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Federal Act on the Protection of the Environment (Environmental Protection Act, EPA)

of 7 October 1983 (Status as of 1 April 2015)

Please note: this translation does not yet include the amendments of 01.01.2017

The Federal Assembly of the Swiss Confederation,

based on the Article 74 paragraphs 1 of the Federal Constitution^{1,2}

and having considered a Federal Council Dispatch dated 31 October 1979³,

decrees:

Title 1: Principles and General Provisions

Chapter 1: Principles

Art. 1 Aim

¹ This Act is intended to protect people, animals and plants, their biological communities and habitats against harmful effects or nuisances and to preserve the natural foundations of life sustainably, in particular biological diversity and the fertility of the soil.⁴

² Early preventive measures must be taken in order to limit effects which could become harmful or a nuisance.

Art. 2 Polluter pays principle

Any person who causes measures to be taken under this Act must bear the costs.

Art. 3 Reservation of other legislation

¹ Stricter regulations in other federal legislation are reserved.

AS 1984 1122

¹ SR 101.

² Amended by No II 1 of the Federal Act of 19 March 2010, in force since 1 Aug. 2010 (AS 2010 3233; BBl 2009 5435).

³ BBl 1979 III 749

⁴ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR 814.91).

² Radioactive substances and ionising rays are covered by the legislation on protection against radiation and on atomic energy.⁵

Art. 4 Implementing provisions based on other federal legislation

¹ Regulations on the environmental effects of air pollution, noise, vibrations and radiation that are based on other federal legislation must comply with the principles of limitation of emissions (Art. 11), ambient limit values (Art. 13–15), alarm values (Art. 19) and planning values (Art. 23–25).⁶

² Regulations on the handling of substances and organisms affecting the environment that are based on other federal legislation must comply with the principles governing environmentally hazardous substances (Art. 26–28) and organisms (Art. 29a–29h).⁷

Art. 5 Exemptions for reasons of national defence

If the interests of national defence so require, the Federal Council regulates exemptions from the provisions of this Act by means of ordinances.

Art. 6⁸

Chapter 2: General Provisions

Art. 7 Definitions

¹ “Effects” are air pollution, noise, vibrations, radiation, water pollution or other interference in water, soil pollution, modifications of the genetic material of organisms or modifications of biological diversity caused by the construction and operation of installations, by the handling of substances, organisms or waste, or by the cultivation of the soil.⁹

² Air pollution, noise, vibrations and radiation are referred to as emissions when discharged from installations, and as ambient pollution levels¹⁰ at their point of impact.

⁵ Amended by No 1 of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

⁶ Amended by No 1 of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

⁷ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

⁸ Repealed by Art. 2 No 1 of the Federal Decree of 27 Sept. 2013 (Aarhus Convention), with effect from 1 June 2014 (AS **2014** 1021; BBl **2012** 4323).

⁹ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

¹⁰ In context, “pollution” can be replaced by the agent, i.e. “ambient air pollution level”, “ambient noise level”, “ambient radiation level”, “ambient vibration level”.

³ “Air pollution” means modification of the natural condition of the air, in particular, through smoke, soot, dust, gases, aerosols, steams, odours or waste heat.¹¹

⁴ Infrasound and ultra sound are regarded as noise.

^{4bis} “Soil pollution” is the physical, chemical and biological modification of the natural condition of the soil. Soil means the unsealed top layer of land where plants may grow.¹²

⁵ “Substances” are natural or manufactured chemical elements and their compounds. Preparations (mixtures, blends and solutions) and articles containing such substances are also regarded as substances.¹³

^{5bis} “Organisms” are any cellular or non-cellular biological entity capable of replication or of transferring genetic material. Mixtures and articles containing such entities are also regarded as organisms.¹⁴

^{5ter} “Genetically modified organisms” are organisms whose genetic material has been changed in a way that does not occur under natural conditions by crossbreeding or natural recombination.¹⁵

^{5quater} “Pathogenic organisms” are organisms that can cause disease.¹⁶

⁶ “Waste” is any moveable material disposed of by its holder or the disposal of which is required in the public interest.¹⁷

^{6bis} “Disposal of waste” includes its recovery or deposit in a landfill as well as the preliminary stages of collection, transport, storage and treatment. “Treatment” is any physical, chemical or biological modification of the waste.¹⁸

^{6ter} “Handling” means any activity in connection with substances, organisms or waste, and in particular their manufacture, import, export, putting in circulation, use, storage, transport or disposal.¹⁹

⁷ “Installations” are buildings, traffic routes and other fixed facilities as well as modifications of the terrain. Appliances, machines, vehicles, ships and aircraft are also regarded as installations.

¹¹ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

¹² Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

¹³ Amended by Annex No II 2 of the Chemicals Act of 15 Dec. 2000, in force since 1. Aug. 2005 (SR **813.1**; AS **2005** 2293).

¹⁴ Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

¹⁵ Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

¹⁶ Inserted by Annex No. 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

¹⁷ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

¹⁸ Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

¹⁹ Inserted by No I of the Federal Act of 21 Dec. 1995 (AS **1997** 1155 1174; BBl **1993** II 1445). Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

⁸ Environmental information is information in the fields addressed by this Act and in the fields addressed by legislation on the protection of nature and cultural heritage, landscape protection, waters protection, protection against natural hazards, forest conservation, hunting, fishing, gene technology and climate protection.²⁰

Art. 8 Assessment of effects

Effects are assessed individually, collectively and according to their actions in combination.

Art. 9²¹

Art. 10 Disaster prevention

¹ Any person who operates or intends to operate installations which, in exceptional circumstances, could seriously damage people or their natural environment must take the measures required to protect the population and the environment.²² In particular, suitable sites must be chosen, the required safety distances must be observed, technical safety measures must be taken and the monitoring of the installation and organisation of the alarm system must be ensured.

² The cantons coordinate the services responsible for disaster prevention and designate a reporting agency.

³ The operator of the installation must immediately report any extraordinary event to the reporting agency.²³

⁴ The Federal Council may prohibit by ordinance certain production methods and the keeping of certain stocks if there is no other way of protecting the population and the natural environment adequately.

Chapter 3:²⁴ Environmental Impact Assessment

Art. 10a Environmental impact assessment

¹ Before taking any decision on the planning, construction or modification of installations, an authority must assess their impact on the environment at the earliest possible stage.

²⁰ Inserted by Art. 2 No 1 of the Federal Decree of 27 Sept. 2013 (Aarhus Convention), in force since 1 June 2014 (AS **2014** 1021; BBl **2012** 4323).

²¹ Repealed by No I of the Federal Act of 20 Dec. 2006, with effect from 1 July 2007 (AS **2007** 2701 2709; BBl **2005** 5351 5391).

²² Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

²³ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

²⁴ Inserted by No I of the Federal Act of 20 Dec. 2006, in force since 1 July 2007 (AS **2007** 2701 2709; BBl **2005** 5351 5391).

² The requirement of an environmental impact assessment applies to installations that could cause substantial pollution to environmental areas to the extent that it is probable that compliance with regulations on environmental protection can only be ensured through measures specific to the project or site.

³ The Federal Council designates the types of installation that are subject to an environmental impact assessment; it may stipulate threshold values above which the assessment must be carried out. It reviews the types of installation and threshold values periodically and adjusts these if required.

Art. 10b Environmental impact report

¹ Any person who wishes to plan, construct or modify an installation that is subject to an environmental impact assessment must submit an environmental impact report to the competent authority. This forms the basis for the environmental impact assessment.

² The report contains all the information required to assess the project in accordance with the environmental protection regulations. It is drawn up in accordance with the guidelines issued by the environmental protection agencies and includes the following:

- a. the existing condition;
- b.²⁵ the project, including proposed measures for the protection of the environment and in the event of disaster, and an outline of the main alternatives, if need be studied by the applicant;
- c. the foreseeable residual environmental impact.

³ In order to prepare for the report, a preliminary investigation is carried out. If the preliminary investigation conclusively ascertains the effects on the environment and the environmental protection measures required, the results of the preliminary investigation are deemed to be the report.

⁴ The competent authority may request information or further clarification. It may call for expert reports; before doing so, the authority must allow interested parties the opportunity to state their opinions.

Art. 10c Assessment of the report

¹ The environmental protection agencies assess the preliminary investigation and the report and proposes the measures required to the competent decision-making authority. The Federal Council issues regulations on the time limits for the assessment.

² The competent authority must also consult the Federal Office for the Environment (the Federal Office) when the assessment concerns refineries, aluminium smelters, thermal power stations, or large cooling towers. The Federal Council may extend the duty to consult to cover other installations.

²⁵ Amended by Art. 2 No 1 of the Federal Decree of 27 Sept. 2013 (Aarhus Convention), in force since 1 June 2014 (AS 2014 1021; BBl 2012 4323).

Art. 10d Public access to the report

¹ Any person may inspect the report and the results of the environmental impact assessment unless overriding public or private interests require secrecy.

² Trade and business secrecy must be preserved in all cases.

Chapter 4:²⁶ Environmental Information**Art. 10e** Environmental information and advice

¹ The authorities shall inform the public adequately about environmental protection and levels of environmental pollution; in particular:

- a. they shall publish studies on environmental pollution and on the success of measures under this Act (Art. 44);
- b. they may, provided it is of general interest and having consulted those concerned, publish:
 1. the results of the conformity assessment of series-produced installations (Art. 40),
 2. the results of inspections of installations,
 3. the information under Article 46.

² Overriding private and public interests in confidentiality and manufacturing and business secrecy are reserved in every case.

³ The environmental protection agencies shall advise the authorities and private individuals. They shall advise the public on environmentally sound behaviour and recommend measures to reduce environmental pollution.

⁴ Environmental information must if possible be made available as open digital data records.

Art. 10f Environmental reports

The Federal Council shall assess the state of the environment in Switzerland at least every four years and shall submit a report on the results to the the Federal Assembly.

Art. 10g Freedom of information in the case of environmental information

¹ Any person has the right to inspect environmental information in official documents and information relating to energy regulations that relate the environment and to request information from the authorities about the content of these documents.

² In the case of federal authorities, this right is governed by the Freedom of Information Act of 17 December 2004²⁷ (FoIA). Article 23 FoIA applies only to documents that contain information under paragraph 1 relating to nuclear installations.

²⁶ Inserted by Art. 2 No 1 of the Federal Decree of 27 Sept. 2013 (Aarhus Convention), in force since 1 June 2014 (AS 2014 1021; BBl 2012 4323).

³ The right to inspect also applies in the case of public corporations and private individuals who have been entrusted with enforcement duties but which do not have the power to issue rulings in accordance with Article 5 of the Administrative Procedure Act of 20 December 1968²⁸. In these cases, the competent enforcement authority shall issue rulings under Article 15 FoIA.

⁴ In the case of cantonal authorities, the right is governed by cantonal law. If the cantons have not issued provisions on the access to documents, they shall apply the provisions of this Act and the FoIA *mutatis mutandis*.

Title 2: Pollution Control

Chapter 1: Air Pollution, Noise, Vibrations and Radiation

Section 1: Emissions

Art. 11 Principles

¹ Air pollution, noise, vibrations and radiation are limited by measures taken at their source (limitation of emissions).

² Irrespective of the existing environmental pollution, as a precautionary measure emissions are limited as much as technology and operating conditions allow, provided that this is economically acceptable.

³ Emissions are limited more strictly if the effects are found or expected to be harmful or a nuisance, taking account of the existing level of environmental pollution.

Art. 12 Limitation of emissions

¹ Emissions are limited by issuing:

- a. maximum emission values;
- b. regulations on construction and equipment;
- c. traffic or operating regulations;
- d. regulations on the heat insulation of buildings;
- e. regulations on thermal and motor fuels.

² Limits are prescribed by ordinance or, in cases where an ordinance makes no such provision, by rulings based directly on this Act.

²⁷ SR 152.3

²⁸ SR 172.021

Section 2: Ambient Pollution Levels**Art. 13** Ambient limit values

¹ The Federal Council stipulates by ordinance the ambient limit values²⁹ for assessing harmful effects or nuisances.

² In doing so, it also takes account of the effects of pollution levels on particularly sensitive groups such as children, the sick, the elderly and pregnant women.

Art. 14 Ambient limit values for air pollution

The ambient limit values for air pollution must be set so that, in the light of current scientific knowledge and experience, ambient air pollution below these levels

- a. does not endanger people, animals or plants, their biological communities and habitats;
- b. does not seriously affect the well-being of the population;
- c. does not damage buildings;
- d. does not harm soil fertility, vegetation or waters.

Art. 15 Ambient limit values²⁵ for noise and vibrations

Ambient limit values for noise and vibrations must be set so that, in the light of current scientific knowledge and experience, ambient noise below these levels will not seriously disturb the well-being of the population.

Section 3: Improvements**Art. 16** Obligation to make improvements

¹ Installations which do not comply with the provisions of this Act or with the environmental provisions of other federal acts must be improved.

² The Federal Council enacts provisions on installations, the extent of the measures to be taken, the time limits and procedures.

³ Before ordering major improvement works, the authorities must request the operator of the installation to submit improvement proposals.

⁴ In urgent cases, the authorities must order improvements as a precautionary measure. In an emergency, they may order the shutdown of the installation.

²⁹ In Swiss legislation, the term “impact threshold” is used for ambient limit values that apply to noise (see NAO; RS 814.41)

Art. 17 Concessions in individual cases

¹ The authorities must grant concessions if any improvement under Article 16, paragraph 2 is disproportionate in a particular case.

² The ambient limit values for air pollutants and vibrations and the alarm values for ambient noise levels must not, however, be exceeded.

Art. 18 Structural alteration or extension of installations requiring improvement

¹ Installations requiring improvement may be altered or extended only if they are improved at the same time.

² Concessions granted under Article 17 may be qualified or revoked.

**Section 4:
Additional Regulations for Protection against Noise and Vibrations****Art. 19** Alarm values

In order to assess the urgency of improvements (Art. 16 para. 2, and Art. 20), the Federal Council may set alarm values for ambient noise levels that are higher than the ambient limit values (Art. 15).

Art. 20 Soundproofing of existing buildings

¹ If ambient noise levels in existing buildings near existing roads, airports, railway installations or other public or licensed fixed installations cannot be reduced to below the alarm values by measures taken at their source, the owners of the buildings concerned are required to protect areas used for long-stay accommodation by providing soundproof windows or by other similar building measures.

² The owners of fixed installations emitting noise bear the cost of the required soundproofing measures unless they can prove that when the planning application was made for the building in question:

- a. the ambient limit values were already being exceeded, or
- b. the installation plans had already been made public.

Art. 21 Soundproofing of new buildings

¹ Any person who wishes to construct a building for use as long-stay accommodation must take adequate soundproofing measures to protect it against internal and external noise and against vibration.

² The Federal Council determines the minimum protection required by ordinance.

Art. 22 Building permits in areas affected by noise

¹ Building permits for new buildings intended for use as long-stay accommodation are issued, subject to paragraph 2, only if the ambient limit values are not exceeded.

² If the ambient limit values are exceeded, building permits for new buildings intended for use as long-stay accommodation are issued only if the rooms are suitably arranged and any necessary additional soundproofing measures are taken.³⁰

Art. 23 Planning values

The Federal Council lays down maximum planning values for the planning of new building zones and for protection against noise from new fixed installations. These planning values are lower than the ambient limit values.

Art. 24 Standards for building zones

¹ New building zones intended for residential buildings or for other buildings intended as long-stay accommodation may be planned only in areas where ambient noise levels do not exceed the planning values or in areas where these values can be met by the application of planning, design or structural measures. The rezoning of building zones does not constitute the definition of new building zones.³¹

² If the planning values are exceeded in an existing but as yet undeveloped building zone intended for residential buildings or other buildings intended as long-stay accommodation, it must be reallocated for a use that is less sensitive to noise, unless the planning values can be met in the greater part of the area by the application of planning, design or structural measures.

Art. 25 Construction of fixed installations

¹ New fixed installations may be constructed only if the ambient noise levels emitted from these installations alone do not exceed the planning values in the surrounding area; the planning authority may request a forecast of noise levels.

² Concessions may be granted if the installation is of overriding public benefit, in particular in relation to spatial planning, and compliance with the planning values would place a disproportionate burden on the project.³² However, subject to paragraph 3, the ambient limit values must not be exceeded in this case.

³ If ambient limit values cannot be met during the construction of new roads, airports, railway installations or other public or licensed fixed installations by measures taken at source, buildings affected by the noise must be protected by soundproof windows or other similar building measures and the owner of the installation must bear the costs.

³⁰ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

³¹ Sentence inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

³² Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

Chapter 2: Environmentally Hazardous Substances

Art. 26 Self-regulation

¹ The putting into circulation of substances for uses where, when handled correctly, they, their derivatives or waste may present a danger to the environment or indirectly endanger people is prohibited.³³

² To this end, the manufacturer or importer is responsible for their own self-regulation.

³ The Federal Council issues regulations on the nature, extent and supervision of the self-regulation.³⁴

Art. 27³⁵ Information for recipients

¹ Any person who puts substances into circulation must:

- a. inform recipients about their environment-related properties;
- b. provide recipients with instructions so that, when the substances are handled correctly, they do not present a danger to the environment or indirectly endanger people.

² The Federal Council issues regulations on the nature, content and extent of the information given to recipients.³⁶

Art. 28³⁷ Environmentally safe handling

¹ Substances may only be handled in such a way that they, their derivatives or their waste cannot present a danger to the environment or indirectly endanger people.

² Instructions from manufacturers or importers must be complied with.

Art. 29 Federal Council regulations

¹ The Federal Council may enact regulations on substances which, due to their properties, method of use or the quantities used, may present a danger to the environment or indirectly endanger people.

³³ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

³⁴ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

³⁵ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

³⁶ Amended by Annex No II 2 of the Chemicals Act of 15 Dec. 2000, in force since 1. Aug. 2005 (SR 813.1; AS 2005 2293).

³⁷ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

² These regulations relate in particular to:

- a. substances that enter the environment due to their intended purpose, such as herbicides and pesticides, including wood preservatives and stock preservatives, fertilisers, growth regulators, road salts and propellants;
- b. substances or their derivatives that can accumulate in the environment, such as chlorinated organic compounds and heavy metals.

Chapter 3:³⁸ Handling Organisms

Art. 29a Principles

¹ Organisms must be handled in such a way that they, their metabolic products or wastes:

- a. cannot endanger the environment or people;
- b. do not harm biological diversity or its sustainable use.

² The handling of genetically modified organisms is governed by the Gene Technology Act of 21 March 2003³⁹.

³ Regulations in other federal acts that serve to protect people's health against immediate danger from organisms are reserved.

Art. 29b Activities in contained systems

¹ Any person who handles pathogenic organisms that he may not release for experimental purposes (Art. 29c) or put into circulation for uses in the environment (Art. 29d) must take all the containment measures required, in particular due to the risk that the organisms represent to the environment and to people.

² The Federal Council shall introduce a notification or authorisation obligation for handling of pathogenic organisms.

³ For certain pathogenic organisms and activities, the Federal Council may provide for a simplification of the notification or authorisation obligation or for exemptions if, in the light of current scientific knowledge or experience, an infringement of the principles contained in Article 29a is excluded.

Art. 29c Experimental releases

¹ Any person who wishes for experimental purposes to release pathogenic organisms that may not be put into circulation for uses in the environment (Art. 29d) requires the authorisation of the Confederation.

³⁸ Inserted by No I of the Federal Act of 21 Dec. 1995 (AS **1997** 1155 1174; BBl **1993** II 1445). Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

³⁹ SR **814.91**

² The Federal Council determines the requirements and the procedure. It regulates in particular:

- a. the consultation with specialists;
- b. the financial guarantee for measures by which any effects causing damage or nuisance may be detected, averted or eliminated;
- c. the information provided to the general public.

³ For certain pathogenic organisms, it may provide for a simplification of the authorisation obligation or for exemptions if, in the light of current scientific knowledge or experience, an infringement of the principles contained in Article 29a is excluded.

Art. 29d Putting into circulation

¹ Organisms may not be put into circulation for uses in which the principles contained in Article 29a are infringed despite their being handled in accordance with the relevant provisions.

² The manufacturer or importer carries out its own self-regulation for this purpose. The Federal Council enacts regulations on the nature, extent and supervision of the self-regulation.

³ Pathogenic organisms may be put into circulation for uses in the environment only with the authorisation of the Confederation.

⁴ The Federal Council determines the requirements and the procedure and regulates the information provided to the general public. For certain pathogenic organisms, it may provide for a simplification of the authorisation obligation or for exemptions if, in the light of current scientific knowledge or experience, an infringement of principles contained in Article 29a is excluded.

Art. 29d^{bis} 40 Objection procedure

¹ Applications for authorisations under Articles 29c paragraph 1, 29d paragraph 3 and 29f paragraph 2 letter b shall be published by the issuing authority in the Federal Gazette and made available for public inspection for 30 days.

² Any person who is a party in accordance with the Federal Act of 20 December 1968⁴¹ on Administrative Procedure may file an objection with the issuing authority during the public inspection period. Persons who fail to file an objection are excluded from any further proceedings.

⁴⁰ Inserted by No II 1 of the Federal Act of 19 March 2010, in force since 1 Aug. 2010 (AS 2010 3233; BBl 2009 5435).

⁴¹ SR 172.021

Art. 29e Information to recipients

¹ Any person who puts organisms into circulation must:

- a. inform recipients of properties of the organisms that are of significance to the application of principles contained in Article 29a;
- b. provide recipients with instructions so that handling according to the provisions will not result in any breach of the principles contained in Article 29a.

² Instructions from manufacturers and importers must be complied with.

Art. 29f Further Federal Council regulations

¹ The Federal Council shall issue further regulations on handling of organisms, their metabolic products and wastes if, due to their properties, the form of their use or the quantity used, the principles contained in Article 29a may be breached.

² It may in particular:

- a. regulate the transport and the import, export and transit of the organisms;
- b. declare handling certain organisms to be subject to authorisation, or restrict or prohibit such handling;
- c. stipulate measures to combat certain organisms or to prevent their occurrence.
- d. stipulate measures to prevent any harm to biological diversity and its sustainable use;
- e. require long-term studies into the handling of certain organisms;
- f. require public hearings in connection with licensing procedures.

Art. 29g Advisory committees

The Swiss Expert Committee for Biosafety and the Federal Ethics Committee on Non-human Biotechnology (Art. 22 and 23 of the Gene Technology Act of 21 March 2003⁴²) advise the Federal Council on the issue of regulations and on the enforcement of provisions on organisms.

Art. 29h⁴³

⁴² SR 814.91

⁴³ Repealed by Art. 2 No 1 of the Federal Decree of 27 Sept. 2013 (Aarhus Convention), with effect from 1 June 2014 (AS 2014 1021; BBl 2012 4323).

Chapter 4:⁴⁴ **Waste****Section 1: Avoidance and Disposal of Waste****Art. 30** Principles

¹ The production of waste should be avoided wherever possible.

² Waste must be recovered wherever possible.

³ Waste must be disposed of in an environmentally compatible way and, insofar as this is possible and reasonable, within Switzerland.

Art. 30a Avoidance

The Federal Council may:

- a. prohibit placing products intended for once-only, short-term use on the market if the benefits of such use do not justify the harm to the environment that they cause;
- b. prohibit the use of substances and organisms that considerably hamper disposal or the disposal of which may represent a danger to the environment;
- c. require manufacturers to avoid production waste where there is no known environmentally compatible process for its disposal.

Art. 30b Collection

¹ The Federal Council may require certain types of waste that are suitable for recovery or that need special treatment to be handed over separately for disposal.

² It may require those who put products into circulation that are suitable for recovery or need special treatment:

- a. to accept the return such products back after use;
- b. to charge a minimum deposit and to refund this when the product is returned.

³ It may arrange for the establishment of a deposit compensation fund and specifically require:

- a. those who put products into circulation on which deposits are paid to pay any surplus from the deposit charges into the compensation fund;
- b. the surplus to be used to cover losses from refunding deposits and to encourage the return of products on which deposits are paid.

Art. 30c Treatment

¹ Waste intended for deposit in a landfill must be treated so that it contains as little organic bound carbon as possible and is as insoluble as possible in water.

⁴⁴ Originally Chapter 3. Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

² Waste must not be burned other than in incineration plants; the foregoing does not apply to the burning of natural forest, field and garden waste provided that this causes no excessive ambient pollution levels.

³ The Federal Council may issue further regulations on treatment for specific types of waste.

Art. 30d Recovery

The Federal Council may:

- a. require certain types of waste to be recovered if this is economically feasible and harms the environment less than other forms of disposal and the manufacture of new products;
- b. restrict the use of substances and products for certain purposes if this will promote the sale of equivalent products made from recovered waste without significant loss of quality or additional cost.

Art. 30e Depositing in landfills

¹ Waste may be deposited only in landfills.

² Any person wishing to set up or operate a landfill requires authorisation from the relevant canton; this will be issued only if he furnishes proof that the site is necessary. The types of waste that may be deposited on the site are specified in the authorisation.

Art. 30f Handling of special waste

¹ The Federal Council enacts regulations on handling of waste whose environmentally compatible disposal requires special measures (special waste). It also regulates the import, export and transit of such waste, paying special attention to the interests of regional cross-border cooperation as well as to the environmental impact of disposal facilities in Switzerland and abroad. It may also enact regulations for companies which from within Switzerland organise or are involved in handling of special waste.

² It requires, in particular, that special waste:

- a. must be marked as such for transfer within Switzerland as well as for import, export and transit;
- b. may be handed over in Switzerland only to companies with authorisation in terms of letter d;
- c. may be exported only with authorisation from the Federal Office;
- d. may be accepted or imported only by companies with authorisation from the canton.

³ These authorisations are granted if environmentally compatible disposal is guaranteed.

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Art. 30g Handling of other forms of waste

¹ The Federal Council may enact regulations in accordance with Article 30f paragraphs 1 and 2 on handling of other forms of waste, if environmentally compatible disposal is not guaranteed.

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Art. 30h Waste disposal facilities

¹ The Federal Council enacts technical and organisational regulations on waste disposal facilities.

² The authority may set a time limit for the operation of waste disposal facilities.

Section 2: Waste Management and the Disposal Obligation

Art. 31 Waste management

¹ The cantons draw up a waste management plan. In particular, they establish their requirements for waste disposal facilities, avoid over-capacity, and decide on the sites for the waste disposal facilities.

² They notify the Confederation of their waste management plan.

Art. 31a Cooperation

¹ The cantons cooperate on waste management and disposal. They avoid over-capacity in waste disposal facilities.

² If they cannot agree, they must submit proposed solutions to the Confederation. If mediation by the Confederation does not lead to agreement, the Federal Council may order the cantons:

- a. to determine the areas from which waste must be delivered to the installations for treatment, recovery or deposit in landfills (catchment areas);
- b. to determine sites for waste disposal facilities;
- c. to make suitable waste disposal facilities available to other cantons; where necessary, it determines how costs are to be shared.

⁴⁵ Repealed by No I 2 of the Federal Act of 21 Dec. 2007 on the Abolition and Simplification of Licensing Procedures, with effect from 1 June 2008 (AS **2008** 2265 2268; BBl **2007** 315).

⁴⁶ Repealed by No I 2 of the Federal Act of 21 Dec. 2007 on the Abolition and Simplification of Licensing Procedures, with effect from 1 June 2008 (AS **2008** 2265 2268; BBl **2007** 315).

Art. 31b Disposal of municipal waste

¹ Municipal waste, waste from the maintenance of public roads and from public waste water treatment as well as waste generated by persons unknown or unable to pay is disposed of by the cantons. For waste that must be recovered by the holder or the return of which must be accepted by third parties in accordance with special federal regulations, the duty of disposal is governed by Article 31c.

² The cantons determine the catchment areas for these forms of waste and ensure that the waste disposal facilities are operated economically.⁴⁷

³ The holder must hand over the waste for collection by the services organised by the cantons or deliver it to the collection points determined by the cantons.

Art. 31c Disposal of other waste

¹ Any other form of waste must be disposed of by its holder. He may instruct third parties to dispose of it.

² Where necessary, the cantons may facilitate disposal of this waste by appropriate means. They may, in particular, determine catchment areas.

³ If the disposal of this waste requires only a few catchment areas in the whole of Switzerland, the Federal Council may determine them.

Section 3: Financing of Disposal**Art. 32** Principles

¹ The holder of the waste bears the cost of its disposal, except for waste for which the Federal Council regulates the bearing of the cost in some other way.

² If the holder cannot be identified or if he cannot fulfil his obligation under paragraph 1 because he is unable to pay, the cantons bear the cost of disposal.

Art. 32a⁴⁸ Financing for municipal waste

¹ The cantons ensure that the cost of disposing of municipal waste, insofar as it is their responsibility, is passed on to those responsible for producing the waste through fees or other charges. In organising the charges, the following factors in particular are taken into account:

- a. the nature and the quantity of the waste handed over;
- b. the costs of the construction, operation and maintenance of the waste disposal facilities;
- c. the depreciation required to preserve the value of such installations;

⁴⁷ Amended by No II of the Federal Act of 20 June 1997, in force since 1 Nov. 1997 (AS 1997 2243 2248; BBl 1996 IV 1217).

⁴⁸ Inserted by No II of the Federal Act of 20 June 1997, in force since 1 Nov. 1997 (AS 1997 2243 2248; BBl 1996 IV 1217).

- d. the interest;
- e. the planned investment requirements for maintenance, improvements and replacements, for adaptation to statutory requirements and operational optimisation.

² If imposing cost-covering charges on those responsible for the waste jeopardises the environmentally sustainable disposal of municipal waste, disposal may be financed differently to the extent required.

³ The operators of the waste disposal facilities must form the required financial reserves.

⁴ The principles for the calculation of the charges must be made available to the public.

Art. 32a^{bis} 49 Prepaid disposal fee

¹ The Federal Council may require manufacturers and importers who put products into circulation which, after use by a large number of holders, become waste and have to be given special treatment or are suitable for recovery to pay a prepaid disposal fee to a private organisation appointed and supervised by the Confederation. This fee is used to finance the disposal of the waste by private individuals or public corporations.

² The Federal Council sets the minimum and maximum amount of the fee on the basis of the cost of disposal. Within this framework, the Federal Department of the Environment, Transport, Energy and Communications⁵⁰ determines the level of the fee.

³ The Federal Council lays down the methods of collecting and using the fee. It may, in particular, require that persons putting products into circulation inform customers in an appropriate manner of the level of the fee.

Art. 32b Financial guarantee for landfills

¹ Any person who operates or wishes to operate a landfill must guarantee that the costs of closure, after-care and remediation are covered by making reserves, by taking out insurance or in some other way.

² If the operator of the landfill is himself the guarantor, he must notify the authority annually of the amount of the guarantee.

³ If a third party acts as guarantor, he must notify the authority of the existence, suspension and termination of the guarantee. The Federal Council may provide that the guarantee must not be suspended or terminated until 60 days after receipt of the notification.

⁴ The Federal Council may enact regulations on the guarantee. In particular, it may:

⁴⁹ Originally Art. 32a.

⁵⁰ The designation of the administrative entity was amended according to Art. 16 para. 3 of the Publication Ordinance of 17 Nov. 2004 (SR 170.512.1). This amendment has been made throughout the text.

- a. determine its scope and duration or leave this to the authority to decide on a case-to-case basis;
- b. make provision for the land on which the landfill is situated to become the property of the canton when the site is closed, and enact regulations concerning any compensation.

Art. 32^{bis} 51 Financing in the case of excavation material from polluted sites

¹ If the proprietor of land removes material from a polluted site that does not require to be disposed of in terms of remediation under Article 32c, he may normally claim reimbursement of two thirds of additional costs of the investigation and disposal of the material from the persons responsible for the pollution and the previous proprietors of the site if:

- a. the persons responsible have not paid any compensation for the pollution or the previous proprietors did not grant any reduction of the price on the sale of the land due to the pollution;
- b. the removal of the material is required for the construction or alteration of buildings; and
- c. the proprietor acquired the property between 1 July 1972 and 1 July 1997.

² The claim may be filed in the civil court at the location of the property. The relevant civil procedure code applies.

³ Claims under paragraph 1 may be filed at the latest by 1 November 2021.

Section 4:⁵² Remediation of Polluted Sites

Art. 32c Obligation to remediate

¹ The cantons ensure that landfills and other sites polluted by waste (polluted sites) are remediated if such sites lead to harmful effects or nuisances or if there is a concrete risk that such effects may arise. The Federal Council may enact regulations about the need for remediation and on the objectives and urgency of remediation work.

² The cantons draw up a register of polluted sites that is accessible to the public.

³ They may carry out the investigation, monitoring and remediation of polluted sites themselves or instruct third parties to do so if:

- a. this is required to avert imminent effects;
- b. the person liable is unable to arrange for the measures to be carried out; or

⁵¹ Inserted by No I of the Federal Act of 16 Dec. 2005, in force since 1 Nov. 2006 (AS 2006 2677 2680; BBl 2003 5008 5043).

⁵² Amended by No I of the Federal Act of 16 Dec. 2005, in force since 1 Nov. 2006 (AS 2006 2677 2680; BBl 2003 5008 5043).

- c. the person liable fails to act despite being reminded and allowed time to do so.

Art. 32d Responsibility for costs

¹ The person responsible bears the costs of the measures required to investigate, monitor and remediate polluted sites.

² If two or more persons are responsible, they bear the costs according to their shares of the responsibility. The first to bear the costs is the person who caused the measures to be needed through his conduct. Any person who is responsible simply as the proprietor of the site does not bear any costs if, by exercising the required care, he could not have had any knowledge of the pollution.

³ The public authority concerned bears the share of the costs of any person responsible who cannot be identified or is unable to pay.

⁴ The authority issues a ruling on the allocation of costs if any person responsible so requests or if the authority is carrying out the measures itself.

⁵ If an investigation of a site entered in the register (Art. 32c para. 2) or for which an entry is planned reveals that the site is not polluted, the public authority concerned bears the costs of the investigative measures required.

Art. 32d^{bis.53} Security for costs

¹ The authority may request the person responsible to provide appropriate security to cover his probable share of the costs of investigation, monitoring and remediation where a polluted site is expected to cause harmful effects or nuisances.

² The amount of the security is fixed in particular on the basis of the extent, nature and intensity of the pollution. It is adjusted if justified on the basis of improved knowledge of the situation.

³ The sale or division of immovable property on which a site is located that is entered in the register of polluted sites requires the authority's authorisation. Authorisation is granted if:

- a. no harmful effects or nuisances are expected from the site;
- b. security is provided for the costs of the expected measures; or
- c. there is an overriding public interest in the sale or in the division.

⁴ The cantonal authority may have the entry in the register of polluted sites noted in the land register entry for the property in question.

Art. 32e Charge to finance measures

¹ The Federal Council may require that a charge be paid to the Confederation:

- a. by the operator of a landfill on the deposit of waste in the landfill;

⁵³ Inserted by No I of the Federal Act of 22 March 2013, in force since 1 Nov. 2013, para. 3 and 4 in force since 1 July 2014 (AS 2013 3241; BBl 2012 9391 9403).

- b. by any person who exports waste for deposit in a landfill, on the export of waste.

^{1bis} In the case of landfills in which only non-contaminated waste is deposited, a charge may only be required if it is necessary in order to fund the recovery of such waste.⁵⁴

² The Federal Council determines the rates of the charge, taking special account of the expected costs and the various types of landfill. The maximum rates of the charge are as follows:

- a. for waste deposited in Switzerland:
 1. in the case of landfills for non-contaminated or lightly contaminated waste: CHF 8/t,
 2. in the case of other landfills: CHF 25/t;
- b. for waste deposited abroad:
 1. in the case of underground landfills; CHF 30/t,
 2. in the case of other landfills: as much as it would cost to deposit the waste in a landfill in Switzerland.⁵⁵

^{2bis} The Federal Council may adjust the rate of the charge under paragraph 2 in line with Swiss Consumer Price Index.⁵⁶

³ The Confederation uses the income from the charges exclusively to pay the costs of the following measures:

- a. the provision of a register of polluted sites, provided their proprietors have been given the opportunity by 1 November 2007 to state their opinion on inclusion in the register;
- b. the investigation, monitoring and remediation of polluted sites in which no waste has been deposited since 1 February 2001 if:⁵⁷
 1. the person responsible cannot be identified or is unable to pay, or
 2. a significant proportion of the waste deposited on the site is municipal waste;
- c.⁵⁸ the investigation, monitoring and remediation of polluted sites at shooting ranges that do not serve a predominantly commercial purpose if:
 1. on sites in groundwater protection zones, no further waste has been deposited after 31 December 2012,

⁵⁴ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 April 2015 (AS 2015 865; BBl 2014 3673 3685).

⁵⁵ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 April 2015 (AS 2015 865; BBl 2014 3673 3685).

⁵⁶ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 April 2015 (AS 2015 865; BBl 2014 3673 3685).

⁵⁷ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 April 2015 (AS 2015 865; BBl 2014 3673 3685).

⁵⁸ Amended by No I of the Federal Act of 20 March 2009 (Rights to Payment for the Remediation of Shooting Ranges), in force since 1 Oct. 2009 (AS 2009 4739 4740; BBl 2008 9213 9223).

2. on other sites, no further waste has been deposited after 31 December 2020;
 - d. the investigation of sites that are not found to be polluted (Art. 32d para. 5).
- ⁴ The payments are made only if the measures taken are environmentally compatible and cost-effective and correspond to the state of the art. They are paid to the cantons in accordance with the expenditure incurred and amount to:
- a. for payments in accordance with paragraph 3 letter a, a flat-rate payment of 500 francs per site;
 - b.⁵⁹ for payments in accordance with paragraph 3 letter b:
 1. 40 per cent of the chargeable costs if no waste has been deposited at the site since 1 February 1996,
 2. 30 per cent of the chargeable costs if waste was deposited at the site after 1 February 1996 but no later than 31 January 2001.
 - c.⁶⁰ for payments in accordance with paragraph 3 letter c:
 1. in the case of 300m shooting ranges, a flat-rate payment of 8000 francs per target,
 2. in the case of other shooting ranges, 40 per cent of the chargeable costs;
 - d.⁶¹ for payments in accordance with paragraph 3 letter d, 40 per cent of the chargeable costs.⁶²
- ⁵ The Federal Council issues regulations on the procedure for collecting the charges and making the payments as well as on the chargeable costs.
- ⁶ Provision may be made under cantonal law for cantonal charges to finance the investigation, monitoring and remediation of polluted sites.

Chapter 5:⁶³ Soil Pollution

Art. 33 Measures against soil pollution

¹ For the long-term preservation of soil fertility, measures against chemical and biological soil pollution must be laid down in the implementing regulations to the Federal Act on the Protection of Water of 24 January 1991⁶⁴, on disaster manage-

⁵⁹ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 April 2015 (AS 2015 865; BBl 2014 3673 3685).

⁶⁰ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 April 2015 (AS 2015 865; BBl 2014 3673 3685).

⁶¹ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 April 2015 (AS 2015 865; BBl 2014 3673 3685).

⁶² Amended by No I of the Federal Act of 20 March 2009 (Rights to Payment for the Remediation of Shooting Ranges), in force since 1 Oct. 2009 (AS 2009 4739 4740; BBl 2008 9213 9223).

⁶³ Originally Chapter 4. Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

⁶⁴ SR 814.20

ment, on air pollution control, on environmentally hazardous substances and organisms, on waste and on incentive taxes.⁶⁵

² The soil may be physically affected only to the extent that its fertility is not durably degraded; this does not apply to land used for building. The Federal Council may issue regulations or recommendations on measures against physical impacts such as erosion or compaction.

Art. 34 Stricter measures against soil pollution

¹ If soil fertility in certain areas is no longer guaranteed in the long term, the cantons must, in agreement with the Confederation, introduce to the required extent stricter regulations on requirements for sewage infiltration, limitation of emissions for installations, the use of substances and organisms or physical impacts on soil.

² If the soil pollution endangers humans, animals or plants, the cantons must restrict the use of the soil to the required extent.

³ If the soil is intended for horticultural, agricultural or forestry use⁶⁶ and it is impossible to cultivate it in a normal way in that location without endangering humans, animals or plants, the cantons must enact measures to reduce the soil pollution at least to such an extent that non-hazardous cultivation is possible.

Art. 35 Guide values and soil remediation values

¹ The Federal Council may set guide values and soil remediation values for assessing pollution of the soil.

² The guide values indicate the pollution level above which, in the light of current scientific knowledge or experience, soil fertility is no longer guaranteed in the long term.

³ The soil remediation values indicate the pollution level above which, in the light of current scientific knowledge or experience, certain uses are not possible without endangering humans, animals or plants.

Chapter 6:⁶⁷ Incentive Taxes

Art. 35a Volatile organic compounds

¹ Any person who imports volatile organic compounds or any person who, as a manufacturer, puts such compounds into circulation or uses them himself must pay an incentive tax to the Confederation.

⁶⁵ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

⁶⁶ Expression in German version in accordance with No II 1 of the Federal Act of 19 March 2010, in force since 1 Aug. 2010 (AS **2010** 3233; BBl **2009** 5435). This amendment has been made throughout the Act.

⁶⁷ Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

² The import of such compounds in paints and varnishes is also subject to the tax. The Federal Council may make the import of such compounds in other mixtures or articles subject to the tax if the quantities of these compounds are such as to pollute the environment to a considerable extent or if these compounds account for a significant proportion of the cost of the product.

³ Volatile organic compounds are exempt from the tax if:

- a. they are used as motor or thermal fuels;
- b. they are in transit or being exported;
- c. they are used or treated in such a way that they are not released into the environment.

⁴ The Federal Council may grant tax relief to the extent of the additional costs incurred for volatile organic compounds which are so used or treated that their emissions are reduced to substantially below the legal requirements.

⁵ The Federal Council may exempt volatile organic compounds that are not environmentally hazardous from the tax.

⁶ The tax rate amounts to a maximum of five francs per kilogram of volatile organic compounds, plus a surcharge to take account of inflation from the date on which this provision comes into force.

⁷ The Federal Council sets the rate of the tax with reference to air quality objectives, taking special account of:

- a. the pollution that volatile organic compounds cause to the environment;
- b. the danger these compounds represent to the environment;
- c. the cost of measures that can limit the effects of these compounds;
- d. the price of these substances and the price of alternative substances which are less harmful to the environment.

⁸ The Federal Council shall introduce the tax in stages and set the timetable and the rate for each stage in advance.

⁹ The revenue from the tax, including interest and under deduction of implementation costs, is shared equally among the population. The Federal Council regulates the distribution procedure. It may instruct the cantons, public corporations or private individuals to make the distribution.

Art. 35b Sulphur content of extra light heating oil

¹ Any person who imports, or in Switzerland manufactures or extracts extra light heating oil with a sulphur content of more than 0.1 per cent (% by mass) must pay an incentive tax to the Confederation.⁶⁸

² Extra light heating oil with a sulphur content of more than 0.1 percent (% by mass) is exempted from the tax if it is in transit or being exported.

⁶⁸ Amended by Annex 2 No 6 of the Mineral Oil Tax Act of 21 June 1996, in force since 1 Jan. 1997 (SR 641.61).

³ The tax rate amounts to a maximum of twenty francs per tonne of extra light heating oil with a sulphur content of more than 0.1 percent (% by mass), plus a surcharge to take account of inflation from the date on which this provision comes into force.

⁴ The Federal Council sets the rate of the tax with reference to the air quality objectives, taking special account of:

- a. the pollution sulphur dioxide causes to the environment;
- b. the extra cost of manufacturing extra light heating oil with a sulphur content of 0.1 percent;
- c. the requirements of the national economic supply.

⁵ The revenue from the tax, including interest and under deduction of implementation costs, is shared equally among the population. The Federal Council regulates the distribution procedure. It may instruct the cantons, public corporations or private individuals to make the distribution.

Art. 35^{bis} 69 Sulphur content of petrol and diesel

¹ Any person who imports, or in Switzerland produces or extracts petrol or diesel with a sulphur content of more than 0.001 per cent (% by mass) pays the Confederation an incentive tax.

² Petrol and diesel with a sulphur content of more than 0.001 percent (% by mass) are exempted from the tax if they are in transit or being exported.

³ The tax amounts to a maximum of 5 centimes per litre plus a surcharge to take account of inflation from the date on which this provision comes into force.

⁴ The Federal Council may fix rates of tax that are different for petrol and diesel.

⁵ The Federal Council sets the rate of the tax with reference to the air quality objectives, taking special account of:

- a. the pollution caused to the environment by air contaminants;
- b. the requirements of climate protection;
- c. the extra cost of manufacturing and distributing petrol and diesel with a sulphur content of 0.001 per cent (% by mass);
- d. the requirements of the national economic supply.

⁶ The revenue from the tax, including interest and under deduction of implementation costs, is shared equally among the population. The Federal Council regulates the distribution procedure. It may instruct the cantons, public corporations or private individuals to make the distribution.

⁶⁹ Inserted by No I of the Federal Act of 20 June 2003, in force since 1 Jan. 2004 (AS 2003 4215 4216; BBl 2002 6464).

Art. 35c Tax liability and procedure

¹ The following persons are liable:

- a. for the tax on volatile organic compounds: those liable to pay tax on imports under the Customs Act of 1 October 1925⁷⁰ (CA) as well as manufacturers and producers in Switzerland;
- b.⁷¹ for the tax on extra light heating oil and on petrol and diesel: those liable to pay tax under the Mineral Oil Tax Act of 21 June 1996⁷² (MinOTA).⁷³

² If the conditions for exemption cannot be proved until after the tax has been collected, the taxes are refunded. The Federal Council may stipulate the requirements of proof and refuse a refund if this would cause disproportionate costs.

³ The Federal Council stipulates the procedure for the collection and refund of the tax on volatile organic compounds. In the case of import or export, the relevant procedural provisions of the customs legislation apply.⁷⁴

^{3bis} In the case of the import or export, or manufacture or extraction within Switzerland of extra light heating oil, the relevant procedural provisions of the MinOTA apply to the collection and refund of the tax.⁷⁵

⁴ Any person who in Switzerland produces substances or organisms that are subject to the tax must declare them.

Title 3: Enforcement, Promotional Measures and Procedure**Chapter 1: Enforcement****Section 1: Enforcement by the Cantons****Art. 36** Enforcement powers of the cantons

Subject to the reservation of Article 41, the enforcement of this Act is the responsibility of the cantons.

⁷⁰ SR **631.0**

⁷¹ Amended by No I of the Federal Act of 20 June 2003, in force since 1 Jan. 2004 (AS **2003** 4215 4216; BBl **2002** 6464).

⁷² SR **641.61**

⁷³ Amended by Annex 2 No 6 of the Mineral Oil Tax Act of 21 June 1996, in force since 1 Jan. 1997 (SR **641.61**).

⁷⁴ Amended by Annex 2 No 6 of the Mineral Oil Tax Act of 21 June 1996, in force since 1 Jan. 1997 (SR **641.61**).

⁷⁵ Inserted by Annex 2 No 6 of the Mineral Oil Tax Act of 21 June 1996 (SR **641.61**). Amended by No I of the Federal Act of 20 June 2003, in force since 1 Jan. 2004 (AS **2003** 4215 4216; BBl **2002** 6464).

Art. 37⁷⁶ Cantonal implementing provisions

Cantonal implementing provisions on disaster prevention (Art. 10), the environmental impact assessment (Art. 10a), improvement (Art. 16–18), soundproofing of buildings (Art. 20 and 21) and waste (Art. 30–32 and 32a^{bis}–32e) require the approval of the Confederation to be valid.

Section 2: Enforcement by the Confederation**Art. 38** Supervision and coordination

¹ The Confederation supervises the enforcement of this Act.

² It coordinates the enforcement measures of the cantons and of its own institutions and establishments.

³ The Federal Council decides on the methods of testing, measurement and calculation to be applied.

Art. 39 Implementing provisions and international law agreements

¹ The Federal Council enacts the implementing provisions.

^{1bis} In doing so, it may declare internationally harmonised technical regulations and standards to be applicable and:

- a. authorise the Federal Office responsible to declare subordinate amendments to these regulations and standards to be applicable;
- b. provide that the regulations and standards declared to be applicable are published in a specific manner and that translation into the official languages is dispensed with.⁷⁷

² It may conclude international agreements on:⁷⁸

- a. technical regulations;
- a^{bis}.⁷⁹ environmentally hazardous substances (Art. 26–29);
- b.⁸⁰ waste avoidance and disposal;
- c. cooperation in frontier zones by the establishment of international commissions with advisory status;
- d. data collections and surveys;

⁷⁶ Amended by No I of the Federal Act of 20 December 2006, in force since 1 July 2007 (AS 2007 2701, 2012 2389; BBl 2005 5351 5391).

⁷⁷ Inserted by Annex No. II 2 of the Chemicals Act of 15 Dec. 2000, in force since 1 Jan. 2005 (SR 813.1).

⁷⁸ Amended by Annex No II 2 of the Chemicals Act of 15 Dec. 2000, in force since 1 Aug. 2005 (SR 813.1; AS 2005 2293).

⁷⁹ Inserted by Annex No II 2 of the Chemicals Act of 15 Dec. 2000, in force since 1 Aug. 2005 (SR 813.1; AS 2005 2293).

⁸⁰ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

e. research and training.

3 ...⁸¹

Art. 40⁸² Placing series-produced installations on the market

¹ The Federal Council may make placing series-produced installations on the market dependent on conformity assessments, labelling, registration or licensing according to the environmental pollution they produce.

² It may recognise foreign tests, conformity assessments, labelling, registrations and authorisations.

Art. 41 Enforcement powers of the Confederation

¹ The Confederation enforces Article 12 paragraph 1 letter e (Regulations on thermal and motor fuels), 26 (self-regulation), 27 (Information for recipients), 29 (Regulations on substances), 29*a*–29*h* (Environmentally hazardous organisms), 30*b* paragraph 3 (Deposit compensation fund), 30*f* and 30*g* (Import and export of waste), 31*a* paragraph 2 and 31*c* paragraph 3 (Federal waste disposal measures), 32*a*^{bis} (Pre-paid disposal fee), 32*e* paragraphs 1–4 (Charge to finance remediation), 35*a*–35*c* (Incentive taxes), 39 (Implementing provisions and international law agreements), 40 (Placing series-produced installations on the market) and 46 paragraph 3 (Information on substances and organisms); it may require the cantons to carry out certain duties.⁸³

² Any federal authority that enforces another Federal Act or an international agreement is, in fulfilling this duty, also responsible for the enforcement of the Environmental Protection Act. It must consult the cantons concerned before making its decision. The Federal Office and the other federal agencies concerned cooperate in accordance with Articles 62*a* and 62*b* of the Government and Administration Organisation Act of 21 March 1997⁸⁴ in relation to enforcement.⁸⁵

³ If the procedure under paragraph 2 is not suitable for certain duties, the Federal Council regulates enforcement by the federal agencies concerned.⁸⁶

⁴ The federal enforcement authorities must take account of cantonal environmental protection measures.⁸⁷

⁸¹ Repealed by Art. 12 No 2 of the Consultation Procedure Act of 18 March 2005, with effect from 1 Sept. 2005 (SR **172.061**).

⁸² Amended by Annex No 2 of the Federal Act of 6 Oct. 1995 on Technical Barriers to Trade, in force since 1 July 1996 (SR **946.51**).

⁸³ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

⁸⁴ SR **172.010**

⁸⁵ Amended by No I 14 of the Federal Act of 18 June 1999 on the Coordination and Simplification of Decision-making Procedures, in force since 1 Jan. 2000 (AS **1999** 3071 3124; BBl **1998** 2591).

⁸⁶ Amended by No I 14 of the Federal Act of 18 June 1999 on the Coordination and Simplification of Decision-making Procedures, in force since 1 Jan. 2000 (AS **1999** 3071 3124; BBl **1998** 2591).

⁸⁷ Originally para. 3.

Section 2a:⁸⁸ Cooperation with the Private Sector

Art. 41a

¹ The Confederation and, within the scope of their responsibilities, the cantons shall cooperate with private sector organisations in enforcing this Act.

² They may promote sectoral agreements by setting quantitative targets and deadlines for meeting them.

³ Before enacting implementing regulations, they must examine voluntary private sector measures. Wherever possible and necessary, they shall incorporate sectoral agreements into the implementing regulations in whole or in part.

Section 3: Special Enforcement Provisions

Art. 42 Environmental protection agencies

¹ The cantons shall set up a specialist agency to consider environmental questions or designate existing public agencies to carry out this task.

² The Federal Office is the specialist agency for the Confederation.⁸⁹

Art. 43 Delegation of enforcement duties⁹⁰

The enforcement authorities may entrust public corporations or private entities with enforcement duties, and in particular with control and monitoring.

Art. 43a⁹¹ Eco-labelling and environmental management

¹ The Federal Council may issue regulations on the introduction of:

- a. a voluntary system for an environmental label (“eco-label”);
- b. a voluntary system for the evaluation and improvement of environmental protection in establishments (environmental management and auditing).

² In so doing, it must take account of international law and internationally recognised technical standards.

⁸⁸ Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

⁸⁹ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

⁹⁰ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

⁹¹ Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

Art. 44 Environmental pollution surveys

¹ The Confederation and the cantons conduct surveys on environmental pollution and check the effectiveness of measures taken in terms of this Act.

² The Federal Council coordinates the federal and cantonal surveys and data collections.

³ It decides what information on substances and organisms collected in terms of the legislation on gene technology, foodstuffs, therapeutic products, chemicals, agriculture, epidemics and epizootic diseases is made available to the Federal Office.⁹²

Art. 44a⁹³ Action plans for air pollution

¹ If several sources of air pollution cause or are expected to cause harmful effects or nuisances, the authority concerned must draw up a plan of the measures that will contribute to reducing or eliminating these effects within a set time (action plan).

² Action plans are binding for the authorities that are entrusted with enforcement by the cantons. They must make a distinction between measures which may be ordered immediately and measures for which the legal framework still has to be enacted.

³ If a plan provides for measures which come within the area of responsibility of the Confederation, the cantons must make the necessary applications to the Federal Council.

Art. 45⁹⁴ Regular inspections

The Federal Council may require the regular inspection of installations such as oil-fired furnaces, waste disposal facilities and construction machinery.

Art. 46 Obligation to provide information

¹ Everyone is obliged to provide the authorities with the information required to enforce this Act and, if necessary, to conduct or acquiesce in the conduct of enquiries.

² The Federal Council or the cantons may order that registers be kept on air pollution, noise and vibrations, waste and its disposal, and the types, amounts and assessment of substances and organisms, and that such registers be stored and made available to the authorities on request.⁹⁵

⁹² Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

⁹³ Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

⁹⁴ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

⁹⁵ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

³ The Federal Council may order that information be provided on substances and organisms that may present a threat to the environment or which are being put into circulation for the first time.⁹⁶

Art. 47 Information and professional secrecy⁹⁷

¹ and ² ...⁹⁸

³ All those responsible for enforcing this Act as well as experts and members of commissions and technical committees are bound by official secrecy.

⁴ Confidential information obtained in the implementation of this Act may be disclosed to foreign authorities and international organisations only if this is provided for in an international agreement, decisions of international organisations, or a federal act.⁹⁹ The Federal Council regulates responsibilities and the procedure.¹⁰⁰

Art. 48 Fees

¹ A fee is charged for licences, inspections and special services under this Act.

² The rates are set by the Federal Council at federal level and by the competent authority under cantonal law at cantonal level.

Chapter 2: Promotional Measures

Art. 49 Training and research

¹ The Confederation may promote the basic and advanced training of personnel entrusted with duties in terms of this Act.¹⁰¹

² It may commission or support research studies and technology assessments.¹⁰²

³ It may promote the development of installations and processes that can reduce pollution in the public interest. Financial aid may not normally exceed 50 per cent of the costs. In the event of the commercial exploitation of the development results, it must be refunded in proportion to the earnings made. The Federal Council makes a

⁹⁶ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

⁹⁷ Amended by Art. 2 No 1 of the Federal Decree of 27 Sept. 2013 (Aarhus Convention), in force since 1 June 2014 (AS **2014** 1021; BBl **2012** 4323).

⁹⁸ Repealed by Art. 2 No 1 of the Federal Decree of 27 Sept. 2013 (Aarhus Convention), with effect from 1 June 2014 (AS **2014** 1021; BBl **2012** 4323).

⁹⁹ Amended by Annex No II 2 of the Chemicals Act of 15 Dec. 2000, in force since 1 Aug. 2005 (SR **813.1**; AS **2005** 2293).

¹⁰⁰ Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBl **1993** II 1445).

¹⁰¹ Amended by Annex No 18 of the Federal Act of 5 Oct. 1990 on Financial Aid and Subsidies (Subsidies Act), in force since 1 April 1991 (SR **616.1**).

¹⁰² Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

general assessment of the effect of the promotion and reports to the Federal Assembly on the results at five-yearly intervals.¹⁰³

Art. 50¹⁰⁴ Contributions towards environmental protection measures along roads

¹ As part of the use of the net revenue from the mineral oil tax and the national highways charge, the Confederation shall contribute to the cost:

- a. of environmental protection measures along national roads and main roads to be upgraded with federal aid according to the provisions of the Federal Act of 22 March 1985¹⁰⁵ on the Application of the Earmarked Mineral Oil Tax (MinOA); in the case of main roads, these contributions are part of the global contributions under the MinOA;
- b. of noise abatement and soundproofing measures as part of the upgrading of the remainder of the road network on the basis of programme agreements with the cantons; the level of the contributions is based on the effectiveness of the measures.

² The cantons shall report to the Confederation on the use of the contributions towards environmental protection measures along main roads that are to be upgraded with federal aid, and along other roads.

Art. 51 Control and monitoring installations

The Confederation may contribute towards the cost of building and equipping the measuring, control and monitoring installations required to enforce this Act, provided these installations are used by two or more cantons.

Art. 52 Waste disposal facilities

¹ The Confederation may provide credit guarantees for the construction of waste disposal facilities, especially those which are used by holders of waste from two or more cantons, provided financing cannot be secured in any other way.¹⁰⁶

² The Federal Assembly authorises the maximum amount of credit guaranteed by means of a commitment credit over several years.¹⁰⁷

¹⁰³ Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBI **1993** II 1445).

¹⁰⁴ Amended by No II 22 of the Federal Act of 6 Oct. 2006 on the New System of Fiscal Equalisation and Division of Tasks between the Confederation and the Cantons (NFE), in force since 1 Jan. 2008 (AS **2007** 5779 5817; BBI **2005** 6029).

¹⁰⁵ SR **725.116.2**

¹⁰⁶ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS **1997** 1155 1174; BBI **1993** II 1445).

¹⁰⁷ Inserted by Annex No. 18 of the Subsidies Act of 5 Oct. 1990, in force since 1 April 1991 (SR **616.1**).

Art. 53¹⁰⁸ International cooperation on the protection of the environment

¹ The Confederation may make contributions:

- a. to international organisations or programmes in the field of international environmental protection;
- b. for the implementation of international agreements on the environment;
- c. for the financing of the secretariats for international agreements on the environment that are permanently based in Switzerland;
- d. to funds that support developing and transition countries in the implementation of international agreements on the environment.

² Contributions under paragraph 1 letter d are authorised as framework credits for two or more years in each case.

³ The Federal Council monitors the effective use of the funds authorised under this Act and reports to the Federal Assembly thereon.

Chapter 3: Procedures**Section 1: Appeals¹⁰⁹****Art. 54¹¹⁰** ...¹¹¹

Appeal proceedings are governed by the general provisions on the administration of federal justice.

**Section 2:
Organisations' Right of Appeal against Rulings on Installations¹¹²****Art. 55¹¹³** Organisations with the right to appeal

¹ Environmental protection organisations have the right of appeal against rulings of the cantonal or federal authorities on the planning, construction or modification of

¹⁰⁸ Repealed by Annex No 18 of the Subsidies Act of 5 Oct. 1990 (SR **616.1**). Amended by No I of the Federal Act of 20 June 2003, in force since 1 Jan. 2004 (AS **2003** 4061 4062; BBl **2002** 7911).

¹⁰⁹ Inserted by No I of the Federal Act of 20 Dec. 2006, in force since 1 July 2007 (AS **2007** 2701 2709; BBl **2005** 5351 5391).

¹¹⁰ Amended by Annex No 91 of the Administrative Court Act of 17 June 2005, in force since 1 Jan. 2007 (SR **173.32**).

¹¹¹ Repealed by No I of the Federal Act of 20 Dec. 2006, with effect from 1 July 2007 (AS **2007** 2701 2709; BBl **2005** 5351 5391).

¹¹² Inserted by No I of the Federal Act of 20 Dec. 2006, in force since 1 July 2007 (AS **2007** 2701 2709; BBl **2005** 5351 5391).

¹¹³ Amended by No I of the Federal Act of 20 Dec. 2006, in force since 1 July 2007 (AS **2007** 2701 2709; BBl **2005** 5351 5391). The provision on economic activity in paragraph 1 let. b comes into force on 1 July 2010 (see No III para. 3 of the said amendment).

installations for which an environmental impact assessment in terms of Article 10a is required, subject to the following requirements:

- a. the organisation is active in Switzerland on a national basis.
- b. it pursues non-profit making objects; any commercial activities must serve to achieve the non-profit making objects.

² The right of appeal is available to organisations only for complaints in legal fields that have formed their objects in terms of their articles for a minimum of ten years.

³ The Federal Council designates the organisations that have the right to appeal.

⁴ The supreme executive body of the organisation is responsible for filing the appeal.

⁵ The organisations may authorise their legally independent cantonal and supra-cantonal subsidiary organisations to file objections and on a case-by-case basis to file appeals that relate to their local field of activity.

Art. 55a¹¹⁴ Notification of the ruling

¹ The authority notifies the organisations of its ruling under Article 55 paragraph 1 by written notice or by publication in the Official Federal Gazette or in the cantonal organ of publication.

² If federal or cantonal law provides for an objection procedure, applications must also be published in accordance with paragraph 1.

Art. 55b¹¹⁵ Loss of the right to appeal

¹ Organisations that have not sought legal recourse may only participate in subsequent proceedings as a party if they are prejudiced by a change in the ruling. For compulsory purchases, the Federal Act of 20 June 1930¹¹⁶ on Compulsory Purchase applies.

² If an organisation has not participated in objection proceedings under federal or cantonal law, it may no longer file an appeal.

³ If an organisation has not filed a permitted complaint against a land use plan that has the character of a ruling or if the complaint has been rejected with full legal effect, the organisation may no longer file the same complaints in subsequent proceedings.

⁴ Paragraphs 2 and 3 also apply to objections and appeals under cantonal law against land use plans.

¹¹⁴ Inserted by No I of the Federal Act of 20 Dec. 2006, in force since 1 July 2007 (AS 2007 2701 2709; BBI 2005 5351 5391).

¹¹⁵ Inserted by No I of the Federal Act of 20 Dec. 2006, in force since 1 July 2007 (AS 2007 2701 2709; BBI 2005 5351 5391).

¹¹⁶ SR 711

Art. 55c¹¹⁷ Agreements between applicants and organisations

¹ If an applicant and organisation enter into an agreement on obligations that relate to public law matters, these agreements are deemed exclusively to be joint applications to the authority. The authority takes account of the result in its ruling or in its decision. It does not take account of the result if it is defective in terms of Article 49 of the Federal Act of 20 December 1968¹¹⁸ on Administrative Procedure.

² Agreements between applicants and organisations on financial or other benefits are not permitted if they are intended for:

- a. the enforcement of public law obligations, and in particular requirements imposed by authorities;
- b. measures that are not provided for under public law or which have no connection with the project;
- c. compensation for a waiver of legal action or for any other procedural conduct.

³ The appeal authority does not consider an appeal if it constitutes an abuse of the law or if the organisation has demanded unlawful benefits in terms of paragraph 2.

Art. 55d¹¹⁹ Early start to construction work

Construction work may begin before conclusion of the proceedings provided the outcome of the proceedings cannot have any influence on the work.

Art. 55e¹²⁰ Procedural costs

If the organisation loses the proceedings, it is liable for the costs of conducting the appeal before the federal authorities.

Section 3:¹²¹**Organisations' Right of Appeal against the Authorisation of Organisms****Art. 55f**

¹ Environmental protection organisations have a right of appeal against any authorisation for putting pathogenic organisms in circulation for lawful use in the environment, subject to the following requirements:

- a. The organisation is active in Switzerland on a national basis.

¹¹⁷ Inserted by No 1 of the Federal Act of 20 Dec. 2006, in force since 1 July 2007 (AS 2007 2701 2709; BBl 2005 5351 5391).

¹¹⁸ SR 172.021

¹¹⁹ Inserted by No 1 of the Federal Act of 20 Dec. 2006, in force since 1 July 2007 (AS 2007 2701 2709; BBl 2005 5351 5391).

¹²⁰ Inserted by No 1 of the Federal Act of 20 Dec. 2006, in force since 1 July 2007 (AS 2007 2701 2709; BBl 2005 5351 5391).

¹²¹ Inserted by No 1 of the Federal Act of 20 Dec. 2006, in force since 1 July 2007 (AS 2007 2701 2709; BBl 2005 5351 5391).

- b. It was established at least ten years prior to the filing of the appeal.
- ² The Federal Council designates the organisations that have the right to appeal.
- ³ The Articles 55a and 55b paragraphs 1 and 2 apply.

Section 4: Public Authority Appeals and Appeals by Communal Authorities, Compulsory Purchase, Costs of Safety and Remedial Measures¹²²

Art. 56 Public authority appeal

- ¹ The Federal Office has a right of appeal under federal and cantonal law against rulings by the cantonal authorities made on the basis of this Act and its implementing provisions.¹²³
- ² The cantons also have this right in cases where effects from neighbouring cantons on their territory are a matter of contention.
- ³ ...¹²⁴

Art. 57 Appeal by communal authorities

Communes have the right of appeal under federal and cantonal law against rulings by the cantonal and federal authorities made on the basis of this Act if they are affected by such rulings and have a legitimate interest in having them reversed or amended.

Art. 58 Compulsory purchase

- ¹ Where enforcement of this law so requires, the Confederation and the cantons have a right of compulsory purchase or may assign this right to third parties.¹²⁵
- ² The cantons may declare the Compulsory Purchase Act¹²⁶ to be applicable in their implementing provisions. They provide that:
- a. the cantonal government decides on objections that remain in dispute;
 - b. the President of the Federal Compulsory Purchase Tribunal may authorise the summary procedure if those affected by the compulsory purchase can be clearly identified.

¹²² Inserted by No I of the Federal Act of 20 Dec. 2006, in force since 1 July 2007 (AS 2007 2701 2709; BBl 2005 5351 5391).

¹²³ Amended by No I 14 of the Federal Act of 18 June 1999 on the Coordination and Simplification of Decision-making Procedures, in force since 1 Jan. 2000 (AS 1999 3071 3124; BBl 1998 2591).

¹²⁴ Repealed by Annex No 91 of the Administrative Procedure Act of 17 June 2005, with effect from 1 Jan. 2007 (SR 173.32).

¹²⁵ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

¹²⁶ SR 711

³ Federal legislation on compulsory purchase applies to projects located on the territory of more than one canton.¹²⁷ The Federal Department of the Environment, Transport, Energy and Communications decides on the compulsory purchase in such cases.

Art. 59¹²⁸ Cost of safety and remedial measures

The cost of measures taken by the authorities to prevent imminent pollution of the environment, to establish its existence, or to remedy it are charged to the person responsible for the pollution.

Title 4:¹²⁹ **Liability**

Art. 59a General provisions¹³⁰

¹ The operator of an establishment or an installation that represents a special threat to the environment is liable for the loss or damage arising from effects that occur when this threat becomes reality. In the case of loss or damage that arises from the handling of pathogenic organisms, Article 59a^{bis} applies.¹³¹

² As a rule, the following establishments and installations are regarded as representing a special threat to the environment:

- a. those that the Federal Council makes subject to the implementing provisions in terms of Article 10 on the basis of the substances or organisms used or the waste produced;
- b. those that are used for waste disposal;
- c. those in which liquids which may pollute water are handled;
- d.¹³² those in which substances are present for which the Federal Council has introduced a licensing requirement or other special regulations to protect the environment.

³ Any person who proves that the loss or damage was caused by force majeure or by gross negligence on the part of the injured party or of a third party is relieved of liability.

⁴ Articles 42–47 and 49–53 of the Code of Obligations¹³³ apply.¹³⁴

¹²⁷ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BB1 1993 II 1445).

¹²⁸ Amended by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BB1 1993 II 1445).

¹²⁹ Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BB1 1993 II 1445).

¹³⁰ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR 814.91).

¹³¹ Wording of the second sentence according to Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR 814.91).

¹³² Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR 814.91).

⁵ The reservation in Article 3 applies to liability provisions in other federal acts.

⁶ The Confederation, cantons and communes may also be held liable in accordance with paragraphs 1–5.

Art. 59a^{bis} 135 Pathogenic organisms

¹ Persons subject to an authorisation or notification obligation who handle pathogenic organisms in a contained system, release such organisms for experimental purposes or put them into circulation without authorisation are liable for any loss or damage that arises from such conduct.

² The person required to obtain authorisation is exclusively liable for any loss or damage occasioned to an agricultural or forestry establishment or customers of products from such establishments by pathogenic organisms that are authorised to be put into circulation if the organisms:

- a. are contained in auxiliary agents used in agriculture or forestry¹³⁶; or
- b. originate from such auxiliary agents.

³ In the case of liability under paragraph 2, recourse is reserved against persons who have handled such organisms improperly or have otherwise contributed to causing or aggravating the loss or damage.

⁴ If loss or damage is caused by any other pathogenic organisms that are authorised to be put into circulation, the person required to obtain authorisation is liable if the organisms are defective. He is also liable for any defect that he was unable to detect according to the standards of science and technology at the time that the organism was put into circulation.

⁵ Pathogenic organisms are defective if they do not offer the level of safety that anyone is entitled to expect taking account of all the circumstances; the following must be taken into account in particular:

- a. the way in which they are presented to the public;
- b. the use that may reasonably be expected;
- c. the time at which they were put into circulation.

⁶ A product containing pathogenic organisms is not defective simply because an improved product has subsequently been put into circulation.

⁷ The loss or damage must be due to the pathogenicity of the organisms.

⁸ The burden of proving a causal connection lies with the person claiming damages. If such proof cannot be provided with certainty or if the person subject to the burden

¹³³ SR 220

¹³⁴ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR 814.91).

¹³⁵ Inserted by Annex No. 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR 814.91).

¹³⁶ Expression in German version in accordance with No II 1 of the Federal Act of 19 March 2010, in force since 1 Aug. 2010 (AS 2010 3233; BBl 2009 5435). This amendment has been made throughout the Act.

cannot reasonably be expected to present the required evidence, the court may satisfy itself on the balance of probability. The court may also order that the facts of the case be established *ex officio*.

⁹ The person required to obtain authorisation or file a report must also reimburse the costs of the required and appropriate measures that have been taken to reconstitute elements of the environment that have been destroyed or damaged or to replace such elements with their equivalents. If the destroyed or damaged elements of the environment are not the subject of a property right or if the person entitled does not take the measures required in the circumstances, the right to damages becomes that of the public authority concerned.

¹⁰ Any person who proves that the loss or damage was caused by force majeure or by gross negligence on the part of the injured party or of a third party is relieved of liability.

¹¹ Articles 42–47 and 49–53 of the Code of Obligations¹³⁷ apply.

¹² The Confederation, cantons and communes may also be held liable in accordance with paragraphs 1–11.

Art. 59b Guarantee

For the protection of injured parties, the Federal Council may:

- a.¹³⁸ require that the operators of certain establishments or installations as well as the persons required to obtain authorisation or file a report that handle pathogenic organisms to provide a guarantee for their potential liability through insurance or in another manner;
- b. determine the extent and the duration of this guarantee or leave this to the authority to decide on a case-by-case basis;
- c. require those providing a guarantee for liability to notify the enforcement authority of the existence, suspension and termination of the guarantee;
- d. provide that the guarantee must not be suspended or terminated until 60 days after receipt of the notification;
- e. provide that land on which a waste disposal site is situated becomes the property of the canton when the site is closed, and enact regulations concerning any compensation.

Art. 59c¹³⁹ Prescription

¹ The right to damages prescribes in accordance with Article 60 of the Code of Obligations¹⁴⁰.

¹³⁷ SR 220

¹³⁸ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR 814.91).

¹³⁹ Inserted by Annex No. 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR 814.91).

¹⁴⁰ SR 220

² If the loss or damage occurs due to the handling of pathogenic organisms, the right to damages prescribes three years after the injured person obtains knowledge of the loss or damage and of the identity of the person liable, but at the latest 30 years after:

- a. the event that caused the loss or damage occurred in the establishment or in the installation or came to an end; or
- b. the pathogenic organisms were put into circulation.

Art. 59d¹⁴¹ Prescription of the right of recourse

The right of recourse prescribes in accordance with Article 59c. The three-year period begins to run as soon as payment of the damages has been made in full and the identity of the person jointly liable is known.

Title 5:¹⁴² **Criminal Provisions**¹⁴³

Art. 60 Misdemeanours

¹ Any person who wilfully

- a. fails to take the safety measures prescribed for the prevention of disasters or fails to comply with the prohibition of certain production methods or the keeping of certain stocks (Art. 10);
- b. puts substances into circulation which he knows or must assume may present a danger to the environment or indirectly endanger people when used in a certain manner (Art. 26);
- c. puts substances into circulation without informing recipients about their environment-related properties (Art. 27 para. 1 let. a) or providing instructions on their required handling (Art. 27 para. 1 let. b);
- d. handles substances contrary to instructions in such a manner that they, their derivatives or waste may present a danger to the environment or indirectly endanger people (Art. 28);
- e.¹⁴⁴ infringes regulations on substances or organisms (Art. 29, 29b para. 2, 29f, 30a let. b and 34 para. 1);
- f.¹⁴⁵ handles organisms in such a manner that the principles contained in Article 29a paragraph 1 are infringed;

¹⁴¹ Inserted by Annex No. 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

¹⁴² Originally Title 4.

¹⁴³ From 1 Jan. 2007, the potential penalties must be interpreted and the prescriptive periods recalculated in accordance with Art. 333 paras. 2–6 of the Criminal Code (SR **311.0**) in its version according to the Federal Act of 13 Dec. 2002 (AS **2006 3459**).

¹⁴⁴ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

- g.¹⁴⁶ fails to take all the containment measures required when handling pathogenic organisms (Art. 29*b* para. 1);
 - h.¹⁴⁷ without authorisation, releases pathogenic organisms for experimental purposes or puts them into circulation for uses in the environment (Art. 29*c* para. 1 and 29*d* paras. 3 and 4);
 - i.¹⁴⁸ puts organisms into circulation that he knows or must assume will infringe the principles contained in Article 29*a* paragraph 1 when used in a certain manner (Art. 29*d* para. 1);
 - j.¹⁴⁹ puts organisms into circulation without providing recipients with the required information and instructions (Art. 29*e* para. 1);
 - k.¹⁵⁰ handles organisms contrary to the instructions (Art. 29*e* para. 2);
 - l.¹⁵¹ ...
 - m. constructs or operates a landfill without authorisation (Art. 30*e* para. 2);
 - n. fails to mark special waste as such for transfer (Art. 30*f* para. 2 let. a) or hands it over to an undertaking that does not hold the relevant authorisation (Art. 30*f* para. 2 let. b);
 - o. accepts, imports or exports special waste without authorisation (Art. 30*f* para. 2 let. c and d);
 - p. infringes regulations on the movement of special waste (Art. 30*f* para. 1);
 - q.¹⁵² infringes regulations on waste (Art. 30*a* let. b),
- is liable to a custodial sentence not exceeding three years or a monetary penalty.¹⁵³

² If the offender acts negligently, he or she is liable to a monetary penalty not exceeding 180 daily penalty units.¹⁵⁴

¹⁴⁵ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

¹⁴⁶ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

¹⁴⁷ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

¹⁴⁸ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

¹⁴⁹ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

¹⁵⁰ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

¹⁵¹ Repealed by Annex No 4 of the Gene Technology Act of 21 March 2003, with effect from 1 Jan. 2004 (SR **814.91**).

¹⁵² Amended by No II 1 of the Federal Act of 19 March 2010, in force since 1 Aug. 2010 (AS **2010** 3233; BBl **2009** 5435).

¹⁵³ Amended by No II 1 of the Federal Act of 19 March 2010, in force since 1 Aug. 2010 (AS **2010** 3233; BBl **2009** 5435).

¹⁵⁴ Amended by No II 1 of the Federal Act of 19 March 2010, in force since 1 Aug. 2010 (AS **2010** 3233; BBl **2009** 5435).

Art. 61 Contraventions

¹ Any person who wilfully

- a. fails to comply with the limitations of emissions stipulated in this Act (Art. 12 and 34 para. 1);
- b. fails to comply with remediation orders (Art. 16 and 32c para. 1);
- c. fails to carry out officially ordered soundproofing measures (Art. 19–25);
- d. provides false or incomplete information or instructions (Art. 27);
- e. handles substances with no accompanying information or instructions in such a manner that they, their derivatives or waste may present a danger to the environment or indirectly endanger people (Art. 28);
- f. burns waste illegally outside installations (Art. 30c para. 2);
- g. deposits waste outside authorised landfills (Art. 30e para. 1);
- h. infringes the reporting duties in connection with waste (Art. 30f para. 4, 30g para. 2, 32b para. 2 and 3);
- i. infringes the regulations on waste (Art. 30a let. a and c, 30b, 30c para. 3, 30d, 30h para. 1, 32a^{bis}, 32b para. 4 and 32e para. 1–4);
- k. infringes the regulations on the movement of other forms of waste (Art. 30g para. 1);
- l. fails to guarantee coverage of the costs of closure, after-care and remediation of a landfill (Art. 32b para. 1);
- m. infringes the regulations on physical impacts on and the use of the soil (Art. 33 para. 2 and 34 para. 1 and 2) or on measures to reduce the soil pollution (Art. 34 para. 3);
- n. infringes the regulations on placing series-produced installations¹⁵⁵ on the market (Art. 40);
- o. refuses to provide information to the competent authority or provides incorrect information (Art. 46);
- p.¹⁵⁶ infringes the regulations on providing a guarantee for liability (Art. 59b),

is liable to a fine not exceeding 20,000 francs.¹⁵⁷

² If the offender acts negligently, the penalty is a fine.

³ Attempts and complicity are also offences.

¹⁵⁵ Previously: type approval testing and labelling

¹⁵⁶ Amended by No II 1 of the Federal Act of 19 March 2010, in force since 1 Aug. 2010 (AS 2010 3233; BBI 2009 5435).

¹⁵⁷ Amended by No II 1 of the Federal Act of 19 March 2010, in force since 1 Aug. 2010 (AS 2010 3233; BBI 2009 5435).

Art. 61a¹⁵⁸ Offences against the regulations on incentive taxes

¹ Any person who wilfully or negligently evades payment or obstructs the collection of a tax in terms of Articles 35a, 35b or 35b^{bis} or obtains for himself or another an unlawful tax advantage (exemption from or refund of tax) is liable to a fine not exceeding five times the amount of the tax that is evaded or the collection of which is obstructed, or of the advantage gained. If the amount of tax cannot be precisely quantified, it must be estimated.¹⁵⁹

² Any attempt to gain an unlawful tax advantage personally or for another is an offence.

³ The Customs Administration prosecutes and judges offences under paragraphs 1 and 2 in accordance with the corresponding procedural provisions of the Customs Act¹⁶⁰.

⁴ If any act is at the same time an offence that must be judged by the Customs Administration in accordance with paragraphs 1 or 2 and an offence against customs legislation or against the MinOTA¹⁶¹, the penalty carried by the more serious offence applies; this may be increased appropriately.¹⁶²

Art. 62 Application of administrative criminal law

¹ Articles 6 and 7 of the Federal Act of 22 March 1974¹⁶³ on Administrative Criminal Law apply to offences under this Act.

² For offences against the regulations on incentive taxes, the other provisions of the Federal Act of 22 March 1974¹⁶⁴ on Administrative Criminal Law also apply.¹⁶⁵

¹⁵⁸ Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

¹⁵⁹ Amended by No I of the Federal Act of 20 June 2003, in force since 1 Jan. 2004 (AS 2003 4215 4216; BBl 2002 6464).

¹⁶⁰ SR 631.0

¹⁶¹ SR 641.61

¹⁶² Amended by Annex 2 No 6 of the Mineral Oil Tax Act of 21 June 1996, in force since 1 Jan. 1997 (SR 641.61).

¹⁶³ SR 313.0

¹⁶⁴ SR 313.0

¹⁶⁵ Inserted by No I of the Federal Act of 21 Dec. 1995, in force since 1 July 1997 (AS 1997 1155 1174; BBl 1993 II 1445).

Title 6:¹⁶⁶ Final Provisions**Art. 63¹⁶⁷****Art. 64** Adaptation of federal ordinances

If regulations relating to environmental protection enacted under other federal acts contradict or fail to comply with the provisions of this Act, they must be adapted or supplemented in accordance with a schedule to be laid down by the Federal Council.

Art. 65 Environmental law of the Cantons

¹ Unless and until the Federal Council expressly exercises its power to enact ordinances, the cantons may enact their own regulations in terms of this Act, after consulting the Federal Department of the Environment, Transport, Energy and Communications.

² The cantons may not stipulate any new ambient limit values, alarm levels or planning values nor enact any new regulations governing conformity assessments for series-produced installations or for the handling of substances or organisms.¹⁶⁸ Existing cantonal regulations apply until related Federal Council regulations come into force.

Art. 65a¹⁶⁹ Transitional provision to the Amendment of 26 September 2014

Applications for payments towards the costs of measures under Article 32e paragraph 4 letter b number 2 shall in derogation from Article 36 of the Subsidies Act of 5 October 1990¹⁷⁰ be assessed in accordance with the law applicable after the date on which the application is filed if work began on the measures before the Amendment of 26 September 2014 comes into force. The applications must be filed two years at the latest after the Amendment comes into force.

Art. 66 Amendment of federal legislation

... ¹⁷¹

Art. 67 Referendum and commencement

¹ This Act is subject to an optional referendum.

¹⁶⁶ Originally Title 5.

¹⁶⁷ Repealed by No II 32 of the Federal Act of 20 March 2008 on the Formal Revision of Federal Legislation, with effect from 1 Aug. 2008 (AS **2008** 3437 3452; BBl **2007** 6121).

¹⁶⁸ Amended by Annex No 4 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**).

¹⁶⁹ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 April 2015 (AS **2015** 865; BBl **2014** 3673 3685).

¹⁷⁰ SR **616.1**

¹⁷¹ The amendments may be inspected in AS **1984** 1122.

² The Federal Council determines the commencement date.

Commencement date: 1 January 1985¹⁷²

¹⁷² Federal Council Decree of 12 Sept. 1984 (AS **1984** 1143)