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Environment - Switzerland

Overview (January 2013)

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This overview summarises various amendments to Swiss environmental statutes and ordinances of which either came into effect in 2012 or come into effect in 2013.

Brownfield sites

On August 1 2012 certain amendments to the Brownfield Ordinance⁽¹⁾ have come into effect. They relate to the monitoring of contaminated sites. In particular, new lower concentration limits of harmful substances have been defined in order to determine whether a site requires monitoring. This reflects the fact that modern techniques allow for the detection of minimal amounts of harmful substances so that there is need to monitor even very low amounts of harmful substances, although there will never be a clean-up requirement. Further, additional criteria for the termination of ongoing monitoring have been defined. Monitoring of a contaminated site may now be terminated if, after several years of monitoring and based on changes in the concentration of harmful substances, there is a high probability that no clean up will be needed. This allows for a certain period of time to monitor the development of a site, which is an important assessment factor. Finally, a monitoring concept is now compulsory - that is, the goals and measures of the monitoring must be defined.

Also in connection with brownfields, the federal council has proposed an amendment to the Environmental Protection Act.⁽²⁾ The proposal is being discussed by the federal parliament and may become effective later in 2013. It provides for a new provision entitling the cantons, at an early stage of a clean-up procedure, to request from the polluter security for the investigation, monitoring and clean-up costs. It is also proposed that an approval requirement for the transfer or splitting of contaminated sites be introduced. Further, the cantonal authorities will obtain the right to register a remark in the land register indicating that the relevant site is also filed in the register of contaminated sites. The purpose of the suggested amendments is to strengthen the 'polluter pays' principle, in particular where it is undermined by real property transactions or the fact that the polluter no longer exists, in which cases the clean-up costs are borne by general fiscal means.

Chemicals

Certain amendments align the Chemicals Ordinance⁽³⁾ and the Chemicals Risk Reduction Ordinance⁽⁴⁾ with EU legislation in order to avoid technical barriers to trade. A harmonised labelling system - including new danger symbols - will facilitate the transfer of chemicals between Switzerland and the European Union. The new labelling system is being introduced in phases until June 2015, and thereafter will be compulsory.

In addition, substances qualified as of 'very high concern' must meet the same requirements in Switzerland as in the European Union. Their use and marketing without approval are prohibited. Also, new European prohibitions of products containing certain substances (eg, cadmium, heavy metal and dichloromethane) have been introduced into the Chemical Risk Reduction Ordinance. With these amendments, Switzerland has implemented the same regime as applies under the European Regulation on the Registration, Evaluation, Authorisation and Restriction of Chemicals.⁽⁵⁾

These amendments became effective on December 1 2012.

VOC emissions

The Ordinance on the Steering Tax on Volatile Organic Compounds⁽⁶⁾ (VOC) provides for the possibility to

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seek a tax exemption if certain measures for the reduction of VOC emissions are taken. To qualify for an exemption, a facility must incorporate an efficient waste air purification plant and reduce emissions from the production process according to best available techniques.

Originally, the tax exemption had been limited until the end of 2012. It has now been extended so that tax exemptions will also be available in the future. The new provisions do not provide for a time limitation on the possibility to obtain tax exemptions.

Carbon emissions

On January 1 2013 a revised Carbon Dioxide Act⁽⁷⁾ and a revised Carbon Dioxide Ordinance⁽⁸⁾ entered into effect, replacing the previous law and ordinance.

According to the new regulations, until 2020 nationwide emissions of global warming gases should be reduced by 20% compared to 1990 levels. The law and ordinance specify the following measures, among others, to achieve this goal:

- The carbon tax on fuels will rise from a current sum of Sfr36 to Sfr60 per ton of carbon starting from January 1 2014, if in 2012 the applicable goal for the reduction of carbon emission is missed. Further increases of up to Sfr120 per ton will be possible.
- Importers, warehouse keepers and certain sellers of fuels will be obliged to compensate, through specific domestic measures, for a certain amount (up to 10% by 2020) of the carbon emissions generated by the use of the fuels they sell.
- Amendments will be made to the national emissions trading system in order to increase compatibility with the EU system. Negotiations between Switzerland and the European Union to combine the two emissions trading systems are in progress.⁽⁹⁾
- The national building programme will be combined with a number of measures to increase the sustainability of real estate, which is, among other things, financed through the revenues of the carbon tax.⁽¹⁰⁾
- Incentives to reduce emissions from passenger vehicles, as introduced in 2012, will continue - especially penalties for vehicles with excessive carbon outputs.⁽¹¹⁾

Vehicles

On January 1 2013 the compulsory regular emissions control was abolished for vehicles with onboard exhaust gas diagnosis systems. The change applies to approximately 60% of all vehicles currently registered, including passenger cars, buses and lorries.

The Traffic Rules Ordinance⁽¹²⁾ defines the approved diagnosis systems. If the system indicates a failure of the exhaust gas treatment, the vehicle owner must have the system repaired within 30 days.

Pipelines

The Major Accident Ordinance⁽¹³⁾ protects the population and the environment against serious damage from severe accidents involving certain chemicals.

With the inclusion of high-pressure natural gas and natural oil pipelines in this ordinance, their level of risk can be lowered through a number of specific measures. In particular, the Federal Office for the Environment will perform a risk analysis of the whole pipeline network in collaboration with the natural gas and fuel industries.

The amendment is expected to enter into force in the course of 2013.

Air pollution

Currently, raw wood only is allowed to be burned in small furnaces and fireplaces, but not scrap wood from the wood processing industry or used wood from, for instance, reconstruction, packaging or furniture. The latter must be burned in appropriate wood firings or waste disposal plants.

It is planned to amend the Air Pollution Control Ordinance⁽¹⁴⁾ in order to allow the burning of processed and used wood in small furnaces and fireplaces, provided that such wood is all natural (ie, untreated). The intended purpose is to have a positive effect on the environment - for example, reduced transportation needs and the replacement of non-renewable resources.

The amendment is expected to enter into force in the course of 2013.

Noise protection

An amendment of the Ordinance on Noise Protection⁽¹⁵⁾ is in progress, in order to address the concerns of the Federal Supreme Court. The court has held that certain noise levels defined in the ordinance do not comply fully with the relevant provisions of the Statute on the Protection of the Environment.⁽¹⁶⁾⁽¹⁷⁾

The revised provisions may enter into force towards the end of 2013.

Electronic waste

It is planned to harmonise the Ordinance on the Restitution, Redemption and Disposal of Electric and Electronic Devices⁽¹⁸⁾ with the corresponding EU legislation. The amendments will include changes to the financing system and applicable quality standards.

The revised provisions may enter into force towards the end of 2013.

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-](#)

Endnotes

- (1) *Verordnung über die Sanierung von belasteten Standorten*, SR 814.680.
- (2) *Bundesgesetz über den Umweltschutz*, SR 814. 01.
- (3) *Verordnung über den Schutz vor gefährlichen Stoffen und Zubereitungen*, SR 813.11.
- (4) *Verordnung über zur Reduktion von Risiken beim Umgang mit bestimmten besonders gefährlichen Stoffen, Zubereitungen und Gegenstände*, SR 814.81.
- (5) EU Regulation 1907/2006.
- (6) *Verordnung über die Lenkungsabgabe auf flüchtigen organischen Verbindungen*, SR 814.018.
- (7) *Bundesgesetz über die Reduktion der CO₂-Emissionen*, SR 641.71.
- (8) *Verordnung über die Reduktion der CO₂-Emissionen*, SR 641.711.
- (9) For details regarding the national emissions trading system see "[Implementing the Kyoto Protocol: Carbon Dioxide Tax and Emissions Trading](#)".
- (10) For details regarding the national building program see "[Improving the Sustainability of real estate](#)".
- (11) For details regarding the CO₂ emission provisions for passenger vehicles see "[Overview \(January 2012\)](#)".
- (12) *Verkehrsregelnverordnung*, SR 741.11.
- (13) *Verordnung über den Schutz vor Störfällen*, SR 814.012.
- (14) *Luftreinhalte-Verordnung*, SR 814.318.142.1.
- (15) *Lärmschutz-Verordnung*, SR 814.41.
- (16) *Bundesgesetz über den Umweltschutz*, SR 814.01.
- (17) For details regarding the Federal Supreme Court decision see "[Federal court decisions on traffic noise](#)".
- (18) *Verordnung über die Rückgabe, die Rücknahme und die Entsorgung elektrischer und elektronischer Geräte*, SR 814.620.

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