

### ***Predated disposal fee for batteries***

The Ordinance on the Amount of the Predated Disposal Fee for Batteries was amended on January 1 2016.(8) It provides for new disposal fees as regards certain types of battery.

## **Protection against dangerous substances**

On September 1 2015 the Ordinance on the Reduction of Risks Relating to the Use of Certain Particularly Dangerous Substances, Preparations and Articles was amended.(9) These amendments had become necessary in order to align Swiss laws with international regulations – namely, EU regulations and the Stockholm Convention on Persistent Organic Pollutants. The new provisions aim at increasing the level of protection for humans and animals and at reducing barriers to trade. In particular, they provide for restrictive provisions(10) regarding:

- measuring instruments containing mercury (eg, blood pressure monitors and certain phenyl mercury combinations);
- mercury-amalgam procedures;
- articles with plastic or rubber parts containing polycyclic aromatic hydrocarbons and leather containing hexavalent chromium;

- objects containing hexabromcyclododecane (a brominated flame retardant); and
- short-chained chlorinated paraffins.

## **Water protection**

On January 1 2016 amendments to the Waters Protection Act entered into effect.(11) The act introduced a new federal charge that will finance 75% of the costs for upgrading measures of certain wastewater treatment plants. These measures aim at removing organic trace substances at the wastewater treatment plants and thus improving the quality of running water. The charge levied will be Sfr9 per year for each inhabitant connected to a wastewater treatment plant that must be upgraded.

Also on January 1 2016, several amendments to the Waters Protection Ordinance(12) entered into force:

- The ordinance(13) specifies which wastewater treatment plants must provide for a cleaning effect of 80% in regards to organic trace substances – about 100 plants are concerned and they are located near bodies of water providing significant quantities of drinking water or carrying a lot of wastewater.
- The ordinance(14) provides for new numeric requirements in order to measure the quality of aboveground waters – the calculation method takes as its reference the effect of trace substances, mainly organic trace substances, on living species in the water.
- The ordinance(15) establishes ground water protection zones in karst areas that are better adapted to the aquifers – these zones aim at minimising conflicts between the protection of ground water and the use of land.
- The ordinance requires that all cantons make an electronic water protection map publicly available.(16)

## **Energy**

### ***Photovoltaic energy***

On January 1 2016 the Energy Ordinance was revised regarding the rate of remuneration of the cost-covering feed-in compensation for new photovoltaic facilities.(17) The rate of remuneration has been reduced in consideration of falling prices on the photovoltaic market. The ordinance will reduce the rate of remuneration in two steps: on April 1 2016 and on October 1 2016. These rates will remain until at least March 2017. The one-time compensation for small photovoltaic facilities of 30 kilowatts will remain until March 2017.

### ***Energy label for new automobiles***

On January 1 2016 the Ordinance on Information on the Energy Label on New Passenger Cars was amended.(18) The Department of the Environment, Transport, Energy and Communications adapts annually the energy label on passenger cars to the state of the art. Each new car sold must have an energy label indicating fuel consumption, CO2 emissions and energy efficiency in order to heighten transparency and support the reduction of the average fuel consumption. A vehicle qualifies as a new car and is subject to this obligation if its mileage does not exceed 2,000 kilometres (km). The energy label has six different categories for efficiency, ranging from A to G – A is the most efficient and G the least efficient passenger car. The new efficiency categories have been adapted in such a manner that only one-seventh of all passenger cars are part of Category A. In addition, the energy label must now indicate the average of all CO2 emissions of passenger cars sold in the previous period. Previously, the average CO2 emission was 144 grams (g) of CO2 per km – it is now 139g per km.

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## **Endnotes**

(1) Ordinance on Air Pollution Control, SR 814.318.142.1.

- (2) [www.news.admin.ch/message/index.html?lang=de&msg-id=59078](http://www.news.admin.ch/message/index.html?lang=de&msg-id=59078) (in German).
- (3) Ordinance for the Reduction of CO2 Emissions, SR 641.711.
- (4) Ordinance on the Environmental Impact Assessment, SR 814.011.
- (5) Ordinance on the Designation of Organisations Allowed to Appeal in the Area of Environment Protection and Nature Protection and Homeland Security, 814.076.
- (6) Ordinance on the Prevention and Disposal of Waste, SR 814.600.
- (7) Ordinance on the Charge for the Remediation of Contaminated Sites, SR 814.681; Ordinance on the Burden on Soil, SR 814.12; Ordinance on the Environmental Impact Assessment, SR 814.011; Ordinance on the Disposal of Animal Byproducts; SR 916.441.22.
- (8) Ordinance on the Amount of the Predated Disposal Fee for Batteries, SR 814.670.1.
- (9) Ordinance on the Reduction of Risks Relating to the Use of Certain Particularly Dangerous Substances, Preparations and Articles, SR 814.81.
- (10) [www.news.admin.ch/message/index.html?lang=de8](http://www.news.admin.ch/message/index.html?lang=de8).
- (11) Waters Protection Act, SR 814.20.
- (12) Waters Protection Ordinance, SR 814.201.
- (13) Annex 3.1(2) No 8 of the Waters Protection Ordinance, SR 814.201.
- (14) Annex 2 of the Waters Protection Ordinance, SR 814.201.
- (15) Annex 4 of the Waters Protection Ordinance, SR 814.201.
- (16) Article 30(2) of the Waters Protection Ordinance, SR 814.201.
- (17) Energy Ordinance, SR 730.01.
- (18) Ordinance on Information on the Energy Label on New Passenger Cars, SR 730.011.1.

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